

# UPTOWN

## Partners for Progress: Hometown Legislative Action Day

*February 15, 2005*

**M**embers of the General Assembly return to Columbia on January 11. During the next two years, the General Assembly will consider many issues important to municipalities.

MASC will focus its legislative efforts on three major legislative initiatives: improved annexation laws, flexible revenue sources and strengthened Home Rule. In December, the MASC board voted to support changing annexation statutes to allow municipalities to expand their municipal limits to their natural boundaries. The board also voted to support legislation changing the taxing structure of local governments only if assured the change would not reduce municipal

revenues. Finally, the board voted to support legislation providing more flexible revenue sources for municipal government and to oppose any legislation that would further limit or restrict the powers, duties and responsibilities of municipal government provided by the state constitution and the Home Rule Act of 1975.

### **Annexation**

MASC supports three proposals for changing the annexation laws. One proposal is reducing the number of signatures required from 75 percent of the property owners owning 75 percent of the assessed value to 60 percent. Another proposal is

allowing a municipality to annex, by ordinance, an enclave (an unincorporated area completely surrounded by municipal boundaries). The enclave must meet the established size, population and development density requirements as defined by the US Census Bureau. A third proposal is allowing a municipality to annex a contiguous area if the area meets a specific population or development density. "If an area is urbanized, then it should be part of the city," said Gary Cannon, MASC director of intergovernmental relations. Municipalities exist to provide governmental services essential for sound urban development

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### **MASC to offer the "best of breed" in supplemental insurance**

**S**hopping around can lead to finding the best price; however, it is sometimes a hassle to go from one store to the next to find the best deal. The bigger the price tag — such as a car, an air conditioner or a computer — the more beneficial shopping for the best deal becomes.

Shopping around for supplemental insurance can be as financially rewarding as shopping around for a new car. One company may offer a better policy for short-term disability, while another company may offer a

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and for the protection of the health, safety and welfare of areas being used intensively for residential, commercial, industrial, institutional and governmental purposes. Urban services improve the quality of life and drive economic development. "We need to change the annexation laws to allow cities to grow to their natural boundaries and remain economically healthy because they play an essential role in the overall economy of this state," added Cannon.

## Revenue sources for municipalities

Municipalities rely on several revenue sources to deliver the services required by their citizens. These include property taxes, business license taxes, court fines and forfeitures. A primary revenue source is property tax. In previous years, the General Assembly has considered replacing the property tax with a statewide sales tax. Municipalities are concerned with this proposal because there are too many unknown economic variables. With regard to a statewide sales tax, it may not provide a stable revenue source and may reduce municipal governments' revenues. Before supporting legislation that would radically change the taxing structure of local government, MASC must be assured the legislation would not reduce municipal revenues.

In previous sessions, the General Assembly has imposed higher fees and assessments on municipal court fines to generate revenue for state agencies and programs. As a result, municipalities and the state have experienced a decrease in revenues. MASC opposes any additional surcharges and fees added to municipal court fines. The state should refrain from using revenue sources from its municipalities for state programs.

## Steps to prepare for Hometown Legislative Action Day

- Read the article "Partners for Progress: Hometown Legislative Action Day" in this issue of *Uptown* to learn more about the issues — improved annexation laws, stronger Home Rule authority and flexible revenue sources.
- Invite your legislators to the legislative reception on February 15 at the Columbia Adam's Mark Hotel from 5:30 p.m. to 7:00 p.m.
- Plan in advance to take your legislators to dinner after the reception.
- Attend the meeting ready to learn, practice and put what you learn into action.

During **Hometown Legislative Action Day**, we will visit the Statehouse. MASC will request the SC House and Senate adopt a concurrent resolution recognizing February 15, 2005 as **South Carolina Hometown Day**. It is imperative we pack the galleries and the Statehouse lobby as the Senate and the House recognize the impact SC municipalities have on the state and the importance for all levels of government to work together.

Municipalities need flexibility and diversity in revenue resources to allow them to meet citizens' service delivery needs. Different communities have different needs. A coastal community whose economy is based on tourism does not have the same service delivery needs as a community in the

Upstate with a manufacturing or industrial based economy. Statewide legislation enacted with the idea that "one size fits all" does not work. Flexible revenue sources lead to efficiency and an opportunity to improve the quality of life for all South Carolinians.

