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Legislative update

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South Carolina House of Representatives

Legislative Update

Robert J. Sheheen, Speaker of the House

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House Week in Review

The House of Representatives reacted swiftly last week to news of another shortfall in the 1991-92 state budget. The House passed a Senate concurrent resolution Wednesday approving the State Budget and Control Board's action to reduce the current state budget by \$55 million after reports of revenue declines by the Board of Economic Advisors.

The reduction was made by a combination of factors, including a 1 percent across-the-board reduction on all state agency appropriations. The Departments of Corrections and Social Services escaped the reduction, and funding for the Education Finance Act was partially exempted from the cut. An amendment by the House restored \$161,000 to the budgets of the John de la Howe School, the Wil Lou Gray Opportunity School and the S.C. School for the Deaf and Blind.

Including the \$55 million cut last week, a total of \$221 million, or 7.3 percent, has been cut from the 1991-92 state Appropriation Act.

The state-run primary bill, S.362, was ratified as an act on Thursday. One of the top bills of the 1991 session, the legislation was left in a conference committee at the end of last session.

Legislation requiring that college information be distributed to 8th grade students and their parents received third reading approval from the House and was enrolled for ratification. S.361, which directs the state Commission on Higher Education to develop a college information program for middle school students, received second reading approval on Wednesday and a final reading from the House on Thursday before it was enrolled for ratification.

Also enrolled for ratification was H.3716, legislation that would allow the College of Charleston, S.C. State, Francis Marion and Winthrop to change their names to university. Lander College and The Citadel would also be allowed the university title if they desired it in the future.

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Receiving a third reading from the House was H.3774, legislation that would require the state Department of Health and Environmental Control to give public notice before issuing a permit to an industry for the discharge of wastes or air contaminants. The bill now goes to the Senate for consideration.

By a vote of 114-0, the House also approved a House resolution memorializing the Southeast Compact Commission for Low-Level Radioactive Waste Management to adopt a "good neighbor" policy regarding the location of low level nuclear waste disposal sites. This good neighbor policy would prohibit a host state from locating a low level waste site within 10 miles of the border of a neighboring state. The state of North Carolina, the next Southeast Compact host state, is considering a low level nuclear waste disposal site two miles from the North and South Carolina borders.

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Bills Introduced

The following bills were introduced in the House of Representatives last week. Not all the bills introduced in the House are featured here. The bill summaries are arranged according to the House standing committee to which the legislation was referred.

Agriculture, Natural Resources and Environmental Affairs

No More Disposable Diapers (H.4386, Rep. Grady Brown). Non-biodegradable disposal diapers could not be sold in South Carolina after July 1, 1993 if this legislation is enacted.

Dam Safety (H.4396, Rep. Wilkes). When the ownership of a dam or reservoir changes hands, the name and address of the new owner would have to be provided to the State Land Resources Conservation Commission under this legislation. The new owner also would be required to submit an emergency action plan to the commission if the dam or reservoir he now owns would cause loss of life or substantial property damage if it failed.

The bill gives the commission the authority to order dam or reservoir owners to make repairs or the necessary maintenance if the commission finds that the structure is dangerous, is not in good repair, or has not been maintained under the terms and conditions of the certificate of operation issued by the commission. These repairs would be done at the expense of the owner and within the time frame outlined by the Land Resources Commission.

Further, the construction of any new dam or reservoir, whose failure would result in loss of life or property damage, would require the submission of a complete emergency action plan to the commission. The legislation also authorizes the commission to assess an administrative fine ranging from \$100 to \$1,000 against an owner who fails to carry out a commission order. Civil fines collected would go into a fund to pay for educational material on dam and reservoir safety.

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Compliance History Before Permitting (H.4419, Rep. Kempe). Under this bill, the state Department of Health and Environmental Control would require an applicant, whether person or company, to provide information about their past compliance history when applying for a permit to operate in South Carolina. The applicant would have to furnish information on the applicant and the parent or holding company regarding past licenses, administrative enforcement actions, permit revocations, liability judgments or convictions. Also the applicant would have to submit a complete list of any governmental agency that oversaw the operation of the company in the past five years. If the history warrants it, DHEC could conduct its own background investigation on the applicant or parent company, including a criminal background check, using the resources of SLED and the FBI.

