South Carolina House of Representatives

Legislative Update & Research Reports

Ramon Schwartz, Jr., Speaker of the House

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CONTENTS

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Legislative Update

Legislation Introduced

Change Highway Commission (H.3620). This proposal would alter the number and selection of the state's highway commissioners. Instead of using judicial circuits as is currently the case, it would set up nine districts; the legislative delegations from the counties in the districts would elect the commissioner. The governor would also have an appointee, as would the Speaker of the House and the President of the Senate. The House member and Senator would be ex officio members of the commission.

The proposed districts are:

One—Anderson, Greenville, Laurens, Oconee, Pickens
Two—Cherokee, Chester, Spartanburg, Union, York
Three—Abbeville, Edgefield, Greenwood, McCormick, Newberry, Saluda
Four—Fairfield, Kershaw, Lancaster, Richland, Sumter
Five—Aiken, Barnwell, Calhoun, Lexington, Orangeburg
Six—Chesterfield, Darlington, Dillon, Lee, Marlboro
Seven—Clarendon, Florence, Horry, Marion, Williamsburg
Eight—Berkeley, Charleston, Colleton, Dorchester, Georgetown
Nine--Allendale, Bamberg, Beaufort, Hampton, Jasper

Reduce Traffic Fines (H.3627). The debate over seat belts receives a new twist with this proposal. If you are wearing your seat belt when you commit a traffic violation, then your fine would be reduced by twenty-five percent; any points assessed against your license would also be reduced by twenty-five percent. Sort of a "safe driver" discount.

Free Registration (H.3638). This bill would extend free vehicle registration to South Carolina residents who are totally and permenently disabled.

Abolish Coastal Council (H.3642). This bill would repeal Act 123 of 1977, which created the state's Coastal Council. The Council is charged with developing and implementing a comprehensive coastal management program and permit system for the eight coastal counties and their critical areas.

There are eighteen members: two Senators, two Representatives, one member from each coastal county appointed by the local county governments, one member from each Congressional district elected by the General Assembly. The members have four-year terms.

Insurance Rates and Taxes (H.3645). Presently, South Carolina sets two different levels of rates and taxes paid by insurance companies. "Domestic" companies (those with home offices in the state) pay less than "foreign" companies; "foreign" companies can reduce their rates by investing in South Carolina.

This is a not uncommon practice, but one which has been declared unconstitutional by the United States Supreme Court. For a more extended discussion of the matter, please see page 4 of this *Update*.

Farm Mortgages (H.3652). Another bill aimed at helping beleagured farmers. This, the "Agricultural property mortgage foreclosure moratorium act," is similar to another bill introduced earlier, H.3531, which is discussed in some detail in *Update* issue number seven, February 25.

Chop Shops (S.747). According to this bill there are more than one million reported motor vehicle thefts each year in the country. Over fifty percent of all reported larcenies are of motor vehicles. According to other sources, costs of motor vehicle thefts in 1981 totaled $2.7 billion.

Increasingly sophisticated methods are being used by criminals involved with motor vehicle theft. One is the "chop shop," the criminal garage that specializes in taking stolen automobiles apart, grinding down or otherwise erasing serial numbers, and selling the assorted parts and materials. "There are indications," S.747 says, "that criminal elements are using motor vehicle theft proceeds for other illicit activities." That's just like them.

This bill proposes outlawing such chop shops. Owning one could be punishable by ten years in prison or fines up to $100,000; working in one could net five years in the slammer and a fine between $5,000 to $10,000; being a client of a chop shop could also bring five years or a fine up to $10,000.

Insurance: Foreign and Domestic

As mentioned earlier, a bill has been introduced to equalize the license fees and taxes paid by all insurance companies, whether they are "foreign" or "domestic." The following information is abridged from a research report published last year when the United States Supreme Court held unconstitutional such unequal taxes for "foreign" and "domestic" companies.

Summary

On March 26, 1985, the United States Supreme Court made a ruling in *Metropolitan Life Ins. Co. v. Ward* that declared that it is unconstitutional for a state, in that case Alabama, to have varying rates of taxation, one for domestic insurance companies, and a second, higher rate for "foreign" companies.

What are these varying tax rates all about? Why do states have them? And why did the high court decide they are unconstitutional?

Domestic Preference Taxes

Some states tax out-of-state insurance companies at a higher rate than they do companies incorporated within their state. Alabama and South Carolina allow these "foreign" insurance companies to lower their rates by investing part of their reserve within the state; in both cases, however, domestic companies still retain an advantage regarding taxes.

