

UPTOWN

HLAD: Afternoon sessions focus on cities' role in the "big picture" success of the state

When delegates to the Hometown Legislative Action Day (HLAD) finish their visits at the Statehouse on February 22, they will return to the Marriott Hotel for two afternoon sessions related to cities' role in the "big picture" success of the state.

The afternoon general session will feature Marilyn Mohrman-Gillis, director of policy and federal relations at the National League of Cities. Delegates will hear from her on federal issues ranging from eminent domain and telecommunications to Community Development Block Grants and TEA21.

Two breakout sessions will follow the general session. One session, presented by Dr. Holley Ulbrich from Clemson University, will give delegates

more in-depth information about the topics of taxation and competitiveness. During the other afternoon breakout session, delegates can learn more about Vision SC, MASC's long-range initiative to promote the positive impact cities and towns have on South Carolina.

Dr. Ulbrich will delve into the specific findings from the recent Palmetto Institute study she directed concerning the state's revenue system and how it affects South Carolina's competitiveness as a place to live, work and invest.

The Palmetto Institute was established in 2003 by a group of state business leaders with the goal of increasing the per capita income of all

South Carolinians. The Institute commissioned the study through the Strom Thurmond Institute at Clemson University to review the state's taxation and revenue systems.

The Palmetto Institute does not take a position on specific tax proposals, but the study did recommend several changes that should be incorporated into the legislative decision-making process regarding taxes. Although the report was released in the midst of the fall legislative hearings on property tax reform, the study suggested lawmakers appoint an independent commission to study how any tax legislation would affect the entire state and local tax structure. This more deliberate approach

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Property tax reform tops the MASC legislative agenda

State legislators return to Columbia on January 10, 2006, poised to address several issues vital to municipal government. At the top of the list is property tax reform. Because this is the second year of the session, bills not acted on last year are still "in play." Carried-over legislation includes regulations of billboards, annexation, water and

sewer service, and state pre-emption of local ordinances. MASC also anticipates bills advocating changes to the Freedom of Information Act, restricting the eminent domain authority of local government and eliminating the local franchising authority of municipal government for cable television services.

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would help legislators and state taxpayers understand the consequences of changes in tax policy and avoid fiscal problems the legislation might cause in the future.

The second afternoon concurrent session will focus on Vision SC, MASC's initiative to increase awareness of the important role cities and towns play in the state's economic prosperity and South Carolinians' quality of life.

Vision SC is more than an ad campaign or a short-term marketing plan. Rather, this long-range strategic approach will give municipal leaders support and resources to help communicate and demonstrate the positive impact of cities and towns on South Carolina. Local municipal officials, in partnership with MASC staff, will work together by focusing on communicating the initiative's three key points:

- **Value** — As economic and cultural centers, cities and towns create jobs, prosperity and quality of life for all South Carolinians.

- **Partnerships** — South Carolina and its citizens benefit when government, business, education and community organizations work together.
- **Resources** — Cities and towns need flexible resources and the authority to meet their unique needs and realize their goals.

The mayors of the state's cities with populations of 25,000 and above have served as an informal steering committee to guide the preliminary work of Vision SC. This session will include information on a toolkit of resources MASC staff will make available, along with early examples of how municipalities are incorporating Vision SC into their own planning.

Come to Columbia for Hometown Legislative Action Day on Wednesday, February 22, to learn more. For more information about HLAD, visit www.masc.sc.

Municipal Elected Officials Institute of Government is Tuesday, February 21

MASC included a registration form with the 2006 Hometown Legislative Action Day information mailed in late December. Only elected officials who have completed Session A coursework can register for Session B. Transcripts were enclosed for those individuals who have completed Session A.

Session B of the Institute will address the topics of municipal annexation, mergers and consolidation, business license tax administration, municipal finance, ethics and municipal governance, and liability of municipalities and elected officials.

How does property reinsurance affect a municipality?

When an insurance company writes coverage for a building (or several buildings) in a municipality, the company is not the only party responsible for paying a claim if that building is destroyed. Insurance companies spread the risk of loss to other insurance companies called reinsurers.

In the example above, assume the total loss was \$1 million. The primary insurer (the one that writes the coverage) may pay the first \$200,000 of a claim. Reinsurance Company A might pay the next \$500,000, and Reinsurance Company B may pay the remaining \$300,000 of the loss. (All this is trans-

parent to the insured, who receives a \$1 million check from the primary insurer.) For their participation in the payment of losses, these reinsurers are paid a premium by the primary insurer, just like home owners pay a premium for their home owners' insurance coverage. The only difference is the deductible, or retention, is \$200,000 (the amount of the primary "layer" instead of \$500 — the amount a home owner would pay for their deductible).