Any current permit holder could be required to submit a disclosure form to DHEC when applying for a permit renewal. The bill would authorize DHEC to deny the initial permit or permit renewal to any applicant, whose background history reflects a failure to comply with administrative or statutory provisions.

Hazardous Waste Permitting Investigations (H.4421, Rep. Sheheen). This legislation adds a number of new provisions that would beef up the state's hazardous waste laws. The provisions of this legislation include:

- Making the hazardous waste generator liable for transgressions occurring during the shipping of the waste to the disposal site. This would be in addition to the liability of the transporter who fails to comply with regulations overseeing the shipment of hazardous waste. A waste transporter could be ordered to stop the shipments if DHEC finds that the waste shipments are a threat to public or environmental health.
- Allowing DHEC to charge fees to cover the cost of evaluating permit and renewal applications or the cost of investigating violations.
- Requiring an applicant to show the need for a facility when applying for a permit. If a facility is closed or condemned by the state, the need to reopen the facility would have to be established before permits for the reopening could be issued.
- Requiring all waste facility permits to be renewed every 5 years. Under the renewal process, DHEC could investigate the facility's compliance history, site suitability, and any fines or penalties assessed against the facility. The applicant would have to bear the cost of the investigation. In addition, the applicant would have to submit a disclosure form similar to the one outlined above in H.4419. DHEC could deny a permit renewal if the applicant is not technically or financially capable of operating the facility, if it has a history of violations, or has attempted to misrepresent the facts on the permitting application.

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- Making it illegal to dispose of any waste except hazardous waste in a hazardous waste disposal facility.
- Strengthening the enforcement action that can be taken by the State Attorney General. This could include closing or condemning the facility, denying or revoking its permit, or temporarily lifting its permit to accept waste at the site.
- Additional fines to be paid to the Hazardous Waste Contingency Fund.

Education and Public Works

Student Behavior and Enrollment (H.4390, Rep. Corning). This bill would allow school districts to deny enrollment to any student whose past school disciplinary record or criminal record fails to meet the standards of conduct for the district.

Driver's Training Vouchers (H.4394, Rep. Rama). Under this legislation, each person applying for a driver's license who is between 15 and 18-years-old could request a driver's training voucher. This voucher, issued by the state, could be used to defray the cost of driver's training. The voucher would be for an amount not less than \$200. An additional \$2 would be added to the annual motor vehicle registration fee of all drivers to cover the cost of the driver's training vouchers. The bill also outlines what must be included in driver's training courses.

Invitations and Memorial Resolutions

Restricted Licenses for the Aging and Handicapped (S.1114, Sen. Lourie). This joint resolution would direct the State Highway Department, together with the state Commission on Aging and Vocational Rehabilitation, to study the feasibility of issuing special restricted driver's licenses to elderly people or the handicapped. According to the resolution, these licenses would be used to enhance the self-sufficiency and independence of these two groups.

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Judiciary

Legal Fees (H.4387, Rep. Corning). This legislation would expand the provisions of the recent ethics law which prohibit campaign contributions from people who hold contracts with the state or any local government. Under this bill, the definition of contract would be expanded to include the referral to a professional service or contracting for a professional service, specifically legal services. No public official could solicit a campaign contribution in exchange for a promise of contracts or a referral of legal services under this legislation.

School Board Members Doing Business with the District (H.4403, Rep. Snow). Currently, state law allows a school board member to do business with the school district. This legislation would eliminate that provision, thereby prohibiting board members from future business transactions with their districts.

Labor, Commerce and Industry

Financial Examination of Insurance Companies (S.1265, Senate Banking and Insurance Committee). This legislation outlines the revised provisions that must be followed by the chief insurance commissioner or his examiners when reviewing the financial status of insurance companies doing business in South Carolina. This examination must take place at least once every five years.

