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South Carolina House of Representatives

Legislative Update & Research Reports

Ramon Schwartz, Jr., Speaker of the House

Volume 3

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Legislative Update

Member Survey of Upcoming Issues On The Way

The second Tuesday in January, 1987 is only four short months away—time for another session of the South Carolina General Assembly. Even before the start of the session, work will have begun: committee and subcommittee hearings, bills drafted, re-drafted and pre-filed.

What issues can be expected to hold the attention of the House and Senate during 1987? Will some issues return, such as annexation, local government finance, and mandatory seat belts? Will there be new concerns brought to members' attention during the off-session? Just what will be important to the people of South Carolina and their representatives in the upcoming year?

Those are some of the questions which the House Research Office wants to ask in a upcoming survey of the House members. Individual replies to this survey will be completely confidential. Its overall results will be used in three ways:

First, the general totals will be reported to you, as members, to help you get a gauge of the possible topics which will be talked about in the 1987 session.

Second, the House Research Office and committee staffs can begin to do research on those items which seem to be most important to the members—because those are the items which will probably be translated into legislative action.

Finally, your responses will give the House staff a better feel for what you are looking for in the way of information, background data, and so forth.

The membership poll on upcoming issues will be coming to you early in October, and the results should appear in the November issue of the *Legislative Update*. Look for your survey form in the mail soon!

Human Service Integration Project Moves Ahead

Background to "HSIP"

Under a program coordinated by the State Reorganization Commission, a total of \$332,086 will be spent in eight pilot projects across South Carolina to test how well a unified human service delivery network could function. The name of this effort: The Human Service Integration Project, or HSIP.

The Human Service Integration Project (HSIP) was first reported on in the October, 1985 issue of the *Legislative Update*, and was the subject of an article in *State Legislatures*, published by the National Conference of State Legislatures. The State Reorganization Commission has been working on the project continuously since then, and now is ready to move into the funding and operational phase. But first—what was that project all about, anyway?

The U.S. Department of Health and Human Services decided it wanted to have states test the possibility of providing unified, or integrated, human services. This would mean addressing several problems or needs a client or family at the same time, instead of having them shuffled from agency to agency to agency. The ideal would be to provide the best and most effective services in the least expensive and most efficient manner. South Carolina was one of five states chosen to test such a pilot project.

South Carolina was selected by HHS in response to a proposal jointly prepared by the State Reorganization Commission and participating state human service agencies. The main goals are to bring about better services to clients, to improve recordkeeping and data systems, and to think more in terms of solving problems as the ultimate end of the service delivery system. An essential element of the project: work within existing structures to accomplish objectives, rather than impose new structures on the State.

What's the purpose of this project?

Human services have grown steadily larger over the past half century, and their costs have steadily increased. Members of the General Assembly are naturally concerned about evaluating human service delivery: are the services reaching the people who need them? Are the systems the best possible? Are different agencies cooperating? How can service delivery be improved?

The project proposal stated clearly that helping the General Assembly get answers to questions such as this was vital:

When acting on the state budget, the South Carolina General Assembly has difficulty distinguishing effective programs from those which are less than effective. There are no means with which to establish priorities for spending according to the determined needs of the State. Not only is this a problem with the legislature, however; agencies also need tools to help them determine the proper allocation of scarce resources. With instruments to measure program effectiveness, agencies and the legislature could make more informed decisions as to program emphasis.

Major objectives

The project has three major objectives. The first is to establish a comprehensive set of health and human service delivery goals, to guide the organization and implementation of a unified community human services system.

The second objective of the project is in human service delivery. The delivery system should be spread across agencies providing human services; it must respond to individual needs, reduce dependency, and facilitate use of community resources; finally, the services should result in problems being solved and self-sufficiency being gained.

Finally, the project plans to have a system of impact analysis to determine if a program, or indeed, the total system is achieving its goals.

Administration

The State Reorganization Commission is taking the lead in this project, but it is definitely a concerted effort among the state's agencies. Phil Grose, Director of SRC, serves as the Project Administrator, with overall responsibility for operations. Larry Fernandez of SRC is the Project Director, with day-to-day management and administrative responsibility for the project. Other members of SRC will also have vital parts to play during the course of the project.

