

**Municipal Association of South Carolina**  
**Legislative Report**  
**July 1, 2003**  
(revised)

The General Assembly adjourned on June 5, 2003, ending the first year of the two-year session. Bills in committee or on the floor calendar will be considered when the legislators return in January. Below is a summary of the bills signed into law and a status of key municipal issues to be considered by the General Assembly when they return in January 2004.

**Legislation enrolled for ratification, ratified, or signed by the governor.**

**Act No. 8, R 25, S 9**

**JOINT AGENCY ACT**

This legislation authorizes special purpose districts created for the principal purpose of furnishing natural gas to create joint agencies so as to provide for the joint exercise of powers, joint administration of functions, and sharing of costs. The legislation's stated purpose is to provide to the Gas Authorities of the State a mechanism for the joint exercise of their powers, joint administration of functions, and sharing of related costs so as to ensure that the residents, businesses, and industries of this State located in the service areas of the Gas Authorities are provided with natural gas services as efficiently and inexpensively as possible. The legislation establishes provisions regarding the formation and operation of joint agencies.

*Status: Enacted into law, effective April 21, 2003.*

**Act No. \_\_\_, R 133, S 34**

**ECONOMIC DEVELOPMENT  
INCENTIVES**

This legislation requires disclosing information relating to economic development incentives offered by a public body after the incentive or expenditure has been accepted, the project has been publicly announced or an agreement has been finalized.

*Status: Ratified*

**Act No. 38, R 90, S 107**

**TOURISM EXPENDITURE  
REVIEW COMMITTEE**

This Act increases the membership of the Tourism Expenditure Review Committee from nine to eleven, by adding two additional positions appointed by the Governor: one member on the recommendation of the South Carolina Arts Commission and one member at large.

*Status: Enacted into law, effective June 2, 2003.*

**Act No. 39, R 91, S 204**

**LAND USE DISPUTE  
RESOLUTION**

This Act revises the procedures for appeals from decisions of zoning boards of appeals, boards of architectural review, and planning commissions so as to establish procedures for pre-litigation mediation for land use disputes between such bodies and property owners. The bill revises provisions relating to zoning boards of appeals and boards of architectural review so as to provide that a matter may be remanded to an administrative official if the board determines the record is insufficient for review. The bill provides

educational requirements for local government zoning and planning officials and employees and creates an advisory committee to approve courses for orientation and continuing education programs.

*Status: Enacted into law, effective June 2, 2003.*

**Act No. \_\_\_, R 115, S 305**

**FIREFIGHTER PENSION INVESTMENTS**

This Act ratifies the amendment to the South Carolina Constitution allowing a separate pension plan operated for firefighters by a municipality, county, special purpose district, or public service district to invest its funds in equity securities traded on a national securities exchange.

*Status: Ratified, no signature required.*

**Act No. 42, R 95, S 438**

**PREDATORY LENDING PRACTICES**

This legislation imposes regulations on certain practices commonly referred to as predatory lending. Section 7 of the bill prohibits a political subdivision of the state from enacting an ordinance, resolution or rule regulating the financial or lending activities of a person or a subsidiary or affiliate of that person, including disqualification of a person from doing business with the political subdivision based upon lending interest rates, reporting requirements or other obligations upon a person or subsidiary or an affiliate of that person is subject to the jurisdiction of specified state and federal institutions.

*Status: Signed by the Governor.*

**Act No. \_\_\_, R 141, S 449**

**BUILDING CODES – ADOPTION**

This Act updates the references to the nationally recognized building code organizations and amends the procedures by which the codes are adopted by the state.

*Status: Ratified.*

**Act No. \_\_\_, R 143, S 495**

**LAW ENFORCEMENT, ABANDONED TOWED VEHICLES**

This Act establishes procedures for the towing and disposal of vehicles by law enforcement officers. It requires the law enforcement agency to provide the towing company storing the vehicle the vehicle's current owner name and address and all lien holders of record.