At least 28 of 50 states use a combination of investment incentives and varying premium taxes favoring domestic insurers to encourage local investment and to shelter smaller, domestic, companies from unfair competition with large multistate companies.

The stated purpose of the Alabama law was to encourage investments within the state by out-of-state insurance companies; it levied a tax of three percent on foreign life insurance premiums, and four percent on property and casualty insurance premiums. Domestic companies are taxed at one percent on all premiums. According to *The United States Law Week,* "The statue allows out-of-state companies to reduce their tax liability by investing in assets in Alabama, but never to a point of parity with domestic companies."

Supreme Court Strikes Down Preference Tax

In its ruling the United States Supreme Court found that the Alabama law was invalid. The Court's opinion first examined some past cases dealing with such varying tax rates, and noted that such uneven burdens could be imposed only if "the discrimination between foreign and domestic corporations bears a rational relation to a legitimate state purpose."

Justice Powell, delivering the opinion of the majority, held that "Alabama's aim to promote domestic industry is purely and completely discriminatory, designed only to favor domestic industry within the State, no matter what the cost to foreign corporations also seeking to do business there. Alabama's purpose ... constitutes the very sort of parochial discrimination that the Equal Protection Clause was intended to prevent."

The court held that the purpose of the Alabama statute was to encourage investment within the state and growth of Alabama insurance companies. But, "We do not agree that this is a legitimate purpose when furthered by discrimination."

The South Carolina Situation

If the system in South Carolina is equalized there are two options: the rates of foreign companies could be lowered, or the rates of domestic companies could be raised. Either option presents difficulties and problems. Domestic companies would object to having their rates raised to "foreign" levels; reducing out-of-state rates would decrease state revenues.

What Financial Impact Could This Have?

If the state decided to set foreign premium taxes at domestic levels, an estimated $20 million to $40 million in revenue could be lost. Some observers say this translates into a loss of $14.5 million for aid to subdivisions.

On the other hand, the General Assembly might raise the domestic companies to the foreign level. Estimates say this would increase revenues by around $15 million.

Lottery Sales Around the Nation

As reported in a recent edition of *Legislative Update* lotteries are now operating in at least twenty states and the District of Columbia. How well are these states doing? What sort of sales figures are they posting?

The following statistics represent fourth quarter (calendar) sales for lotteries in the United States. The figures come from the latest issue of *Gaming and Wagering Business,* which announces itself as the "international news magazine for gaming/wagering executives and government officials."

Overall, according to the publication, gross lottery sales in 1985 "reached an all-time high of $10.2 billion." Four states were over the $1 billion mark in sales: Pennsylvania, New York, Illinois, and Massachusetts. California sales topped $800 million after only three months of operation.

Gaming and Wagering divides lottery sales into their various components: "instant games," lotteries with three-digit or four-digit combinations the player must pick, "lotto," and any other games states may have devised. Some states have all of these varieties, others have only one or two. *Legislative Update* has combined figures within states for a total sales amount.

Lotteries:
Fourth Quarter (Calendar) 1985 Sales
($ millions)

STATE	SALES	STATE	SALES
Arizona	35.23	Michigan	242.93
California	825.0	New Hampshire	7.70
Colorado	22.38	New Jersey	237.80
Connecticut	99.78	New York	299.97
Delaware	9.96	Ohio	222.14
D.C.	30.09	Oregon	18.72
Illinois	306.24	Pennsylvania	354.47
Iowa	24.39	Rhode Island	N/A
Maine	9.93	Vermont	3.03
Maryland	172.96	Washington	36.92
Massachusetts	284.74		

Budget Cut Blues:
Federal Deficits, Gramm-Rudman-Hollings, and So Forth

Background: The Deficit

The federal deficit limit is now over $2 trillion. A trillion has twelve zeros, so, $2,000,000,000,000 is the amount of the deficit. Some people say that the debt is too high, that it's doing great harm to the nation and its economy.

How is that deficit to be reduced and eventually eliminated? "Whatever you have, spend less," Dr. Johnson said. The Gramm-Rudman -Hollings amendment (GRH) is supposed to do just that: spend less, spend a lot less every year until the debt is down to zero.

The Gramm-Rudman-Hollings amendment was put on the debt ceiling limit bill (P.S. 99-177) which raised the deficit limit to $2 trillion. The amendment requires a balanced federal budget by fiscal year 1991. It would provide for that balanced budget by automatic spending reductions of $36 million each year until then. Therefore, the deficit would fall by the following (in millions): $171.9, $144, $108, $72, $36, $0.

What Gets Cut?