Specific programs to be funded

The first phase of the project was basically planning and general organization; that has now been completed. The second phase was getting the project ready to go into operation state-wide; that meant selecting a number of agencies across South Carolina who would try to reach their target populations with a unified, or integrated, service delivery plan. Eight plans have been approved for funding.

Those plans, with their sponsoring agency, target population, budget amount and goals, are listed below.

Slater-Marietta Human Services, Inc.

Target population: rural
Budget request: \$46,730

Slater-Marietta will set up a satellite facility in northern Greenville County to reach the rural people who are generally outside the range of human service delivery. Many of these people desperately need services, but either they lack transportation, are not familiar with the city of Greenville, or are just uneasy about the human service delivery system. If the Slater-Marietta program works, it could be used in many rural areas of South Carolina where human services are not easily accessible.

Cooperating in this venture are the following agencies: DHEC, Greenville Mental Health Center, DSS, SHARE (area Community Services Agency), United Ministries, the Salvation Army, CPC-Greenville County, Family Services of Greenville, and the Greenville County Council on Alcohol and Drug Abuse.

Greenwood School District # 50

Target population: High risk youth
Budget request: \$62,761

The school district plans to use a coordinated case management system to provide intervention services for high risk youths between 12 and 20 years. The conditions causing the risks can be social, economic, health-related, or a combination. Students will be referred to case managers by school guidance counselors, and the managers will see that the youths receive the services they need and still remain in school.

The agencies working together on this include the Department of Youth Services, the Beckman Center for Mental Health Services, DSS, and DHEC.

Mental Health Association of Greenville

Target population: Homeless and homeless mentally ill
Budget request: \$35,378

A case manager will be employed to work with the homeless and homeless mentally ill in Greenville County. The manager will help these people make better use of the existing network of services in the area, through assessment, service planning, linkups with agencies, and monitoring. Persons can reach the manager at a local drop-in center. According to the plan, the manager will work with an average caseload of 35 persons.

Cooperating in this venture are the following groups: United Ministries, Piedmont Center for Mental Health Services; Greenville Mental Health Center; Greenville Rescue Mission, Department of Health and Human Services, SHARE, DSS, and the Greenville Housing Authority.

Community Planning Council of Greenville

Target population: Multi-problem clients
Budget request: \$100,319

The Planning Council intends to establish a case management program that will work across the system to address the needs of persons with a number of problems. The program aims to work with 250 cases a year with follow-up on each case at least twice a month until the case has been resolved.

The components of the program include: separate case management, uniform eligibility determination, family profiling, communication linkages, resource directory, service dictionary, use of a management information system, and possibly unit costing and problem budgeting.

Cooperating in this program will be a number of agencies: The Community Planning Council, Meyer Center for Special Children; Speech, Hearing and Learning Center; Private Industry Council, the Greenville Housing Authority, DSS, DHEC, Greenville County Commission on Alcohol and Drug Abuse, Senior Action, Inc.; and Goodwill Industries.

State Department of Social Services

Target population: Deinstitutionalized elderly
Budget request: \$86,898

When elderly persons come out of institutions, what happens to them? The project is intended to see that they fare as well as possible. When persons are identified as "Medicaid ineligible," and

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therefore must leave a nursing home, program workers will begin planning. When the elderly persons are discharged, they will become clients of the county DSS alternate care workers. These workers will assist the elderly to see they receive the services they require.

The entire project will be guided by a state level committee with representatives from DHEC, the Council on Aging, the Ombudsman's Office, Community Long Term Care, the S.C. Health Care Association and DSS.

State Department of Social Services

Target population: AFDC recipients; high risk youth
Budget request: \$95,767

Last year the General Assembly passed the legislation popularly known as "workfare." This project will tie into that by establishing a "work support services system" which will help selected DSS clients attain and maintain their highest level of economic independence through employment.

Each client involved in the program will receive six assessments to determine employability status. These assessments are: vocational, educational, psychological, social, medical, and economic. Following assessment, individual employability plans will be developed for each client. Once the employability plan is established, the following work support services will be provided based on individual needs: adjustment services, education and training, supportive counseling and guidance, ancillary services. The result should be a person who is able to find, and hold, a worthwhile, productive job.