To further complicate things, reinsurance companies have arrangements with other reinsurance companies, that may have arrangements with other pri-

mary insureds, leaving a complicated web of potential payors for one loss. Thankfully, the insured doesn't have to worry about this "web of payors" when a loss occurs. The primary insurer is solely responsible for paying the loss and collecting from the reinsurers.

This is a complex system, but it spreads the risk among many parties so that no one insurer is left "holding the bag" for any one loss. It works well and has become the basis for financial security (for all lines of coverage, not just property) for commercial institutions worldwide.

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Sometimes, though, an event (or a series of events) can have a devastating effect on this insurance web. Events like Hurricane Andrew, 9/11 and, more recently, Hurricanes Katrina and Rita sent shock waves through the industry. It's like taking a rock and throwing it through a spider's web. The wonderful thing about a spider's web, however, is that the spider normally rebuilds.

The same is true for the insurance industry. After a major catastrophe, the insurance company has to rebuild its web. Instead of time, it primarily takes money and multiple reinsurers. Right now, the reinsurance industry has just had a rock thrown through its web. Subsequently, the reinsurance industry has to rebuild and charge corresponding higher prices for coverage during the rebuilding time.

This increased cost is ultimately passed on to the insurance consumer (in this case, the municipality). Though South Carolina has avoided a direct hit from recent hurricanes, insurers like the South Carolina Municipal Insurance Risk Fund (SCMIRF) and the Insurance Reserve Fund are required to pay higher reinsurance premiums due to the "rebuilding of the web." This year's SCMIRF increase in property premiums is a result of increased reinsurance costs. (See box below.)

If you have any questions regarding your municipality's insurance coverage, contact Harvey Mathias, director of risk management services, at 803.933.1212.

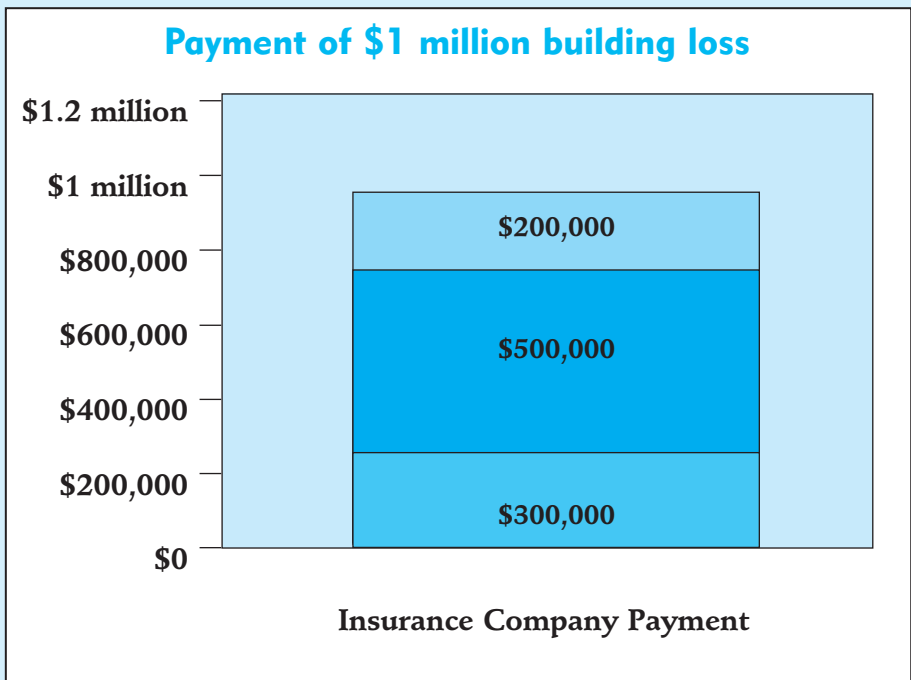
2006 South Carolina Municipal Insurance Risk Fund rates announced

The South Carolina Municipal Insurance Risk Fund (SCMIRF), a self-funded property/liability insurance program sponsored by MASC, has announced its 2006 rates. While rates for liability coverage will stay the same, property insurance rates will increase. Overall, liability rates for general (tort), law enforcement, public officials and auto liability will not change. The auto physical damage rates will also be unchanged.

On the property side, the picture is vastly different. While SCMIRF did not have a bad "loss year," the property reinsurance market took several major "hits" during the hurricane season. Overall, SCMIRF's property rate will increase 20 percent.

SCMIRF remains an excellent property/liability insurance program for municipalities (and other eligible local governments) in South Carolina. On October 31, 2005, SCMIRF's total assets exceeded \$22.7 million, with total net assets (fund balance) of approximately \$9 million.

