

# UPTOWN

## Municipal officials should become familiar with the municipal legislative agenda prior to Hometown Legislative Action Day

The legislative session is in full swing, and only a few weeks remain until MASC's annual legislative meeting, Hometown Legislative Action Day on February 15. MASC strongly encourages municipal officials to familiarize themselves with the top legislative issues likely to affect municipalities this year.

In December 2004, the MASC Board of Directors reaffirmed the municipal legislative agenda that focuses on three critical areas: better annexation laws, more flexible revenue sources and true Home Rule. "It is an important responsibility of each municipal official to become familiar with these issues," said Howard Duvall, MASC executive director.

### Annexation

The General Assembly must provide better annexation laws to make sure SC municipalities remain viable economic engines for their regions and an integral part of the state's overall economy. Current annexation laws are outdated and restrict a municipality's ability to grow to its natural urban boundaries. MASC will work to amend the annexation laws on three fronts. State law should allow municipalities to annex an unincorporated enclave (an unincorporated area completely surrounded by municipal boundaries) if the area contains no more than 50 acres, has less than 25 registered voters or has been an enclave for more than three years.

Enclaves are an inefficient way to provide basic government services, such as police and fire protection. Enclave residents benefit from, but do not pay for the enhanced quality of life provided by municipal services such as parks, infrastructure and planning. Finally, enclaves can hurt the property values of adjacent properties because they are not subject to zoning restrictions. An enclave in the middle of a residential area could become home to a salvage yard.

The General Assembly should reduce the number of signatures required to annex from 75 percent of the property owners owning 75 percent of the assessed value to

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## MASC provides legislative information to municipal officials in several formats

Keeping municipal officials updated on important legislative issues is a top priority for MASC. When municipal officials are knowledgeable about the legislative issues affecting their city or town, they are better able to work with their citizens and legislators to encourage pro-municipal legislation. MASC provides legislative information through *Uptown*, the Weekly

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60 percent. It is easier to change the state constitution than to petition for an annexation. MASC will pursue legislation to allow municipalities to annex a contiguous area if it reaches a certain level of urban densities in population and development. Densely populated and developed areas are considered urban areas. "If it is urban, it should be municipal," said Gary Cannon, MASC director of intergovernmental relations.

### **Municipal incorporation**

Once again, Senator Glenn McConnell introduced legislation (S88) to remove the five-mile limit for a new municipality to form and to re-define the term "contiguous." Currently, a new municipality cannot be formed if the area has less than 300 people per square mile and is closer than five miles from another municipality. The five-mile limit is waived if the area seeking incorporation has a population greater than 15,000 or if the existing municipality refuses to annex the area. S88 deletes the five-mile limit entirely and allows a municipality to incorporate if the area has a population density of 300 people per square mile. Areas seeking incorporation can include enclaves as part of their incorporation, or enclaves can incorporate on their own. "If this legislation is enacted, thousands of small municipalities could be created throughout the state," Cannon said. "This would create chaos and be an extremely inefficient way to deliver government service. It promotes a proliferation of municipalities that were formed strictly as a defense against being annexed by the neighboring municipality. It is bad public policy and will have a disastrous effect on existing municipalities and the overall economic well-being of our state."

### **Revenue sources**

#### **Municipal capital project sales tax**

When the General Assembly granted Home Rule in the '70s, it never gave municipalities fiscal Home Rule. South Carolina municipalities must have more flexible revenue sources. A municipal capital project sales tax is one example of how to give communities a way to fund local projects important to them. There is nothing more democratic than allowing citizens to vote on an issue directly affecting them. If approved by voters, the municipality can impose a one-cent sales tax for up to seven years, for a specific amount and designated for specific projects. The current countywide capital project sales tax limits municipalities because it requires county council approval to initiate the referendum. Further, it places municipal projects at the mercy of non-municipal voters. "Municipal officials need to consider their experience with the countywide capital project sales tax referendums and be prepared to discuss with their legislators how the municipal capital project sales tax will benefit not only their residents, but also the entire community," Cannon explained.