The counties participating in the "workfare" program were originally Orangeburg, Bamberg and Calhoun. Because of this effort, the following counties have been added to the list: Richland, Lexington, Fairfield, Beaufort, Jasper, Hampton, Greenville, Pickens, Anderson and Oconee.

Participating agencies in this effort: Commission on Alcohol and Drug Abuse, the Employment Security Commission, S.C. Literacy Association, Department of Education, State Board for Technical and Comprehensive Education, the Governor's Office--Division of Economic Opportunity and Division of Employment and Training, the Adult Education Division of the Education Department, DHEC, Vocational Rehabilitation, and the Department of Youth Services.

Conclusion

The Human Services Integration Project should provide South Carolina with two important results. First, a demonstration on how

well services can be delivered in a unified fashion. If successful, this will connect better services to the people who need them, and cost the state less to provide those services.

Second, the project will give agency administrators and legislators a better method to evaluate the impact of services in our state. This will allow useful operations to be expanded, and marginal programs to be improved.

Hazardous Wastes Taxes:
Massachusetts and South Carolina

The shipment and disposal of hazardous wastes is a nation-wide problem, one which South Carolina feels keenly because of the disposal sites located in our state. Other states have the issue to consider as well, however, and some of their responses have been quite similar to South Carolina's. One example is in fees, or taxes, levied on hazardous wastes, for Massachusetts and South Carolina.

Three years after passage of a law taxing hazardous waste shipments, the Massachusetts Department of Environmental Quality Control has finally set the rates to be charged. Liquid waste will be assessed 9.2 cents a gallon; solid waste will be assessed at .92 cents per pound. The state expects to take in about \$3 million annually from the levy.

The delay in implementing the tax was because "DEQE had other projects to finish before it could find the time to develop a fee schedule." (*From the State Capitals*, July 14, 1986)

In South Carolina, where waste comes to be buried, the hazardous waste fees were increased because of H.2289, passed by the General Assembly in 1985.

In-state generated waste fees were raised to \$13.00 per ton—or around .65 cents a pound. Out-of-state generated waste fees went up to \$18.00 a ton, or .90 cents a pound, roughly equivalent to the Massachusetts fees.

In both states the additional funds will be used to help clean up waste sites within their territories.

What Have You Done For Us Lately?

Second in a Two Part Series on the Accomplishments
of the 1985-86 General Assembly

Introduction

The August issue of *Legislative Update* carried part one of a review of the work of the South Carolina General Assembly during its most recent term. Part one covered the areas of children and families, commerce, consumers and economics, education and public works, and environment and agriculture. This issue will be concerned with health care, government operations and finance, and law and justice.

Health Care

Medically indigent

In recent years the cost of health care has risen dramatically. Consumers of health care--patients--naturally feel the pinch, but so do providers of health care, especially hospitals. One reason for increased hospital expenses is the treatment of the poor and near poor: those persons who cannot pay their medical bills. On the one hand, serving these patients has left many hospitals with really serious financial problems. On the other hand, for hospitals to simply refuse to treat people who couldn't afford their services would be considered by most people to be morally and ethically unacceptable.

Medicaid payments make up some of the difference in costs. But Medicaid covers only part of medical services to the poor, and many poor persons fall outside the income guidelines for Medicaid. In South Carolina there are approximately 500,000 persons who fall below the federal poverty guidelines; however, only about a fourth of these meet the Medicaid guidelines. In addition, there are families whose incomes are above the poverty guidelines, but who don't have the savings or insurance needed for major medical bills.

To recover their expenses, hospitals often resorted to "cost shifting," which simply meant that paying patients got higher bills to cover the costs of non-paying patients. Many considered this to be unfair. As a practical matter, the increases would have to be

astronomical to cover all the costs involved. Clearly that would be unacceptable to the public.

This was the situation the General Assembly tackled in 1985. In the General Appropriation Bill it included a section dealing with medical assistance for the indigent. The purpose was to make sure the poor and near poor had access to medical care in this state; to reduce the "cost shifting" on paying patients; and to keep medical costs down.