If your governmental entity is not a SCMIRF participant, contact Harvey Mathias, director of risk management services, at 803.933.1212 to learn how you can join.



\$300,000 Reinsurance Company B payment
\$500,000 Reinsurance Company A payment
\$200,000 Primary Insurer payment

Property tax reform

The Senate and House appointed committees to meet during the off season to develop property tax reform legislation. The Senate Judiciary and Finance committees formed a joint subcommittee co-chaired by Senator Glenn McConnell and Senator Hugh Leatherman. House Speaker Robert Harrell appointed a bipartisan Ad Hoc Property Tax Reform Committee.

At the time of publication, neither the House nor the Senate had a specific property tax reform bill; however, the groups have discussed several concepts that will most likely be included in the proposed legislation. (Visit www.masc.sc for the most updated information on this legislation.)

The House and Senate are proposing a 2-cent increase in the state sales tax to replace revenue generated by property taxes. The Senate version limits its proposal to replacing revenues to cover school operations. The House version replaces all property taxes for cities, counties, schools and special purpose districts. The Senate proposes to eliminate all sales tax on food, while the House proposes exempting food from the 2-cent increase.

The Senate is considering constitutional amendments limiting the ability of cities, counties and special purpose districts to increase their tax rates. The increase would be limited to the growth in personal income and could not be exceeded unless approved by a referendum.

The Senate is also proposing a constitutional amendment to change the method of assessing property for property tax purposes. If approved, property assessments would revert to 2004 rates and could not be increased until the property changed ownership. The Senate proposed allowing county councils to select one of three methods for reassess-

ing property: transfer of ownership, limiting increases in reassessments or tying the increase to the consumer price index or growth in personal income. If the county council did not choose an option, transfer of ownership would be the default method.

MASC opposes wholesale changes to the property tax system and recommends the General Assembly address its concerns with targeted tax relief in the form of "circuit breakers" or tax deferrals. The "circuit breaker" concept means basing the amount of property taxes owed on the taxpayer's ability to pay. For qualified property owners, a tax deferral would freeze the property tax payment at a certain level until the property ownership is transferred. At that time, the new owner would pay the deferred property taxes.

Other legislative issues Telecommunications cable TV franchise

See related story on page 6.

Eminent domain: Property rights

In June, the US Supreme Court rendered a decision, *Kelo v. City of New London*, dealing with eminent domain. The court ruled that the City's proposed economic development plan and disposition of private property qualified as "public use" covered under the Fifth Amendment's taking clause. Although the City could not take land for the purpose of giving a benefit to a particular private party, promoting economic development is a long-accepted function of government. The *Kelo* decision has launched legislative proposals across the country to limit local governments' eminent domain authority.

"Here in South Carolina, we expect legislators will attempt to clarify the definition of 'public purpose' to exclude the use of economic develop-

ment for a private party," said Howard Duvall, MASC executive director.

Freedom of Information Act

MASC anticipates several bills related to the Freedom of Information Act (FOIA): limiting the fees a local government can charge for copies of documents requested under the FOIA, requiring an elected official to sign an affidavit after participating in an executive session certifying only topics allowed to be discussed by the FOIA were discussed, and requiring executive sessions be electronically recorded for later use in legal proceedings.

Bills pending before the General Assembly

Billboard Protection Act

H 3381 requires the local government pay a billboard sign owner and property owner cash compensation if the local government requires the billboard to be removed. 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. Local ordinances enacted before April 15, 2005, requiring billboard removal without cash compensation to the owner are exempt from this legislation. This bill is pending on the Senate floor.

Utilities: Water and wastewater service required

H 3525 requires a municipality to 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

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authority to decide how, when and where a water or sewer line must be extended to serve a parcel of property within municipal boundaries. MASC opposes.

Workers' compensation: Second Injury Fund

H 3284 calls for the dissolution of the Second Injury Fund. The Workers' Compensation Second Injury Fund (SIF) was created after World War I to encourage employers to hire veterans with war-related injuries. The SIF is funded by assessments to companies that provide workers' compensation insurance. In recent years, SIF assessments to these insurance providers have increased at an alarming rate, causing substantial increases in the cost to provide this insurance. The SIF has outlived its purpose and should be dissolved.

Annexation

Three pieces of legislation to change the annexation statutes are pending in the Senate. S 536 reduces percentages for the petition-ordinance method of annexation from 75 percent of the property owners owning 75

percent of the total assessed valuation of the areas seeking to be annexed to 60 percent of the property owners owning 60 percent of the total assessed valuation of the property seeking to be annexed. S 538 authorizes a municipality to annex an area, by ordinance, if the area is completely surrounded by the municipality. The municipality 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. S 539 authorizes a municipality to annex a contiguous area once the area has reached certain population and density criteria. MASC supports all three bills.