#### **Accommodations and hospitality taxes**

Accommodations and hospitality taxes give municipalities the funds to provide projects and services directly related to needs created by tourists or non-municipal residents. However, the law has created an unintended consequence. Municipalities can build tourist-related facilities but cannot use the funds to operate and maintain them unless the county collects more than \$900,000 annually in state accommodations taxes. The \$900,000 threshold needs to be eliminated. "At the very least, all municipalities

should be allowed to use a percentage of these funds to operate and maintain facilities built with these funds," Cannon said.

#### **Municipal fiscal responsibility act**

Several municipalities are experiencing financial crisis due to poor financial decisions by the governing body. Sometimes the governing body does not have adequate information to make sound financial decisions. Current state law requires municipalities to have an annual audit and to submit the audit to the Comptroller General's Office. However, the law does not provide severe penalties for non-compliance. To help municipalities avoid a fiscal crisis, MASC supports:

1. Requiring stronger penalties for failing to have an audit conducted and submitted in the required time to the Comptroller General's Office.
2. Establishing an oversight committee composed of municipal officials from across the state with the technical expertise to review financial records and make recommendations for changes to prevent a financial crisis.
3. Giving the oversight committee the authority to assume responsibility for the financial management of a municipality if it fails to comply with the course of action recommended by the committee. "It is not our intent to take a hard line approach to making municipalities get their fiscal act together," said Duvall. "It is more of an effort to provide support and capacity for many of our municipal officials who have enormous fiduciary responsibilities in the positions they

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hold.” While the greater majority of SC municipalities will never interact with this committee, a few will. “It is good public policy to provide oversight and accountability to those making financial decisions within our municipalities,” Duvall added.

### Home Rule

#### Billboards

Proposed legislation would limit a local government’s ability to establish community appearance standards by preventing it from enforcing its time amortization schedule for billboard removal. The billboard industry wants

to make local governments relocate a billboard instead of having it removed. If a comparable location is not available, the local government would be required to compensate the billboard company for the cost of the structure, relocation costs and lost revenues. Further, the local government would be required to pay the property owner where the billboard was located for revenues lost due to the removal. MASC opposes this legislation. Zoning ordinances allow for non-conforming uses within a specified period of time. If this legislation is enacted, it will provide special treatment for one industry and create an enormous

financial burden for municipalities. All municipalities will be affected if this bill becomes law, even those that do not want to remove billboards, as this statewide legislation establishes a precedent against allowing municipalities to use amortization schedules to remove other non-conforming uses.

Municipal officials are encouraged to review these issues and discuss them with their constituents. Bring specific examples of how these legislative issues will affect your municipality and be ready to discuss these examples with your legislators February 15.

## Information continued from cover

Legislative Report and Alerts and its Web site.

*Uptown* is intended to provide background information on the legislative issues that will affect municipalities. *Uptown* articles explore why the legislative issue is important and what consequences/opportunities the issue poses. “Our *Uptown* articles provide the framework on which municipal officials can hang local examples and perspectives,” said Howard Duvall, MASC executive director.

Each week, officials will receive the Weekly Legislative Report via fax, e-mail or mail. The Legislative Report will recap the week’s events at the Statehouse and highlight items of municipal importance during the upcoming week. The Report will update readers on issues of municipal interest. Officials should use these reports as a basis for determining how the issue will affect them locally. “We have changed the name of our

weekly legislative communication with our officials to reserve Alerts for those times we need an immediate response from our members,” said Gary Cannon, director of intergovernmental relations.

MASC will issue Alerts only when needed. “Officials need to understand when they see an Alert from MASC, we really need their help in contacting their legislator,” Cannon explained. “It is highly unlikely these issues will come out of the blue. Our officials will have already heard about them through our Weekly Legislative Report, *Uptown* articles and our Web site. Hopefully, they have already determined exactly how the legislation will impact their municipality and be ready to pick up the phone and call their legislator.”