The major part was increasing access to care. Over 42,000 persons were made eligible, by raising the income guidelines. To pay for the program, funds were assessed from counties and hospitals in the state; these were included with AFDC and Medicaid funds to create a pool to pay for medical care for the poor.

The program has needed some adjustments since its creation, but it represents a direct and forceful response by the General Assembly to one of the major problems facing hospitals, the poor and the general public in South Carolina.

Agent Orange information center

Agent Orange was a chemical used by United States forces during the Vietnam War. It was sprayed from the air by planes and helicopters, and it took the leaves off of trees and bushes. The purpose was to take away cover from the enemy troops. Because it was sprayed from the air, many of our troops were exposed to it.

Now, it appears that Agent Orange is linked to a number of adverse side-effects, many long-term and serious. In 1985 the House took up this problem, passing legislation that set up an Agent Orange Information Center, a central location where information about the chemical could be collected and distributed to South Carolina veterans; the Center would also coordinate services available to those veterans.

In 1986 the measure was signed into law by Governor Riley.

The "Living will" legislation dealt with a subject that was controversial and emotional: should an adult have the right to order termination of life support systems when he or she is suffering from a terminal condition?

Supporters said yes, a person has the right to "death with dignity." In all too many cases, the heroic efforts of modern medical science merely prolong dying, rather than prolong life. Hooked up to machines by tubes and wires, a person is kept alive only through expensive and sometimes painful techniques. Meanwhile, the family of the patient must suffer as well. It would be better, in such situations, for a person to have the authority to dispense with the machines and die naturally.

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Opponents, and those who were just doubtful, wondered if "death with dignity" might not lead to unnecessary deaths. Would persons be refused appropriate medical treatment? Would greedy heirs conspire to refuse treatment to the elderly and the infirm? Could doctors be held legally responsible for the death of a person removed from a life-support system—even if the person gave prior approval?

These were all questions which had to be considered during the debate on this legislation, and it's no wonder that the bill has been considered (in various forms) since 1977. In 1986 it finally became law.

The Death with Dignity act legally recognizes the right of an adult to make a written statement, instructing doctors to withhold or withdraw medical procedures that will prolong dying. There is a special form for such a declaration, and this form must be witnessed. Special provisions are made to insure that residents of nursing homes are not forced into signing such a document. Finally, the law gives immunity to physicians who obey such a declaration.

Sidelight: emotions and legislation

As with the merger of the state's adoption agencies, the "Death with dignity" bill stirred up emotions among the public and lawmakers. Some opponents of the measure tried to tag it as the "Let's kill Grandma bill," while others were concerned that it would be the first step towards euthanasia, or "mercy killing." In the end, however, both of these fears seemed calmed by the way the law was written.

Government Operations and Finance

Blue Laws: South Carolina has had "blue laws" in some form since 1682. In recent years the laws were revised several times, and in 1985 they were repealed almost completely. Blue laws no longer prohibit the operation of certain businesses or the sale of certain items (other than alcohol) on Sundays. In general, Sunday can be another commercial day for business.

Drinking age raised to 21: During the 1970's many states lowered the legal drinking age to 18. The general philosophy was that young people gain most of their rights and duties at that age—voting, military service and so forth—so drinking should be included with all the rest. In recent years, however, the rising toll of alcohol-related deaths, especially from automobile accidents, has caused many to have second thoughts. Perhaps it would be better to keep 21 as the legal drinking age after all. The federal government apparently thought so, because it announced it would withhold federal highway funds from states who did not set the drinking age at 21.

According to the National Conference of State Legislatures, South Carolina would have lost \$7.6 million in federal funds if it didn't raise the drinking age. This federal "blackmail" angered many legislators, who wondered what happened to states' rights, and resented being dictated to by Washington. On the other hand, supporters of raising the age limit pointed out that it was projected to save hundreds, perhaps thousands of lives.

After considerable debate, a bill was passed which raised the drinking age in a two-step process, first to 20 in 1985, and then to 21 on September 14, 1986.