## Home Rule authority

In 1975, the General Assembly passed the Local Government Act, popularly known as the Home Rule Act, to provide municipalities with greater uniformity in addition to the freedom and flexibility to control local affairs. However, legislators continue to introduce — and in some cases enact — laws limiting local governments' powers, duties and responsibilities. MASC supports true Home Rule and opposes any legislation that would further limit or restrict the powers, duties and responsibilities of municipal government.

Effective Home Rule empowers local officials to make local decisions that respond to the needs of their citizens, holds local elected officials accountable to local citizens and encourages citizen participation. The General Assembly should not involve the state in local issues such as community appearance standards or local land use and zoning regulations. Citizens elect their local officials to deal with these types of local quality of life issues.

When local issues are decided on the local level, there is ample opportunity for citizen input. Municipal councils meet at least once a month. It is easy and convenient for citizens to attend these meetings and have input on local ordinances. When statewide legislation is being considered in Columbia, it is not convenient for citizens to attend committee meetings

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# State Supreme Court ruling upholds legality of late payment penalties for business license taxes

**S**outh Carolina law allows municipalities to impose, by ordinance, a 5 percent per month penalty for late payment of business license taxes, according to the South Carolina Supreme Court. In its unanimous decision issued November 22, the Court rejected arguments that municipalities were limited to the criminal penalties of \$500 and/or 30 days of imprisonment specified in South Carolina Code Section 5-7-30, the municipal general powers statute.

The Court concluded the reference to “fines and penalties” in the municipal general powers statute applied only to criminal fines. Municipalities, the Court determined, are not limited to criminal proceedings as the exclusive method for enforcing ordinances.

Citing state constitutional and statutory provisions that provide for liberal construction of municipal powers, the Court reasoned the power of municipalities to impose a civil fine or civil penalty as an additional method to enforce ordinances was “fairly implied and not prohibited” by state law.

The issue before the Court arose in a lawsuit by MASC against AT&T. MASC sued as the collecting agent for the 229 South Carolina municipalities participating in the Telecommunications Tax Collection Program (TTCP). In the lawsuit, MASC seeks penalties against AT&T for late payment of taxes for retail telecommunications services provided in the municipalities for business license tax years 2002, 2003 and 2004. The lawsuit is pending

in federal District Court. The federal judge assigned to the case requested the state Court rule separately on this determinative central issue of state law. Other legal issues are pending for presentation and decision in the remainder of the case.

The state Supreme Court decision is “a great confirmation of municipal authority,” said Howard Duvall, MASC executive director. “The ability to impose civil penalties for late payment will assist municipalities tremendously in their ability to collect taxes that are due.”

*A copy of the state Supreme Court decision is posted on the MASC Web site at [www.masc.sc/resources/about.htm](http://www.masc.sc/resources/about.htm).*

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to comment on issues. “Local issues must remain local,” said Cannon.

### Hometown Legislative Action Day

On February 15, all local officials will have the opportunity to make a difference on legislation affecting municipalities. By attending Hometown Legislative Action Day (HLAD), participating in the training sessions, visiting the Statehouse and attending the legislative reception, municipal officials will take the first step on an important journey to improving the health and well-being of municipalities and the state. “By participating in HLAD, you can demonstrate that your municipality is valuable to its region and the state,”

said Cannon. “Partnerships between municipal officials and state officials need to be created for a healthy state. Municipalities need resources if our state is to prosper.” Cities are valuable because they are the state’s economic centers for commerce and for institutional and governmental activity. They provide the basis for quality of life for their regions.

During HLAD, municipal officials can build or strengthen partnerships with their state representative or senator by showing how important it is to work together for a better South Carolina. Working together, local officials can make a difference at the Statehouse. “The next General Assembly session is critical to the

future of municipal government in South Carolina,” said Cannon. Legislators need to hear local voices tell the municipal story about the value of cities and the need for strong legislative partnerships.



## Insurance continued from cover

better deal on cancer insurance. The time it takes to investigate all the options and enroll in five different policies with five different companies hardly makes the savings worthwhile. Don't you wish someone out there would do all the legwork for you and say, "Here, this is the 'best of breed;' take your pick."?

For more than a year, MASC and the SC Local Government Assurance Group (SCLGAG) have been working with Aon Consulting (an insurance consulting company) to do just this. After a great deal of legwork, they have found a way to provide local governments and their employees the best supplemental insurance products available at the lowest possible cost with the best customer service.