The Web site ([www.masc.sc](http://www.masc.sc)) will be the central source for all information pertaining to the municipal legislative agenda. Issues of *Uptown* and the Weekly Legislative Report are

posted on the site, as are position papers and talking points on critical legislative issues. The site also has a categorized listing of all bills of municipal interest. When issued, Legislative Alerts will appear on the site’s home page.



# National certification requirements for clerks provide new challenges, opportunities

Municipal clerks in South Carolina will soon have the opportunity to meet new certification requirements set forth by the International Institute of Municipal Clerks (IIMC). MASC and the USC Institute for Public Service and Policy Research sponsor the South Carolina Municipal Clerks and Treasurers Institute (MCTI) to help meet the educational needs of clerks and treasurers in South Carolina.

MCTI is recognized by IIMC as a state institute that meets national standards for providing educational opportunities for clerks. Completion of MCTI provides the required 50 educational points for national certification.

Many South Carolina municipal clerks are well on their way to achieving the professional designation of Certified Municipal Clerk, or CMC, which is awarded by IIMC. MCTI has helped 30 municipal clerks achieve their CMC designation. Two municipal clerks have received their Master Municipal Clerk (MMC) designation, the highest certification awarded by IIMC. South Carolina also has five clerks enrolled in the Master Municipal Clerk Academy who are working toward achieving their MMC.

IIMC has recently made changes in the requirements for national certification. All state institutes, such as MCTI, are now required to have a testing component to ensure learning has occurred. This requirement applies only to clerks who began attending MCTI as of 2004. MASC and USC staff have developed the capstone project requirement for those municipal clerks interested in pursuing their

## MCTI Spring Session topics include:

- Employment Law Overview
- Freedom of Information Act and Technology
- Basic Accounting

CMC designation. The purpose of the capstone project is to illustrate that learning has occurred, provide a return on the municipality's investment and meet IIMC's testing requirement.

At the end of a municipal clerk's third session at MCTI, the clerk will submit a one- to two-page capstone project proposal designed to address a significant issue of interest to him or her and to the municipality. A certification committee will review and approve all proposals submitted and will work closely with any clerks who would like assistance with their project ideas.

Six to eight weeks prior to a municipal clerk's graduation from MCTI, each participant will submit a three- to five-page capstone project summary outlining the issue, actions taken to address the issue and progress to date. The clerk should also include any unexpected issues or challenges they faced and the strategies used to overcome these challenges. The summary should also describe the skills and knowledge attained during MCTI that were used in the project. The certification committee will review and approve all summaries submitted.

"The capstone project is a concise and concrete way to help municipal clerks link their hard work and training

to real-world situations as well as satisfying testing requirements on a national level. Capstone projects will connect municipal clerks with their training in an innovative new way," said Anna Berger, program associate with the USC Institute for Public Service and Policy Research. "We want our clerks to consider the capstone project as an opportunity to answer their municipalities' needs head-on, to take ownership of issues in their hometowns."

*The next MCTI session will be held March 23-25 at the Clarion Townhouse Hotel in Columbia. To find out more about this new requirement, contact Anna Berger at 803.777.3455 or [bergerab@gwm.sc.edu](mailto:bergerab@gwm.sc.edu), or Margaret Lumpkin at 803.933.1238 or [mlumpkin@masc.sc](mailto:mlumpkin@masc.sc). Information is also available on MASC's Web site at [www.masc.sc/education/mcti.htm](http://www.masc.sc/education/mcti.htm).*



## Classifieds

■ **The Town of Hampton is seeking applicants for a clerk/treasurer. Send resumé to Town of Hampton, Attn: Mayor Rhoden, 608 1st Street, Hampton, SC 29924 or fax 803.943.2182.**