*Status: Ratified.*

**Act No. 30, R 72, S 497**

**PROPERTY TAXES - ASSESSMENT RATIO GENERAL AVIATION AIRCRAFT**

This Act allows the governing body of a county by ordinance to reduce the assessment ratio applicable in determining the assessed value of general aircraft subject to property tax in the county to a ratio at least four- percent of the fair market value of the aircraft.

The bill requires that the ordinance must apply uniformly to all general aircraft subject to property tax in the county.

*Status: Signed into law, effective May 14, 2003*

**Act No. \_\_\_, R 96, S 550**

**LOCAL OPTION SALES TAX –  
ADJUSTMENTS**

This legislation is a Joint Resolution to allow the State Treasurer's Office to adjust the local option sales tax distributions to correct errors that occurred in FY2001 in coding the point of sale. The corrections have already been made for Sumter County. The remaining 26 counties will be adjusted in the coming months.

*Status: Signed into law, effective June 2, 2003.*

**Act No. \_\_\_, R 150, S 593**

**SPECIAL PURPOSE DISTRICTS  
TERRITORY**

This Act allows special purpose districts to continue to provide water and sewer service in areas that have been removed from their service areas, with approval of the governing body.

*Status: Ratified.*

**Act No. \_\_\_, R 154, H 3052**

**LITTERING - PENALTIES**

The Act provides that when the sentence for a littering violation includes litter-gathering labor in addition to a fine or imprisonment, the litter-gathering portion of the sentence is mandatory and must not be suspended. However, the court, upon the request of the violator, may direct that the person pay an additional monetary penalty in lieu of the litter-gathering portion of the sentence that must be equal to the amount of five dollars an hour of litter-gathering labor. Probation may not be granted in lieu of the litter-gathering requirement except for a person's physical or other incapacity. All funds collected in lieu of the mandatory litter-gathering labor must be remitted to Palmetto Pride to be used in connection with their litter efforts. The bill also provides that only those littering violations, which occurred within a period of five years including and immediately preceding the date of the last violation, constitute prior violations under the provisions.

*Status: Ratified.*

**Act No. 18, R 44, H 3078**

**JAILS - UNLAWFUL  
THROWING OF BODY FLUIDS  
ON AN EMPLOYEE**

This Act revises the provision regarding the unlawful throwing of body fluids on an employee of a state or local correctional facility by an inmate, detainee, person taken into custody, or a person under arrest, so as to provide that the term "local correctional facility" includes, but is not limited to, a local detention facility.

*Status: Enacted into law effective April 21, 2003.*

**Act No. 20, R 46, H 3198**

**FAMILY PRIVACY  
PROTECTION ACT - LOCAL  
GOVERNMENT EXCLUDED**

This Act revises the prohibition of knowingly obtaining or using personal information obtained from a public body for commercial solicitation directed to a person in this state, so as to substitute "state agency" for "public body". The bill provides that the prohibition does not apply to a local governmental entity

*Status: Enacted into law effective April 21, 2003.*

**Act No. 6, R 11, H 3344**

**TELECOMMUNICATIONS –  
BROADBAND SERVICE**

The legislation exempts from PSC regulation broadband service which is defined as any service that is used to provide access to the Internet and consists of the offering of: (a) a capability to transmit information at a rate that is generally not less than one hundred ninety kilobits per second in at least one direction; or (b) any service that combines computer processing, information storage, and protocol conversion to enable users to access Internet content and services.

*Status: Enacted into law effective March 12, 2003.*

**Act No. \_\_\_, R 167, H 3429**

**UTILITIES -  
RESPONSIBILITIES OF  
LANDLORDS AND TENANTS**

This Act allows a municipality to hold the landlord responsible for gas, electric, water, sewerage, or garbage charges billed to tenant if the property served is a multi-unit building consisting of four or more units served by a master meter or single connection. Last year, legislation passed preventing the utility from holding the landlord responsible in any situation. This Act allows large multi-unit owners to be held responsible for tenant bills.