"SCLGAG has provided health insurance to local government employees since 1981 and has seen health care costs rise tremendously. We need to go beyond offering basic health care insurance and make supplemental products available to employees and the employer for the lowest possible cost," said Harvey Mathias, director of Risk Management Services for MASC. "We hope to have this new program up and running within the first quarter of 2005."

Supplemental insurance products, such as short-term disability, life insurance and cancer policies, are generally purchased by the employee on a voluntary basis. Depending on the product, the employee may purchase the policies using pre-tax dollars. As in many industries, one or two companies are recognized as the leaders in the insurance industry for a particular product. With the new SCLGAG supplemental insurance

### Supplemental insurance products

- **Short-term disability** — Helps cover expenses if unable to work due to a short-term disability
- **Universal life insurance with a long-term care rider** — Life insurance with a cash value that increases over time. The rider is an optional benefit that allows the covered employee to convert the policy into cash if diagnosed with a terminal illness to help cover the costs of long-term care expenses.
- **Term supplemental life insurance** — A fixed amount of coverage available in the event of death
- **Cancer insurance** — Helps pay for expenses if diagnosed with cancer
- **Accident insurance** — Helps pay for expenses if in an accident and can't work
- **Critical illness insurance** — A fixed benefit received in a lump sum for illnesses such as cancer, heart attack or stroke
- **Medi-gap** — Helps pay for out of pocket health care expenses or deductibles

program, the best policies from industry leaders will be grouped together for one-stop shopping.

"The major component of this supplemental insurance program will be

education. We want to make sure employees understand the benefits and insurance already offered to them," said Mathias.

MASC hired Wayne George, former mayor of Mullins, to manage this new program. George has served in municipal government for more than 16 years and has more than 20 years of experience in the insurance business.

"Wayne will be the initial and primary contact to explain the program and the products available. He will work with the cities to keep things as simple as possible," said Mathias.

MASC will contract with a third party to handle the enrollment and billing process once a municipality decides to offer the program to its employees.

"As with our other risk management programs, we want to provide the best possible customer service," said Mathias. "The enrollment staff will sit down with each employee and help them make an educated decision on what products, if any, the employee may want to purchase. We pay the staff a flat salary, so there is no commission to encourage selling products that aren't needed.

"This new program is just an expansion of MASC's mission to help cities and their employees any way we can," Mathias added.

In addition to the supplemental insurance program, MASC's Risk Management staff is working on other alternative insurance services to offer local governments in the future, such as flexible spending accounts, health reimbursement accounts and health savings accounts.



■ In November, Municipal Technology Association of SC members elected their first board of directors. President — Britt Poole of Lexington; Vice President — Ken Dasen of Walterboro; Secretary/Treasurer — Lynn Griffith of Georgetown; Members At-Large — Don Brookshire of Clemson, Kevin White of Hartsville and Mark Cunningham of Anderson.

■ In November, SC Municipal Personnel Association members elected their 2005 board of directors. President — JoAn Roland of Cayce; First Vice President — John Atkinson of Charleston; Second Vice President — Tracie Barnes of Beaufort; Member At-Large — Michelle Clyburn of Spartanburg.

■ In November, SC Association of Stormwater Managers members elected their 2005 board of directors. President — Hillary Repik of Mount Pleasant; Vice President — Richard Riddle of Greer; Secretary/Treasurer — Sarah McCrary of Charleston; Member At-Large — Richard Karkowski of Jordan, Jones & Goulding Inc.

■ In December, Municipal Attorneys Association of SC members elected their 2005 board of directors. President — Spencer King of Spartanburg; First Vice President — James W. Peterson of Florence; Secretary/Treasurer — Danny Crowe of the Municipal Association of SC; Members At-Large — Greg Ohanesian of Bennettsville and David L. Tedder of Hardeeville.

■ The US Environmental Protection Agency presented the City of Greenville with the Rookie Reporter Award during the WasteWise Annual Meeting in October. Greenville received the award for its recycling program and the informational pieces developed for educational, promotional and outreach purposes.

# New year's resolution: Update your business license codes

If you haven't already done so, make a new year's resolution to transition your business classification system for business licensing from using the Standard Industrial Classification (SIC) codes to the more modern North American Industrial Classification System (NAICS) codes.