Registration by mail: Winston Churchill is reported to have quipped that "democracy is the worst form of government there is—except for all the others." But for democracy to work, people must vote; and to vote, they must register. In 1986 the General Assembly passed a law which its supporters said would make it easier for persons to register.

Under the law, a person can fill in a registration application and mail it in to the county voter registration office. The application has the signature of a qualified elector as a witness, and must be sent in at least 45 days before an election. The application will be checked by the registration workers, and can be rejected if it is incomplete, illegible, or if the address can not be determined.

Tort claims/sovereign immunity: For hundreds of years, governments have been protected from law suits by the "doctrine of sovereign immunity." This was a development of English Common Law, often quoted as "The crown can do no wrong." In 1984, however, the South Carolina Supreme Court decided that there was no crown in this state, and that holding government totally immune from blame because of negligence was unconstitutional. This meant, in essence, that governments could be sued for "torts," or damages caused by them. (That gives this law its alternate title, the "Tort Claims Act.")

Specifically, the act protects governments from unlimited liability, but does not return them to the special statute of total immunity they once enjoyed. The basic operations of government can not lead to damage claims, unless government employees perform those operations in a negligent or improper manner.

Any person who feels that he has suffered a loss or damage because of action, inaction or negligence by government can file a claim in court. If the person proves his case, the liability of the government is limited in the following amounts:

\$250,000 for a single person for a single occurrence;
\$500,000 for the total amount recovered from any single occurrence.

No punitive damages may be awarded.

Probate Code revision

The revision of the state's Probate Code was a massive undertaking that lasted almost a decade. By the time the work was done, literally hundreds of different sections of the law Code and judicial decisions have been consolidated into one section the state's laws on property and inheritance. Some observers said that the revisions "brought South Carolina's laws on inheritance into the Twentieth Century." (Which, on second thought, might be a dubious compliment.)

The revisions provide that a surviving spouse must receive at least one-half of any estate left; before this, a husband or wife might be left with as little as one-third of the estate, and still be charged with care of children. If there are no children, the spouse will inherit the entire estate. Of course, a person can always make different arrangements in his or her will.

The changes also make administration of estates simpler and provides additional protection for disabled persons who must have their inheritance or property administered by a guardian.

The entire thrust of the revisions was to make sure that the process of probate is made easier financially, emotionally and legally.

Juror selection

Until this bill was passed into law, there were numerous exemptions which permitted persons not to serve on a jury. Doctors, for example, were exempt, as were ministers, lawyers, and railroad workers. No more. Now those persons are put in the jury pool with the rest of the registered voters.

There still remain some valid reasons to be excused, however. Persons over sixty-five have the choice of serving or not, and women who have custody of a child under seven years old can be excused if they don't have child care available.

General Appropriation Bills, 1985 and 1986

It is standard for editorials and other commentary on the Legislature to say that the General Appropriation Bill "is the most important piece of legislation to be considered by the General Assembly." The truth of this remark is underscored when the appropriation bill is regarded not only as an allocation of money, but a statement of priorities. The funds allocated to health, or education, or employee salaries, or highways reveal how the General Assembly ranks these needs.

During the 1980's this ranking of needs has been made increasingly difficult because of uncertain economic activities. A depressed economy during the early part of the decade revived, but the state's income often fell below projected growth. At the same time, the state's commitments in a variety of areas continued to grow: formula funding for subdivisions or for education, for example, required automatic budget increases from year to year. Other expenses were imposed by the courts--the Nelson lawsuit settlement, requiring expensive upgrading of the state's correctional system. Together, formulas and required expenditures ate up the majority of any new funds collected by the state.

How has the General Assembly responded to this difficult set of circumstances? Writing a budget of around \$2.5 billion requires considering many bewildering details; those details will be passed over here to consider some of the major outlines of Legislative budget action.

First, the General Assembly re-affirmed its commitments to education, aid to subdivisions and other formula funded operations. In the 1985-86 Appropriation Act, for example, higher education received 98.8% of full formula funding; in the following budget the amount was 97.8% of full funding. In the most recent Appropriation bill, subdivisions received 91.3% of full formula funding.