Promotional Items From Alcoholic Beverage Producers (H.4392, Rep. McLeod). Under this legislation, producers of alcoholic beverages could offer non-alcoholic promotional items through the mail, which could be redeemed by returning the proof of purchase by mail.

Check Issuing and Cashing Businesses (H.4407, Rep. Keyserling). This legislation would require any business, other than a bank or savings and loan, from selling or issuing checks without first obtaining a license from the state. In order to receive a license, the business would have to be bonded and satisfy the state Department of Consumer Affairs that it could conduct business in an honest and efficient manner.

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The legislation outlines what the business must do to satisfy the licensing requirements. This would include a surety bond with the principle sum of \$100,000 and an additional bond of \$5,000 for each location over the original until the aggregate sum is \$250,000. Additional coverage may be required if the average daily balances demand it.

The licensee would have to notify the Department of Consumer Affairs of any action brought against it, any judgment entered against it, if it expands the number of offices it has, or cancels or changes its surety bond. The department would have the authority to revoke the license of the business for violation.

Regarding check cashing businesses, these, too, would have to be licensed by the Department of Consumer Affairs. Banks and savings and loans would not be included in these provisions. The license would be issued if the application investigation shows that the business would be financially sound and honestly operated and that it would be a convenience and an advantage to the business area where it would locate. Licenses would be issued annually with the department having the authority to examine the books and financial records of the operation before renewing the license.

These provisions would strictly prohibit businesses from offering to cash checks without identification. No check could be cashed except by the person's whose name appears on the check without appropriate documentation being previously received. Check cashing charges would be limited to 5 percent of the amount of the check or \$5, or if it is a government check, the charge would be limited to 3 percent of the amount of the check or \$5, whichever is greater. The department could revoke the license of the business for violations. Also, violation of these provisions would be a misdemeanor carrying a \$500 fine.

Insurance Discrimination Prohibited (H.4411, Rep. Gonzales). This legislation would prohibit the cancellation of insurance or the refusal to write insurance based on a person's race, sex, religion, national origin, economic status, credit history, residence or occupation.

Ways and Means

Charitable Housing (H.4406, Rep. Manly) This legislation would allow religious or charitable organizations to claim a property tax exemption of up to five years for residential property bought to be renovated and sold to the disadvantaged, as long as the sale makes no profit. Also, the amount of property that could be claimed by an organization under this exemption could not be more than 15 acres per county.

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Special Report: Total Quality Management

"TQM" is fast becoming a buzzword in the private and public sectors. As interest grows in this management philosophy, both business and government are reevaluating how they operate. The following special report, written by University of South Carolina Legislative Intern Chris Smith, gives a brief overview of the TQM philosophy and how it applies to both the private and public sectors.

For a more in-depth look at Total Quality Management, its history, concepts and applications, please see the State Reorganization Commission's November 1991 Special Issue Paper, *Total Quality Management: Implications for South Carolina State Government*.

Introduction

Total Quality Management (TQM) is a strategic, integrated approach to management for achieving customer satisfaction by the involvement of all levels of an organization from the management to the employees. It involves the use of statistics and other quantitative measures to continually improve the quality. It emphasizes long term plans over quick fixes by not measuring quality in terms of cost savings or quarterly dividends. In a variety of approaches, TQM has been implemented in over 3,000 organizations in the private sector and in some 40 governments. In South Carolina, various initiatives in both the public and private sector have implemented TQM. Milliken, Westinghouse Commercial Nuclear Fuel, Carolina Eastman, Michelin, and Greenwood Mills. In the state's public sector, the following are examples of agencies that have implemented TQM: the Tax Commission; the Department of Archives and History; the Department of Probation, Parole, and Pardon Services; and the Budget and Control Board's Division of Information Resource Management and Human Resource Management.

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The History of TQM

Total Quality Management has been around for years but not been until recently has it gained acceptance in the public sector. The TQM concepts were first introduced in the United States, and utilized during the second World War when the U.S. War Department established a Quality Control Section that aided in increased efficiency in the production of war materials. These employees were primarily from Bell Telephone Laboratories including statistician Walter Shewart who previously had developed methods for bringing "industrial processes under statistical control." Essentially, the early philosophy of TQM involved the recognition of normal variations in a process, the detecting of causes outside acceptable levels of variation, and the integration of statistics into decision-making.