Most business licensing programs currently rely on the SIC codes for classifying businesses within their licensing programs. These codes were originally developed in the 1930s, with the major emphasis placed on manufacturing. Very few changes were made to the original structure, with the last update in 1987.

Realizing the SIC codes are outdated and do not properly reflect the changing business environment, the IRS switched to the new NAICS codes. Because the IRS uses the NAICS codes, municipalities have had difficulties trying to match NAICS codes to their SIC codes for auditing purposes.

Customers are also struggling with the dual system. They have to identify their business activity one way for the IRS and another way for a local government using SIC codes. Many times, the appropriate business category does not exist under the SIC codes.

MASC's model business ordinance, developed by attorney Roy Bates, incorporates the more modern NAICS codes. A copy is available on MASC's Web site in the "Resources" area.

Charleston County has developed a DVD presentation explaining the need to transition from SIC to NAICS codes. It recommends a proven process to make the change with minimal impact on the business community or local governmental entity. For a copy of the DVD or the model business ordinance, contact Andrew Wells, MASC administrative assistant for affiliate services, at 803.933.1257.

Keep in mind, however, that converting to a new coding system may cause a change in how businesses are classified. Local governments that have already converted codes discovered 48 percent to 55 percent of their businesses changed classes with the conversion. Almost every governmental entity showed a decline in revenues because of the predominately downward classification of businesses. The loss of revenues ranged from 7 percent in smaller towns to 3 percent in larger cities. To offset any decline in revenues, most municipalities decided to have a "revenue neutral" rate increase.

The model ordinance and DVD available through MASC should allow you to develop a firm grip on the impact to your business community, accurately predict revenue stream impact and move your business licensing practices into the modern era of licensing.

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■ MASC welcomes two employees to its staff. Wayne George, former mayor of Mullins, is field services manager for MASC's new supplemental insurance program. George has been a licensed insurance and real estate agent for more than 20 years and served on the MASC board of directors for eight years. MASC

also welcomes Andrew Wells as administrative assistant for affiliate services. Wells earned a bachelor's degree from Berry College and a master's degree from the University of Louisville. He provides administrative support for MFOCTA, MCTI, BLOA and other affiliates of the Association.

# 2004 Achievement Award Winner

## Public Service Category: City of Sumter

By collaborating with various community agencies, the City of Sumter developed the HOPE Centers, a foundation to support improving the quality of life for the City's disadvantaged areas.

The City of Sumter took an aggressive look at improving the social and economic conditions of its inner-city neighborhoods by addressing literacy, unemployment, crime and health education. Sumter applied for and received an Empowerment Zone grant from the US Department of Housing and Urban Development.

The development of three HOPE (Harvesting Opportunities to Promote Empowerment) Centers was the cornerstone of the grant application. Sumter developed the concept after a series of public meetings was held in various neighborhoods throughout the city. Residents discussed their needs and ideas of how to improve the quality of life in their communities. After the Sumter Empowerment Zone received funding, community involvement continued. The City held regular meetings to discuss the centers' progress and other key design elements.

The City of Sumter brought together state and local agencies to discuss how the city could incorporate its needs and services into each HOPE Center. By collaborating with organizations such as the Sumter County Parks and Recreation Department, Wateree AIDS Task Force, Sumter County Adult Education, South Carolina State University 1890 Cooperative Extension Program, Sumter County Active Life-Styles and Santee Lynches Council on Aging, the HOPE Centers have enabled the City to assist these organizations in providing existing services in a more efficient manner. The centers offer a convenient location where citizens can obtain the services and programs offered throughout the community.



Community organizations provide adult education opportunities such as computer technology classes at the HOPE Centers.



HOPE Center volunteers provide homework assistance and teach valuable life skills in the afterschool program.

The Sumter County Parks and Recreation Department and HOPE Center community volunteers provide homework assistance and teach valuable life skills in the afterschool program. The centers also offer recreational activities such as arts and crafts, gardening, double dutch and basketball leagues after students complete an hour of homework.

Sumter Adult Education provides a literacy program and courses so citizens can obtain their high school diploma or GED certification. Tuomey Regional Medical Center's Health and Wellness Department, Tri County Healthcare and Wateree AIDS Task Force provide free counseling, nutritional courses and health screenings to address the growing number of health concerns in the urban area. South Carolina State University 1890 Cooperative Extension Program offers a business and entrepreneurship program providing hands-on experience in small business concepts to improve economic and business development in the community.