*Status: Ratified.*

**Act No. \_\_\_, R 52, H 3655**

**MUNICIPAL RECORDS  
RETENTION REGULATIONS**

A Joint Resolution sponsored by the House Education and Public Works Committee to approve changes in the regulations relating to the retention schedules of municipal records.

*Status: Enacted into law, effective April 23, 2003.*

**Act No. \_\_\_, R 127, H 3749**

**BUDGET**

The budget Act, which passed the House and Senate contained several line items and provisos that impact municipal government.

\* The Local Government Fund was fully funded. Due to the decrease in state revenues, the Local Government Fund amount is \$37,101,869. The Budget and Control Board is authorized to make mid-year funding reductions to the previous year's level. Because this year's funding is lower than last year's funding level, it is uncertain if the B&C Board will make the mid-year reductions.

\* Proviso 33.7 adds a \$100 surcharge to all misdemeanor and felony drug offenses. Funds collected will be allocated among the 16 judicial circuits for drug treatment programs.

\* Proviso 73.3 adds a \$25 surcharge to all traffic offenses written with a Uniform Traffic Citation. The surcharge would generate \$24.5 million for solicitors, SLED, DJJ and the Court Administration.

\* Proviso 72.83 states the definition of tourist as used in Section 6-4-10 does not apply to museums, festivals, arts and cultural events, or the sponsoring organization of these events.

*Status: The governor has vetoed 22 items and provisos in the budget. They did not impact municipal government. The items vetoed will not be funded or implemented until after the General Assembly returns in January and takes action on the vetoes.*

## **R 2783**

## **WATER POLLUTION CONTROL**

R 2783 is a regulation dealing with stormwater management. It set forth the required regulations to comply with the new federal NPDES Phase II (stormwater) standards.

*Status: Effective May 29, 2003*

## **Legislation/Issues Pending**

### **Telecommunications**

H 3530 increases the telecommunications business license tax from .75% to 1.25%. It also eliminates the requirement for the Board of Economic Advisors (BEA) to conduct a study to establish the final rate. Under current law, the telecommunications tax rate will be .75% effective January 1, 2004. The law requires the BEA to conduct an analysis and calculate the final telecommunications tax rate by using the revenues received by municipalities for the years 1999 through 2003. The final rate will be .75% or the BEA rate, whichever is less. If the study determines the rate needs to be higher than .75%, a joint committee from the House and Senate would review the rate study and introduce a Joint Resolution setting the final rate. MASC's concern is the municipal liability for collecting the .75% tax beginning January 1, 2004, if the BEA study calculates the rate to be less than the .75%. At the .75% rate, more than 69 municipalities will suffer revenue losses. MASC is opposed to this rate; however, the legislature will not be able to address the situation before the .75% rate takes effect January 1, 2004.

*Status: Passed House*

*Amended by Senate, returned to House*

*In House Labor, Commerce and Industry Committee*

*MASC Position: Support*

### **Capital Project Sales Tax**

H3903 allows a municipality to enact a one-cent sales tax, if approved by the voters. The one-cent sales tax may be imposed for up to seven years, for a specific amount and designated for specific projects. It provides municipalities another revenue source for

funding capital projects.

*Status: Passed the House, in the Senate Finance Committee.*

*MASC Position: Support*

### **Hog/Poultry Regulations**

H3555 requires a local government permit must not impose a more restrictive or burdensome requirement than a state statute or regulation relating to the production of livestock and poultry. A local government permit may impose a more restrictive or burdensome requirement than the requirements imposed by Chapter 20 of Title 47, which deals with confined swine feeding operations. This legislation includes municipal governments in the definition of local governments.