Second, reduced budget growth--rather than budget cuts--has been used in writing the Appropriation bill, especially in the House. With the economy uncertain and government income unpredictable, the tendency has been to maintain existing programs, rather than underwrite expansions or new operations. There are exceptions to this, of course, the most obvious being in corrections, and the medically indigent care package. This does not mean that programs not funded were considered useless or unimportant; many operations would have been funded had the money been available.

Third, and perhaps most important, it has become even harder to write an Appropriation bill for the state of South Carolina. There is serious competition among existing programs for available financial resources. There are new programs crying out to be established and funded. Employee salaries have to be adjusted to keep them fair. Court orders require expenditures for costly facilities and numerous new staff. Formula funding begins slicing the budget pie before the first line item is even considered.

Considering all these factors--and these are just a few--it is not strange that the Appropriation bill generally takes so long to be passed by the Legislature. But, year after year, it does get passed, and manages to fund the state government without leading South Carolina into massive deficits, a la Washington, D.C.

Law and Justice: Burglary

The two years of this session saw the General Assembly focus a good deal of its attention on crime—how to prevent it, how to aid the victims of it, how to punish those who commit it. The two major pieces of legislation were the burglary bill (1985) and the omnibus crime bill (introduced 1985, passed 1986).

The burglary bill set up stiffer penalties for housebreaking: first degree burglary can net a sentence of life, and the minimum punishment is fifteen years. In addition, no person serving time for first degree burglary is eligible for parole until one-third of the sentence has been served.

First degree burglary occurs when someone breaks into a dwelling and is armed (or appears to be armed), uses or threatens to use force, has a prior record of two or more burglary convictions, or breaks into a house at night.

The law also sets up the categories of second and third degree burglary. The maximum sentence for second degree burglary is fifteen years in prison, and no parole for at least five years. The third degree receives five years for the first conviction, ten years for a second offense.

This bill was supported by a number of citizen groups active in the fight against crime. There was considerable public support for the legislation, and it passed fairly rapidly through the Senate and House; Governor Riley signed the measure into law on June 20, 1985.

Crime and Punishment: Omnibus Crime Act

A second, more comprehensive bill dealing with crime was introduced in 1985: the Omnibus Crime Act. Its purpose was two-fold: first, to reduce the state's prison population, and to put serious criminals behind bars for longer periods of time.

Stiffer penalties are provided for violent crimes. In particular, those violent crimes which are committed with a firearm or a knife must be punished by an additional five years in prison. A person convicted of a third, violent crime must receive a sentence of life without parole.

For prisoners who are eligible for parole, that parole may be harder to get. Two-thirds, rather than a majority of the Parole Board must now sign orders for parole. Where before, prisoners could apply for parole every year, now they can apply only every two years.

Non-violent criminals will have the opportunity for alternative sentence programs, including work/punishment programs in local facilities. Younger, less serious offenders can be sentenced to "shock probation," a period lasting ninety days under supervision of the Department of Corrections, and designed to teach the offenders the harsh realities of life behind bars.

Conclusion

Two years of work in the South Carolina General Assembly can hardly be summed up in a few pages. This review has only touched on the major items which concerned the House and Senate during 1985 and 1986. Any of the items discussed here could be the subject of a book by a student of political science. To take just one example, to fully appreciate the Omnibus Crime Bill requires a knowledge of law and justice, sociology, criminology--past, present and possible future trends--finance in all its aspects, and psychology, especially the psychology of the South Carolina public.

The public and the press expect members of the General Assembly to be experts in all of these areas. Legislators are also required to be equally knowledgeable in the intricacies of nuclear and hazardous waste disposal, child care and child support enforcement, the size of shrimping nets, insurance regulations and a host of other issues, many of which have not come to attention yet.

Nor can this expertise be learned at leisure; legislative issues can arise suddenly, and public pressure demands immediate action. But immediate action is not always possible, or desirable. As this review has shown, it can take years for successful legislation to be hammered out, since there are so many factors to consider in passing laws.

If the two years of 1985 and 1986 can be considered typical, then the South Carolina General Assembly has shown that it can deal with a variety of situations, enacting legislation that meets, not only the immediate needs of the day, but those of years to come.