■ **The City of Chester is seeking applicants for fire chief. Send resumé to City of Chester Human Resources Department, Attn: Carla Roof, 100 West End Street, Chester, SC 29706 or e-mail to [croof@infoave.net](mailto:croof@infoave.net).**

# Strong cities make a strong South Carolina: An interview with Senator Jim Ritchie

“A true sign of a region with a progressive mindset is a region that believes the heart of its community lies downtown.” This quote is at the forefront of the Spartanburg Chamber of Commerce’s annual report that sits in the Columbia legislative office of its native son, Senator Jim Ritchie. It is also in the forefront of Ritchie’s mind as he tackles his responsibility of enacting laws for the betterment of South Carolina. The senator is serving a four-year term and represents the municipalities of Central Pacolet, Jonesville, Pacolet, Spartanburg, Union and Woodruff.

“Having robust cities and towns is essential to the success of the entire state,” Ritchie explained. “We’ve got to give cities the tools to create vibrant communities.” He envisions the state’s role as providing statewide services and statewide opportunities for local governments to be successful. “Unless we give cities the chance to be successful, the chance for the state to be successful is diminished. The state will always lag behind in producing good schools and good jobs.”

The quality of life offered by larger cities is not only essential for these

urban areas, as it also drives opportunity for the entire state. “Without a critical mass of residents, we can never hope to develop enough momentum to carry jobs and wealth to the rural parts of our state,” Ritchie said while discussing efforts to raise the per capita income of all South Carolinians.

“If we are going to attract industries, we must have a breadth and depth of cultural opportunities. We must be open to having the full participation of new companies and their management staff in the civic infrastructure,” he added.

Ritchie advocates allowing cities to grow in reasonable measure and to raise taxes where the taxes will be spent. He believes local officials should be able to raise revenues they deem necessary without undue restrictions, as long as it’s in line with the state’s general philosophy of limited government. “If a local community wants a sales tax for capital improvements and if the voters agree, then they should be allowed to do so.” Ritchie believes in entrusting local officials to reflect the interest of their communities and be accountable. “Accountability goes with responsibility. If voters put them (local

officials) in place, they ought to be able to do their jobs.” he adds.

Concerning the partnership between the state and municipal governments, Ritchie is frustrated that too often, the relationship becomes adversarial over power and money. “Both sides fail to see our mutual success rides with each other’s strength.” The relationship must be nurtured. “There is not enough interaction between the two,” he explained. “We hear about short-term crises — issues that need immediate attention. We always end up in crisis management.” Ritchie encourages local officials to meet periodically with their local delegation to discuss the long-term needs of their community. By sharing long-term needs, legislators can work pro-actively for their communities and be aware of the impact of issues before things get to a crisis mode.

*During the Hometown Legislative Action Day Luncheon, Senator Jim Ritchie will discuss his views on the necessity of a strong partnership between the state and municipal governments for the success of all South Carolinians.*

## 2005 Municipal Achievement Awards: On the road again

Put your municipality on the map by entering the 2005 Municipal Achievement Awards program and let others know about the exciting things happening in your municipality. MASC will recognize the winners at the 2005 Annual Meeting in July.

Winning entries are featured in a video shown at the Annual Meeting, the Achievement Awards brochure, *Uptown*, during Hometown Network broadcasts and on the MASC Web site.

MASC will mail entry information in March, and it will be available on

MASC’s Web site at [www.masc.sc](http://www.masc.sc) under the “Featured Links” section of the home page. Proposals must be submitted by April 8. Judging will take place May 2.

## South Carolina councilmember named to NLC board



In December 2004, approximately 25 SC municipal officials attended the National League of Cities' annual Congress of Cities meeting in Indianapolis. West Columbia Councilmember Peggy Butler was elected to the NLC Board of Directors during the meeting.

