

Municipal Association of South Carolina Legislative Report

July 27, 2005

The South Carolina General Assembly adjourned on June 2, 2005, ending the first half of the 116th Session. During the year, MASC monitored more than 300 bills. MASC lobbied for passage of those bills which benefit municipalities and lobbied against those bills having a negative impact on municipalities. The following is a status report on key bills of municipal interest.

Enacted into Law

Water Pollution Control – Aquatic Life Protection Act (Act 25, R 14, S 326)

Act 25 amends the Aquatic Life Protection Act enacted last year dealing with wastewater and stormwater discharge regulations. The bill allows permit applicants or existing permittees to opt out of the Act's regulations, if they notify DHEC in writing.

Same Sex Marriages (Act 45, R 51, H 3133)

Act 45 proposes a constitutional amendment stating a marriage between one man and one woman is the only lawful domestic union valid and recognized in this state. It further prohibits political subdivisions from creating legal status to any other domestic union.

Elections – Voting Systems (Act 63, R 72, H 3347)

Act 63 requires the State Election Commission to adopt one voting system or multiple voting systems to conduct elections in the state. It repeals state law allowing municipalities and counties to select their own voting machines.

Law Enforcement – Electronic Traffic Violations (Act 68, R 84, S 596)

Law enforcement officers can use computer terminals or handheld devices to issue uniform traffic citations. The devices utilize software designed to capture information required by the courts, Department of Public Safety and Department of Motor Vehicles. Once this information is in an electronic format, it can be shared with municipal courts and state agencies without requiring data re-entry.

Municipal Incorporation

(Act 77, R 79, S 318)

For areas seeking to incorporate, the population threshold is reduced from 15,000 to 7,000 if they are within five miles of another municipality. In addition, county, state or federally-owned land in an incorporated area can be used to link areas seeking to incorporate. The Act establishes service requirements for areas seeking to incorporate. The proposed municipality must provide law enforcement services required by regulations promulgated by SLED and three of nine additional municipal services list in the Act. The Municipal Incorporation Oversight Committee, created by this Act, will review all municipal incorporations to ensure the law's requirements are met.

Volunteer Firefighter Protection

(Act 78, R 92, S 67)

Employers cannot terminate the employment of a volunteer firefighter or medical services volunteer for failing to report to work if they are participating in statewide mobilization responding to an emergency declared by the president or governor.

Workers' Compensation – Municipal Prisoners

(Act 98, R 118, S 557)

Act 98 authorizes municipalities to provide workers' compensation insurance coverage for prisoners working for them.

Casino Boat Regulations

(Act 104, R 131, H 3694)

Local governments can prohibit or regulate casino boats offering gambling cruises to “nowhere.” If a local government decides to ban existing gambling cruises, they will be allowed to continue to operate for five years after the ban. The amortization period allowed in this law is similar to one the legislature is trying to eliminate for billboard removal.

Law Enforcement – Workers' Compensation

(Act No. 108, R 112, S 75)

A law enforcement officer's cardiac related incident resulting in impairment or injury, within 24 hours of a law enforcement incident involving unusual or extraordinary physical exertion, is presumed to be work related and will be covered by workers' compensation insurance.

Tax Increment Financing

(Act 109, R 113, S 97)

County TIFs can consider rural areas as blighted areas. Also, counties and municipalities can jointly adopt redevelopment plans with an intergovernmental agreement.

Historic Properties Rehabilitation

(Act 138, R 162, S 140)

South Carolina financial institutions can participate in the tax credits allowed under the SC Historic Properties Tax Credit law. Act 138 is a technical correction to the SC Historic Properties Tax Credit bill passed three years ago. The law is now compatible with the language in the Textile Communities Revitalization Act passed last year.

Omnibus Tax Bill – Tax Collection

(Act 145, R 150, H 3768)

Act 145 makes several changes to the state's tax laws. Of primary interest to municipalities, it changes the millage rate limitation using an average increase in the twelve monthly Consumer Price Indices (CPI) instead of assuming an annual CPI increase from year-to-year. Also it authorizes counties to implement a countywide business registration fee and authorizes code enforcement officers to write ordinance summons for expired tags and unpaid property taxes.