*Status: Passed House, on the Senate Floor Calendar in a "contested" status.*

*MASC Position: Oppose*

### **Wastewater Utilities**

S 742 is a Joint Resolution approving DHEC regulation R 2830. Of concern to municipalities, the regulation changes the definition of accessibility and eliminates the delegated review of subdivision wastewater plans by Council of Governments. If a municipality requires annexation as a part of the customer service agreement for wastewater service, the new definition of accessibility would deem the wastewater system inaccessible, therefore allowing DHEC to issue a septic tank permit for the property. With regard to the delegated review, current regulations require certain Council of Governments to review all wastewater plans for subdivisions to insure compliance with Section 208 plans. The new regulation eliminates this requirement and returns the review to DHEC. Should the Senate take no action when they return in January, the regulation will automatically become effective on March 1, 2004.

*Status: On the Senate Floor Calendar in a "contested" status.*

*MASC Position: Oppose*

### **Recreation Facilities – Liability**

H 3658 provides that a municipality or county or its employees are not liable for damage or injury caused to a person who participates in a hazardous recreational activity on municipal or county property. Exceptions are provided. The legislation applies the limits of the South Carolina Tort Claims Act where liability exists.

*Status: In House Judiciary Committee.*

*MASC Position: Support*

### **Taxes or Fees – Vote Required**

H 3649 provides that, beginning July 1, 2003, the General Assembly and any local governing body of this State may not impose or increase any tax or fee without a two-thirds vote of the members of the body.

*Status: On House Floor Calendar, adjourned debate.*

*MASC Position: Oppose*

### **Workers' Compensation – Law Enforcement**

S 19 provides that any impairment to a law enforcement officer due to a heart or respiratory condition occurring within 24 hours of employment is presumed to have risen out of the course of employment and therefore compensable under the workers' compensation statutes.

*Status: On Senate Floor Calendar.*

*MASC Position: Support.*

### **Land Use – Non-conforming Uses**

S 280 eliminates the authority of a local government to provide for an amortization period for non-conforming uses in planning and zoning and requires the local government to pay cash compensation to the owners of nonconforming land, buildings and structures.

*Status: In Senate Judiciary Committee.*

*MASC Position: Oppose.*

### **Law Enforcement – Data Collection**

S 424 requires law enforcement agencies to collect and maintain driver race and ethnicity data related to traffic enforcement.

*Status: Passed Senate, in House Judiciary Committee*

*MASC Position: No position.*

### **Property Rights - Vesting**

H 3858 amends the Comprehensive Planning Act to establish vested property rights, allowing the commencement and completion of development and use of property pursuant to a site specific development plan.

*Status: In House Judiciary Committee.*

*MASC Position: Support concept, oppose current language in bill.*

### **Bonded Indebtedness**

H 3291 requires that a referendum be held on the question of raising the bonded indebtedness limit of a political subdivision or school district. The referendum must be held on the date of the general election, and before the question may appear on the ballot, the question must be certified to the appropriate election commission at least 45 days before that date.

*Status: Passed House, in Senate Judiciary Committee.*

*MASC Position: Oppose.*

### **At- Will Employment**

H 3448 revises South Carolina's at-will employment doctrine in light of recent court rulings under which employers who use employee handbooks, even with conspicuous disclaimers and employee acknowledgements, may inadvertently create a contract of employment that replaces the intended at-will employment relationship. Under the bill, no handbook, policy, procedure, or other document issued by an employer or its agent may form an express or implied contract of employment, unless: (a) the contract is in writing; (b) the contract is signed by the employee and an authorized agent of the employer; and (c) the contract expressly provides that the parties intend to alter their at-

will employment relationship. The legislation applies to both public and private employment.

*Status: Passed House, on Senate Floor Calendar.*

*MASC Position: Support.*

### **Electric Utilities**

During the last few days of the session, the electric cooperatives attempted to broker a compromise amending the "Hamlet" or "2500 Rule." The interested parties could not reach an agreement; therefore, no legislative action was taken.

### **For additional information please contact:**

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