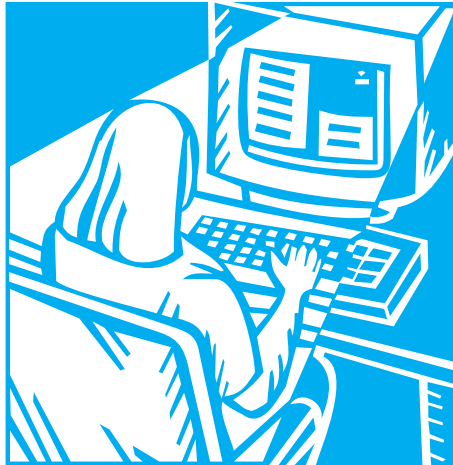
To provide adequate space, each facility contains classrooms, meeting space, a computer lab, administrative

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# FCC opinion could affect local government revenue

The Federal Communications Commission (FCC) issued an opinion in early November that may have a dramatic impact on the revenue South Carolina municipalities now receive from telecommunications companies. The FCC ruled companies providing communication using Voice Over Internet Protocol (VOIP) are not subject to state public utility regulations. The decision, issued in a case involving the Minnesota Public Utilities Commission and Vonage Holdings Corporation, adds to the FCC's regulatory authority regarding VOIP. The case makes it clear the FCC, not state public utility commissions, will decide which state regulations apply to Internet protocol enabled services.

The FCC also determined regulations the Minnesota commission would have imposed were inconsistent with the FCC's deregulatory policies.



The FCC's pre-emption was consistent with federal law and policies intended to promote the continued development of the Internet, broadband and interactive services.

Of great importance to South Carolina municipalities, the FCC did not express an opinion about the applicability to Vonage of general law in Minnesota governing taxation, fraud, commercial dealings, marketing,

advertising and other business practices. Although there have been several attempts at federal legislation that would pre-empt state and local taxing authority over VOIP, none of these attempts have been successful. The movement of data for the purpose of communicating is taxable under South Carolina law.

VOIP is a fast growing segment of the telecommunications business. *Fortune* magazine estimates 3 million homes will use VOIP before the end of 2005. The article, "The Future is On the Line — Meet VOIP," read, "By the end of 2008 some 17.5 million users, or about 16 percent of U.S. homes will be VOIPing."

"Clearly, the use of VOIP will rapidly increase in the next five years as the technology improves and more companies adopt the Internet's digital capacity as the standard for moving all forms of data," said Howard Duvall, MASC executive director.

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offices, a kitchen area, a stage with a lectern and a multipurpose gymnasium. The City provides the utilities and employs two staff people to manage the facilities' daily operation in addition to two maintenance personnel. The City pays for the salaries out of the Empowerment Zone grant, but is budgeting to fund the salaries in the FY 2006 general fund. Each facility utilizes a number of volunteers to provide a wide range of services.

By collaborating with various community agencies, the City of Sumter has begun laying the foundation that will support improving the quality of life for its more disadvantaged areas.

*For more information about this project, contact Susan Wild at 803.436.2586.*

*MASC recognizes and encourages innovations and excellence in local government through its Achievement Awards. Started in 1987, the program provides local*

*government officials and employees the opportunity to receive deserved recognition for superior and innovative efforts in local government. The program also provides a forum for sharing the best public service ideas in South Carolina. For a copy of the 2004 Achievement Award video, contact Sophia Johnson at 803.933.1236. For more information about the Achievement Awards, visit MASC's Web site at [www.masc.sc](http://www.masc.sc) or call Christie Zeller at 803.933.1215.*



## Educational Opportunities

### Hometown Connection

■ **January 25**, municipal officials from Anderson, Cherokee, Chester, Fairfield, Greenville, Lancaster, Oconee, Pickens, Spartanburg and York counties visit with their state legislators. Officials should meet at MASC's office at 1411 Gervais Street in Columbia at 10:30 a.m.

### MASC

■ **February 15**, will hold Hometown Legislative Action Day at 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 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.

### 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 Quarter Meeting at Seawell's in Columbia.

### 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 in Columbia.

### 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 Municipal Finance Officers, Clerks and Treasurers Association

■ **April 21**, will hold its Spring Meeting.

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).



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