### News Briefs



■ Several South Carolina municipal officials were elected to serve on 2005 committees for the National League of Cities: Councilmember Robert George of Charleston was appointed chair of the Leadership Training Council; Mayor Doug Echols of Rock Hill was elected to the Public Safety and Crime Prevention Policy and Advocacy Steering Committee; Councilmember Mary Anne Cannady of Walterboro was elected to the Transportation Infrastructure and Services Policy and Advocacy Steering Committee; Councilmember Anne Sinclair of Columbia was elected to the Community and Economic Development Policy and Advocacy Steering Committee; and Mayor Bobby Horton of West Columbia was elected to the Energy, Environment and Natural Resources Policy and Advocacy Steering Committee.

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## SCBOS to go live

Beginning this spring, **new** business owners will be able to register their businesses with state government through the SC Business One-Stop Web site. (Go to [www.myscgov.com](http://www.myscgov.com), click on the "Business" tab, then "SCBOS.")

Created in 1998, SC Business One-Stop (SCBOS) is a collaborative effort of federal, state and local governments, along with private businesses and professional associations, to provide a "one-stop" gateway for business and professional registration and licensing.

Initially, the site will offer access to five state agencies: Secretary of State, Employment Security Commission, Department of Revenue, Department of Health and Environmental Control and Department of Labor, Licensing and Regulation.

The vision is to offer business owners the following through a single Web-based interface:

- Register a new business
- Add a new location or tax type to an existing registration
- Renew alcoholic beverage licenses
- Change ownership of current registration
- Change address of existing registration
- Check the status of a registration application

Using the site to register a new business allows users to simultaneously register with the Department of Revenue, the Secretary of State and the Employment Security Commission.

*For more information, call Norman Davis with the SC Department of Revenue at 803.898.5036 or e-mail [davisn@sctax.org](mailto:davisn@sctax.org).*

# Local ordinances may provide enforcement alternatives in protecting municipal utility systems

Municipal utility systems and municipal commissions of public works continue to be faced with problems of unauthorized use of the utility system and problems with tampering with meters and other portions of the system. Although state statutory law provides some basis for prosecution of offenders, municipalities may wish to consider the additional enforcement flexibility provided by (1) enacting their own municipal ordinances prohibiting tampering with or unauthorized use of any portion of the utility system and (2) prosecuting ordinance violators using the municipal ordinance summons procedure and municipal courts.

State criminal statutes apply only to certain kinds of offenses and certain utility systems. The criminal penalties imposed by these statutes may exceed the jurisdiction of the municipal court or may not include the sentencing alternatives available in municipal court of fine and imprisonment and of restitution for costs of system damage.

For example, the principal state criminal statute dealing with meter tampering is SC Code Section 16-13-385. Although the statute provides significant penalties for first and particularly for second and subsequent offenses, it applies only to altering, tampering with or bypassing "a meter which has been installed for the purpose of measuring the use of electricity, gas, or water." It does not address other unauthorized uses of the utility system or tampering with portions of the utility system other than meters.

State Code sections 5-31-1110 through 1170 set out several comprehensive provisions that make unlawful the unauthorized use of municipal (including CPW) water systems. The anti-tampering provisions are also

## SCUBA 2005 Annual Meeting topics include:

- Employment Law: Hiring and Firing
- Gnats and Elephants
- Legal Issue: Cut-off Procedures
- Legislative Update
- Ethics In and Out of the Workplace

sufficiently broad to cover all portions of a water system. However, these sections only apply to water systems. Due to the specified criminal penalties, violations of these provisions can only be prosecuted in state circuit court and not in municipal court.

Section 5-31-20 uses broad language to prohibit interference with or damage to any "appurtenance" of any public waterworks, sewer or drainage system. However, the criminal penalties for violation are limited to either a maximum fine of \$100 or maximum imprisonment of 30 days.

By enacting their own ordinances, municipalities can address all their utility systems, any unauthorized use of the system and tampering with any portion of the system. A local ordinance violation can also be prosecuted in municipal court. A municipal court judge can impose a fine of up to \$500 or 30 days in jail **or both** and can order restitution in an amount up to \$5,000 based on the actual amount of damage or loss.