"Across the board budget cuts" in the federal budget are a mutual contradiction. There are always protected programs, and the GRH amendment is no exception.

An estimated $440 billion (41%) of the federal budget is protected from any reduction. These exempt programs include Social Security, interest on the national debt, cash payments under the Earned Income Tax Credit, veteran's pensions and compensation, AFDC, Medicaid, SSI, food stamps, the Women, Infants and Children feeding program, and child nutrition programs.

Also beyond the knife's edge: programs with cost of living adjustments (COLAs), basically military and civilian government pensions.

In addition, some health programs can be cut but only slightly. Limited to a one percent cut in FY 1986 and a two percent cut in subsequent years are medicare, community health centers, Indian health services, veteran's health care, and migrant health centers.

Finally, there are some programs which can be cut, but which have to get special treatment: guaranteed student loans, unemployment compensation, federal pay, farm price supports, foster care adoption assistance and child support enforcement.

So What's Left to Cut?

Defense (unlikely under the present administration); social and human services (a certain target) and aid to state and local governments (dead as doornails).

How Does This Work?

No one is certain. However, GRH has some definite steps for reducing the deficit.

Step 1: The total deficit reduction required is first divided evenly among defense and domestic activities.

Step 2: The amount of COLA savings available is subtracted equally from the separate "target" programs, defense and domestic.

Step 3: The amount of reduction from special treatment of health programs, student loans and so forth is subtracted from the <u>domestic</u> "target" programs.

Step 4: The amount of remaining required cuts is used to calculate across-the-board percent needed.

What Impact on the States?

Again, no one is certain. Figures vary from authority to authority. A number of factors have to be considered: the estimated size of the federal deficit, future economic performance in the country, other Congressional action.

However, no one at the state and local level seems to be optimistic about the impacts. A report from the National Association of State Budget Officers says the impacts "will be very severe," and notes that local government aid will be highly vulnerable.

National political columnist David Broder notes that federal aid to state and local governments fell from $75.7 billion in 1978 to $50.3 in 1982; by 1991 it could be down to $31.2. That would mean that such aid would amount to only 3.9% of federal outlays, "and a minuscule 0.7 percent of the gross national product."

It should be noted that much of the aid that remains goes to the states only in a technical fashion: it is actually money that is earmarked for individuals, such as AFDC payments and so forth. The state has little to do with these funds except pass them along.

What About South Carolina?

Once more the fog descends. Figures can be found, but they are contradictory, ever changing, mind-boggling. However, according to the National Conference of State Legislatures, South Carolina will feel the following cuts (in $ thousands):

1986 Reductions		1987 Reductions	
Top 26 Programs	All Others	Top 26 Programs	All Others
-5,263	-4,773	-36,278	-67,659

The "Top 26 Programs" were appraised separately by NCSL, because they represent the programs most available and most used for state and local governments.

And Then There's Revenue Sharing

Actually, there isn't. Revenue sharing is also being phased out, which means that local governments will find a major source of their revenue cut off. According to figures from the Municipal Association, almost 11.5¢ of every dollar spent by cities comes from revenue sharing funds. To cover the loss of revenue sharing money, local taxes would have to be raised—perhaps by as much as 34%. Three-fourths of the municipalities in South Carolina use all or part of their revenue sharing funds for operating purposes—that means the money will have to be replaced, because essential services cannot just stop.

One possible response has been proposed in the General Assembly: H.3252, the Local Government Finance Act, which would allow counties and municipalities to impose a variety of taxes, including income and occupational taxes, to raise money. While such a move might prove necessary, it would certainly raise considerable opposition.

On the other hand, moves could be made to increase the state aid to political subdivisions. This could also be difficult, since most state funds are already committed to a variety of programs, and there is little discretionary money available.

There could be a search for new revenue sources to supplement existing ones or replace foregone ones, such as the inventory tax. A state lottery is the most talked about idea for additional revenue, but there is intense debate as to whether lotteries actually bring in money on a consistent, dependable basis—not to mention the various moral and ethical arguments.

Conclusion

"The outlook for FY 1987 and beyond for all state programs is extremely uncertain," states a report from the National Association of State Budget Officers. Gramm-Rudman-Hollings could, according to NASBO, "put tremendous pressure to sharply reduce state and local programs."

NASBO puts it mildly. The triple whammy of Gramm-Rudman-Hollings, Reagan administration budget priorities, and the end of revenue sharing are going to make a powerful impression on state and local budgets. At the same time the federal government withdraws much of its money from the states, it is increasing their load of responsibilities. More needs, fewer resources seem to be the shape of things to come.

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