After the War, the Japanese adopted this philosophy. Under the teaching of Dr. W. Edwards Deming, who was trained in mathematical physics at Yale, Japan was able to turn-around-its-economic status from its post-War state of devastation. So integral was Deming's help in Japan's post-war recovery, the country's highest award for quality is the Deming Prize. The competitiveness of the Japanese firms, especially the automotive and electronics industries, have attracted the attention of many American firms. TQM finally made its way into the American private sector in the 1980s. Deming, in his "Fourteen Points," outlines his concept of quality. American industry is listening to the message Deming imparts to them -- for \$10,000 a day. In the past 10 years, the most progressive companies in the United States have begun a cultural shift that has transformed the way they think.

Deming's philosophy demands an overhaul of "Western management" to focus on quality in terms of process -- and less on profits. Quality should be defined in terms of *the customer*, which Deming defines as those individuals outside the organization's product or services, or those who are affected by them and those individuals inside the organization (employees). Quality has to start at the top and be continuously reinforced by upper management. Deming names the "seven deadly diseases" that afflict Western management including, lack of constancy of purpose; emphasis on short-term profits; evaluation by performance, merit rating, or annual review of performance; and running a company on visible figures alone.

There have been others who have contributed to Total Quality Management in addition to Deming. Dr. Joseph M. Juran, who also aided the Japanese in their economic reconstruction, focuses on management's impact on quality and not on specific techniques for improving quality. He divides quality into two types: "fitness for uses" and "conformance to specifications."

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Juran believes quality problems lie in organization, communication, and coordination. He outlines his ideas in his "Ten Points." Others who have contributed to TQM include Phil Crosby who advances the zero defects idea and Dr. Kaoru Ishikawa. Ishikawa, who also helped the Japanese rebuild their economy, uses charts and flow-charts to monitor processes.

Some Basic Tenants of Total Quality Management

Although there are variations among the different views of TQM, researchers at the Federal Quality Institute identified the following similarities:

- Producing a quality product or service costs less because there is less waste.
- Preventing quality problems is better than detecting and correcting them.
- Managers need to take a leadership role in improving quality.
- Managers and employees need training in quality improvement.
- Companies need to develop a "Quality Management" System.

Just as there are numerous ideas of what TQM is, there are also numerous ideas of the concepts involved in implementation. The first such concept is maintaining a customer orientation. Deming refers to the customer as the "most important part of the production line." In government services, customers are usually not free to go elsewhere should they become dissatisfied. The result is frustration and a lack of confidence.

The structure of management is also important in TQM. First, participative management is useful since employees are considered customers; thus, the focus should be on their satisfaction. Decisions should not be autocratic, and the management should be supportive and delegate work to the employees instead of supervising their actions. Continuous improvement is also needed -- quality should be built in from the beginning. TQM maintains that it is easier to prevent mistakes than to correct them later. Constant review is part of continual improvement. "If it ain't broken, don't fix it" is not enough under TQM. The commitment to this continual improvement process must be at all levels, say TQM advocates, not just the domain of the quality control department.

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Statistics are useful in examining the TQM process. Data should be timely, and action should be taken once data are received. One should strive for the least amount of deviation from the norm as possible. "Benchmarking", a concept first developed by Xerox, is a method of comparing a product or service to others. One must identify a "world-class" example of the product or service and adjust one's current system to meet or beat the standard. Of course, these basic TQM ideas will not work if the employees are not trained. The training would provide employees with the basic knowledge of the system, as well as teach them a common language which helps in communication.