Seat Belts

(Act 147, R 159, S 1)

Law enforcement officers can issue citations to drivers not wearing a seat belt. Previously, the officer had to charge the driver with another violation before being able to issue a ticket for failure to wear a seat belt. Law enforcement officers must obtain race, sex, age and gender information on each person stopped and record the information on a form designed by the Department of Public Safety (DPS). The DPS will collect the information.

SC Retirement System

(Act 153, R 200, S 618)

To guarantee future Cost of Living Adjustments (COLAs) for retirees in the South Carolina Retirement System, all covered employees saw their contribution increase to 6.25 percent on July 1. On July 1, 2006 the contribution will increase to 6.5 percent. The employer contribution will increase to 8.05 percent on July 1, 2006 and 8.55 percent on July 1, 2007. In addition, workers retired under the South Carolina Retirement System (including TERI employees) or the Police Officer Retirement System who have returned to work began paying the employee contribution on July 1.

Omnibus Tax Bill

(Act 161, R 188, H 3767)

Act 161 is the second omnibus tax bill changing the state's tax laws. Of primary interest to municipalities, municipalities are eligible to participate in the Rural Infrastructure Fund. It clarifies the property tax exemption for public benefit corporations established by a municipality and used exclusively for economic development purposes. Also it protects public employees from frivolous lawsuits and UCC filings.

Criminal Domestic Violence

(Act 166, R 196, H 3984)

Act 166 increases criminal domestic violence fines and requires magistrates, municipal court judges, family court judges and circuit court judges receive continuing legal education training on domestic violence.

The following bills are pending and will be considered when the General Assembly reconvenes in January 2006.

Annexation

S 536 Petition Ordinance Method

S 536 reduces percentages for the petition-ordinance method of annexation from 75% of the property owners owning 75% of the total assessed valuation of the areas seeking to be annexed to 60% of the property owners owning 60% of the total assessed valuation of the property seeking to be annexed. Pending in Senate Judiciary Committee.

S 538 Enclaves

S 538 authorizes a municipality to annex an area by ordinance if the area is completely surrounded by the municipality. It may not annex the area using this procedure if the area has more than 50 acres, more than 25 registered voters or has been surrounded by the municipality for less than three years. Pending in Senate Judiciary Committee.

S 539 Urban Density Requirement

S 539 authorizes a municipality to annex a contiguous area once the area has achieved a certain population and density criteria. Pending in Senate Judiciary Committee.

Courts

S 262 Pre-Trial Diversion Programs

S 262 allows the solicitor to establish a pre-trial diversion program for first-time traffic offenders. Violators may be eligible to participate in the program if they have no prior traffic-related offenses on their record; however, they may participate in the program only once. The program requires the participant complete community service and an educational program. If the violator successfully completes the program, the citation is dismissed and no points are assessed. Pending on the Senate Floor.

Economic Development

H 3841 SC Retail Facilities Revitalization Act

H 3841 is similar to the Textile Communities Revitalization Act approved last year. It allows tax credits for either state income taxes or local property taxes for redeveloping abandoned retail sites of at least 50,000 square feet. It includes wholesalers as eligible participants. Pending in Senate Finance Committee.

H 3647 Sunday Blue Laws

H 3647 allows businesses to open on Sunday before 1:30 p.m. It does not delete existing protections for employees who conscientiously oppose working on Sunday. Pending on the Senate Floor.

Elections

H 3411 Municipal Election Appeals

H 3411 deletes the language in two sections of the SC Code of Laws that require an incumbent remain in office on the municipal council until the final outcome of an appeal of mayor or municipal council election. Pending in Senate Judiciary Committee.

Finance & Revenue

H 3198 Municipal Finance Oversight Act

H 3198 establishes a Municipal Finance Oversight Commission and requires municipalities to have an annual audit of their financial records. The municipality must submit the audit to the Commission within six months of the close of the fiscal year. Also, it give the commission oversight of the municipal financial operations if the municipality fails to pay any installment of its outstanding debt, transfer social security or retirement withholdings to the appropriate agency or pay wages owed to employees. Pending on the Senate Floor.

H 3350 Municipal Capital Project Sales Tax

H 3350 allows a municipality to enact a one-cent sales tax, upon approval by a referendum, for specific capital projects for a specific amount during a specific time period. Pending in House Ways and Means Committee.