Unlike the criminal warrants required to initiate prosecutions for state law violations, the municipal ordinance summons procedure (allowed by SC Code Section 56-7-80) can be followed for violations of municipal ordinances. The summons

can be served by an authorized code enforcement officer. Since the uniform ordinance summons cannot be used for a custodial arrest, suspected ordinance violators served with an ordinance summons are not subject to physical arrest, immediate custody and detention before bonding. The absence of a custodial arrest also avoids the claim of damage due to incarceration as an element of a false arrest or malicious prosecution lawsuit (if the prosecution is not successful).

Local ordinances prohibiting unauthorized use of a utility system and prohibiting tampering with any portion of a municipal utility system may provide enforcement alternatives not available under current state statutes.

*This topic was presented at the SC Utility Billing Association's (SCUBA) 2004 Fall Meeting. SCUBA will hold its 2005 Annual Meeting March 16-18 at the Bay Watch Resort in North Myrtle Beach.*

## News Briefs



■ Dell Bagwell, clerk/treasurer of the Town of Blacksburg, was awarded the designation of Certified Municipal Clerk from the International Institute of Municipal Clerks (IIMC) for achieving its high educational, experience and service requirements.

■ The National Civic League is accepting applications for the 2005 All-America City Award. Applications are due March 10. For more information or to receive an application, contact Gary Chandler at 720.931.0834 or [gchandler@ncl.org](mailto:gchandler@ncl.org). Applications and information are also available online at [www.ncl.org/aac](http://www.ncl.org/aac).



## Educational Opportunities

### MASC

■ **February 15**, will hold Hometown Legislative Action Day at The Hotel Columbia, formerly the Adam's Mark Hotel, in Columbia. See related article on page 1.

### Municipal Elected Officials Institute of Government

■ **February 16**, will hold Sessions A and B at The Hotel Columbia, formerly the Adam's Mark Hotel, in Columbia. Session A is open to any SC municipal elected official. Only elected officials who have attended Session A can register for Session B. Both sessions begin at 9:00 a.m. and conclude at 5:30 p.m.

### Hometown Network

■ **March 3**, the Municipal Elected Officials Institute of Government will present "Basic Budgeting for Municipal Officials." The session will be broadcast via satellite to the 10 regional councils of governments.

### SC Association of Stormwater Managers

■ **March 4**, will hold its first Quarterly Meeting at Seawell's in Columbia. Topics include "Surviving and Thriving: EPA Audits" and "Flood Hazard Mapping: Developing Partnerships for Increased Local Ownership."

### SC Utility Billing Association

■ **March 16-18**, will hold its Annual Meeting at the Bay Watch Resort in North Myrtle Beach.

### SC Municipal Clerks and Treasurers Institute

■ **March 23-25**, will hold its Spring Session at the Clarion Townhouse Hotel in Columbia. Topics include "Employment Law Overview," "FOIA and Technology" and "Basic Accounting."

**For more information about these meetings or other MASC meetings not listed, please call 803.799.9574, or visit our Web site at [www.masc.sc](http://www.masc.sc).**

### Hometown Connection

■ **March 29**, municipal officials from Aiken, Allendale, Bamberg, Barnwell, Calhoun, Lexington, Orangeburg and Richland counties visit with their state legislators. Officials should meet at MASC's office at 1411 Gervais Street in Columbia at 10:30 a.m.

### SC Association of Municipal Power Systems

■ **April 13**, will hold its Annual Legislative Dinner at Seawell's in Columbia.

### SC Municipal Finance Officers, Clerks and Treasurers Association

■ **April 21**, will hold its Spring Meeting at Seawell's in Columbia. Topics include "Fines and Fees Auditing," "Workers' Compensation," "GASB" and "Bond Issues: State Revolving Fund."



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