Why Government Should Implement TQM

There are as many variations in the implementation of TQM as there are organizations that have implemented it. By 1990, more than 3,000 companies had implemented or integrated TQM into their organizations, including Ford Motor Company, Hewlett-Packard, AT&T, and Xerox. Private industry uses TQM to compete and survive in the marketplace. This interest, however, is not confined to the private sector. There have been suggestions made throughout South Carolina government to explore TQM. For example, last November the State Reorganization Commission issued a special report on TQM, providing an in-depth overview of the subject with emphasis on its implementation in South Carolina.

Under a TQM system applied to the public sector, the citizens are the ultimate customers. A 1988 survey conducted by the Gallup Organization showed that only 1 in 11 Americans thought that government was doing a "very satisfactory job" in producing quality services. Only 31 percent felt that the federal government was operated competently; just a few more respondents held this view about state and local government. In an era of tight budgets and increased cries for privatization, experts argue that TQM could increase public sector productivity. It is estimated that TQM could save 10 to 20 percent of government operating budgets by reducing the "cost of quality," which TQM defines as the money spent to prevent problems, inspect for and correct them, waste, and other product or service failure. By eliminating the root cause of the high cost of quality, TQM advocates say government could do more with less money.

Total Quality Management could also help in the competition for employees. Many argue that state governments cannot compete on wages alone, so TQM would be a selling point. Also, by allowing for employees to feel that they are making a difference through participatory decision making, employees will feel more enriched and satisfied with their jobs. Some 40 governments have implemented TQM into their organizations. On the federal level, 235 federal quality initiatives are underway to improve quality. States, such as Wisconsin, also are implementing TQM. Other states, such as Florida, Michigan, Arkansas, and California, have individual agencies implementing TQM.

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Implementation in South Carolina

As previously mentioned, several South Carolina companies have integrated TQM into their organizations, including Westinghouse Commercial Nuclear Fuel and Milliken and Company. These two companies recently received the Malcolm Baldrige National Quality Award (1988 and 1989, respectively), the U.S. Congress's equivalent of the Deming Award. Milliken began what it called "Pursuit of Excellence" in the early 1980's. Milliken has a "flat management" structure, in which the term "associate" is used to describe over 14,300 employees who work primarily in self-managed teams. This gives the employees a great deal of autonomy and the power to stop the production process if a quality or safety problem is observed. The company conducts customer surveys and "benchmarks" the products or services of some 400 competitors.

Through careful adaptation, advocates say these concepts could be applied to South Carolina government. Several state agencies already have implemented TQM, among them the State Tax Commission. In 1988, the Tax Commission began to look at quality by first examining what others had accomplished in the private industry and in regional IRS branches. The commission also formed a steering committee, which meets every Monday morning. Some of the commission's early successes, as reported in the State Reorganization Commission report, include a reduction in the amount of time spent processing tax returns and an improvement in the ability to identify fraudulent returns.

The S.C. Department of Archives and History likewise has a steering committee, which meets biweekly to review suggestions submitted by employees. An award is given to the most outstanding of the quality improvement ideas. The department has reported over 350 initiatives and a cost savings of over \$43,000 in the first three years, as well as improved communications between staff and management. The S.C. Department of Probation, Parole, and Pardon Services also initiated quality improvements, including surveying department employees and recognizing employees in the agency's newsletter.

A TQM network, called the South Carolina State Government Quality Network, has been formed within state government. Some 30 state agencies, boards, and commissions, along with the University of South Carolina's Department of Statistics, participate in the network. TQM training is provided through this network, as well as through many of the technical schools, USC, Clemson, USC-Spartanburg, and private sector consulting firms. Following similar efforts on the federal level, the South Carolina Total Quality Institute will serve as a prototype on the state level to identify "model quality courses and programs that could be established and shared." Numerous other initiatives exist on the local and regional level to promote quality-improvement programs.

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Supporters of this management system are aware that TQM will not happen overnight nor will it be a quick fix for South Carolina government. Time and commitment will be needed to totally implement Total Quality Management.

An annual report on the progress made under TQM initiatives will be available to the General Assembly under legislation introduced two weeks ago. H.4336, pending before the House Ways and Means Committee, would direct the Division of Resource Management to annually issue a report on the initiatives and achievements of the Total Quality Management System in state government.