S 641 Use of Local Accommodations Tax

S 641 allows up to 50% of local accommodations tax funds to be used for operations and maintenance purposes allowed by law in counties that do not collect \$900,000 in state accommodations tax. Pending in Senate Finance Committee.

Planning and Zoning

H 3381 Billboard Protection Act

H 3381 requires the local government pay a billboard sign owner and property owner cash compensation if the billboard is required to be removed by the local government. This legislation limits a local government's ability to establish community appearance standards using sign ordinances. It also prevents the local government from enforcing its time amortization schedule for billboard removal. Compensation to the billboard owner and property owner includes future lost revenues. Ordinances enacted prior April 14, 2005 are exempt from this legislation. Pending on the Senate Floor.

S 890 Tattoo Facilities Regulation

S 890 approves the DHEC regulations for tattoo facilities. The regulations require the applicant for a tattoo facility license provide certification from the local government that it has adopted an ordinance authorizing tattoo facilities within its jurisdiction. If the regulations are not approved by the General Assembly, they will become effective February 22, 2006. Pending in House Medical, Military, Public and Municipal Affairs Committee.

S 304 State Preemption of Local Ordinances

S 304 prohibits a local government from imposing a more restrictive requirement than a state statute or regulation relating to any business or industry. Pending in Senate Agriculture and Natural Resources Committee.

Property Tax

S 69 Statewide Sales Tax for Replacement

S 69 imposes a statewide sales tax to replace the revenues generated from real and personal property taxes. Pending in Senate Finance Committee.

S 73 Constitutional Amendment to Eliminate

S 73 calls for a constitutional amendment to eliminate property taxes and requires the state to provide the funding for the lost revenues. Pending in Senate Finance Committee.

S 230 Referendum Required to Increase Rate

S 230 requires a majority approval through a referendum for millage rate increases. Pending in Senate Finance Committee.

S 484 Statewide Sales Tax Relief

S 484 enacts the School Equity and Property Tax Relief Act and imposes an additional state sales, use and casual excise tax equal to 1 percent of gross proceeds of sales. Pending in Senate Finance Committee.

S 775 Millage Limitation

S 775 limits property tax millage imposed on political subdivisions to a rate not exceeding the 2005 rate. It requires annual property tax millage be adjusted by an amount sufficient to limit annual increases in property tax revenue by no more than 1 percent and imposes an additional cumulative state sales, use and casual excise tax equal to .5 percent effective July 1, 2008. Also, revenues from these taxes must be distributed to the political subdivisions in the matter provided in the annual General Appropriations Act. Pending in Senate Finance Committee.

S 783 Statewide Sales Tax

S 783 imposes an additional state sales, use and casual excise tax equal to 3 percent of amounts subject to these taxes. It provides separate state sales and use tax rate equal to 2 percent on unprepared food. It establishes operating a tax millage exemption trust fund to receive the revenues of the additional 3 percent state sales tax and exempts all fair market value of owner-occupied residential property not exempt from property tax. Pending in Senate Finance Committee.

S 788 School Tax Millage Exemption Trust Fund

S 788 imposes an additional 2 percent statewide sales, use and casual excise tax equal to 2 percent gross proceeds of sales, except prepared food. It establishes The School Tax Millage Exemption Trust Fund to receive the sales tax revenue added by this Act. It exempts owner-occupied residential property from property taxes imposed for school operation and reimburses school districts for the taxes not collected because of this exemption. It exempts a sufficient

amount of fair market value of all real property in a county to limit to 1 percent any annual increase in property taxes and provides those circumstances in which the exemption does not apply. Pending in Senate Finance Committee.

S 794 Statewide Sales Tax

S 794 imposes an additional state sales, use and casual tax equal to 3 percent of amounts subject to these taxes and provides a separate state sales and use tax rate equal to 2 percent on unprepared food. It establishes an operating tax millage exemption trust fund to receive the revenues of the additional 3 percent state sales tax. Property tax credits attributable to the local option sales tax in excess of municipal and county property tax due on commercial real property tax is considered a distribution to the municipality. It exempts a sufficient amount of fair market value of all real property in a county to limit to 1 percent any annual increase in property taxes and provides those circumstances the exemption does not apply. Pending in Senate Finance Committee.

S 796 Reassessment Limits

S 796 eliminates increases in fair market value of owner-occupied residential property attributable to a property tax reassessment in a county occurring after December 31, 2006. This exemption continues until the property, with certain exceptions, is transferred or improved. Pending in Senate Finance Committee.

S 838 Reassessment Limits

S 838 limits property tax increases to 1 percent of appraised value, allowing for adjustment. Pending in Senate Finance Committee.

S 880 Statewide Sales Tax

S 880 imposes an additional state sales, use and casual excise tax equal to 3 percent of amounts subject to these taxes and provides separate state sales and use tax rate equal to 2 percent on unprepared food. It establishes an operating tax millage exemption trust fund to receive the revenues of the additional 3 percent state sales tax and exempts all fair market value of owner-occupied residential property remaining not exempt from property tax. Pending in Senate Finance Committee.

H 3703 Property Tax Limits

During countywide property tax reassessment years, the property tax rate is adjusted to a rate estimated to produce no more operating revenues than the total revenues received by the entity in the preceding property tax year. Property tax rates are increased by the greater of the estimated property tax operating revenue attributable to property and improvements not previously taxed, for new construction, and for renovations to existing structures, or a percentage equal to any increase in the consumer price index over the same period. Pending in Senate Finance Committee.

H 3264 Reassessment Limits

H 3264 eliminates increases in fair market value of owner-occupied property to reassessment every four years and limits increases to 15 percent. Pending in House Ways and Means Committee.

H 3048 Reassessment Notices

H 3048 requires property tax assessment notices resulting from countywide assessment and equalization program provide an estimated property tax liability based on the revised value and rollback millage. Pending in House Ways and Means Committee.

H 3302 Reassessment Increase Limitation

H 3302 replaces calculation of a rollback property tax millage rate for years during a countywide assessment to no more than 1 percent additional property tax revenue. Pending in House Ways and Means Committee.

H 3437 Reassessment Increase Limitation

H 3437 allows a property tax exemption for owner-occupied residential property and commercial real property in a county in an amount sufficient to limit to 15 percent the increase in property tax during a countywide reassessment. Also, transferred property is subject to the property tax during the next year at the fair market value. Pending in House Ways and Means Committee.

H 3456 Reassessment Increase Limitation

H 3456 does not allow rollback millage rates to be increased in a property tax year during a countywide reassessment, unless it has a favorable vote in a referendum. Pending in House Ways and Means Committee.

H 3989 Reassessment Notice Required

H 3989 requires additional information about changes in property value be sent to the property owner during years of countywide reassessment. Pending in House Ways and Means Committee.

S 490 Municipal Property Tax Liens

S 490 declares payment of a lien for state or county taxes does not remove a lien for municipal taxes. Pending on the House Floor.

Public Safety

S 79 Street Gangs

S 79 enhances law enforcement's ability to deal with criminal street gangs. Pending in Senate Judiciary Committee.

S 40 Use of Cameras for Traffic Signals Control Enforcement

S 40 authorizes state and local governments to use electronic recording devices, such as cameras, to enforce traffic control signal statutes. The legislation establishes notice standards by the enforcement agency, the appeals process for the vehicle's registered owner and the amount of the civil penalty for the violation. Pending on the Senate Floor.

S 374 Non-Smoking Ordinances

S 374 authorizes local governments to enact ordinances to prohibit smoking tobacco products in public places such as restaurants. Pending on the Senate Floor.

Utilities

H 3525 Utilities – Water & Wastewater Service Required

H 3525 requires a municipality provide water or sewer service to a parcel of property within the municipal boundaries, if the property owner requests it and agrees to pay for the cost for extending the service. This legislation removes any municipal authority to decide how, when and where a water or sewer line must be extended to serve a parcel of property within the municipal boundaries. This legislation places the decision for extending water and sewer lines into the property owner's hands and not the municipality. Pending on the Senate Floor Calendar.

Workers' Compensation Insurance

H 3284 Workers' Compensation – Second Injury Fund

H 3284 calls for the dissolution of the Second Injury Fund. Pending in House Labor, Commerce and Industry Committee.

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