Municipal capital project sales tax

H 3350 allows a municipality to enact a 1-cent sales tax if approved by the voters. The 1-cent sales tax may be imposed for up to seven years for a specific dollar amount and designated for specific capital projects. MASC supports.

Local accommodations tax

S 641 allows up to 50 percent of local accommodations tax funds to be used for operations and maintenance purposes in counties that do not collect \$900,000 in state accommodations tax. MASC will work to have the bill amended to include the local hospitality tax. MASC supports.

State pre-emption 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. MASC opposes.

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 bill authorizes the Commission, after notice, to oversee 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. MASC supports.

Get ready for the 2006 Achievement Awards

Do you have a unique or innovative program to share with other South Carolina municipalities? If so, this is your opportunity to shine! Plan to enter the 2006 Achievement Awards program and let others know about the exciting things happening in your municipality. MASC will recognize the winners at the 2006 Annual Meeting in July.

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

MASC will mail entry information in February, and the information will also be available on MASC's Web site at www.masc.sc under the "Featured Links" section of the home page. Proposals must be submitted by March 8. Judging will take place April 3.





■ In November, South Carolina Municipal Personnel Association members voted to change the association's name to the South Carolina Municipal Human Resources Association. Members also elected their 2006 board of directors. President — John Atkinson of Charleston; First Vice President — Tracie Barnes of Beaufort; Second Vice President — Michelle Clyburn of Spartanburg; Member at-Large — Josalynn Smith of Columbia; Past President — JoAn Roland of Cayce.

■ In December, South Carolina Municipal Attorneys Association members elected their 2005-2006 board. President — James Peterson Jr., attorney for Florence; First Vice President — J. Brady Hair, attorney for North Charleston; Secretary/Treasurer — Richard L. Pearce, solicitor and attorney for Aiken; Past President — H. Spencer King, attorney for Spartanburg.

■ MASC has promoted Jeff Thompson to assistant director of risk management services. Thompson joined MASC in 1998 as risk and safety services consultant. In this new position, he will assist RMS Director Harvey Mathias with all risk management programs.

■ Councilmember Anne Sinclair of Columbia was elected to the National League of Cities' 2006 board of directors during its Annual Meeting, held in December in Charlotte, NC. Sinclair was elected to a two-year term.

IPTV: Coming soon to a town near you!

The cable guy is selling phone service, and now the phone company wants to sell you cable TV. Convergence of the delivery of communication services has come to South Carolina.

In recent years, cable television companies have upgraded their systems to provide more services. The new fiber optic systems have not only enabled the companies to offer hundreds of channels and broadband Internet access, but they are also now offering voice over Internet protocol (VOIP), which directly competes with Ma Bell and her little ones.

For the first time in history, the number of land lines for telephone service has actually declined as customers use cell phones and VOIP as their primary service. This trend has required local exchange companies such as BellSouth to become innovative in leveraging their investment in infrastructure to remain competitive.

New technology being field-tested will allow the local exchange service to offer cablevision service over the same lines that enable broadband access. Internet Protocol Television (IPTV) may be ready for prime time as soon as 2006.

IPTV is a system through which a digital television service is delivered to subscribing consumers using the Internet with a broadband connection. This service is often provided in conjunction with video-on-demand and may also include Internet services such as Web access and VOIP. IPTV is expected to grow at a brisk pace in the coming years, as broadband is now available to more than 100 million households worldwide.

Competition among the service providers is a good thing for the consumer. Current national policy implemented through local franchises encourages competition throughout the country, not just in urban areas or for the wealthy. In 10 years, cable systems have made broadband service available to 91 percent of all homes to which they have access.

BellSouth and other local exchange companies are proposing federal legislation to pre-empt local governments' right to franchise IPTV. At the state level, BellSouth is proposing legislation to grant a statewide franchise to providers of cablevision services instead of local franchise agreements.

The state constitution grants municipal government the right to control the public right of way (Article 8, Section 15). Franchises do more than grant consent to provide cablevision or other utility services. They are also the core tool municipal governments use to manage streets and sidewalks, provide for public safety, enhance competition and collect the rent for private use of public land.

BellSouth contends getting a franchise from as many as 268 municipal councils would unreasonably delay the rollout of this new technology. MASC has offered to draft a model franchise agreement referencing service standards currently required of existing cablevision providers. This would create a level playing field for all companies serving the municipality.

One thing is sure: Whether it is cablevision or IPTV, when it doesn't work, the calls will come to city hall!

Building codes enforcement: Are you in compliance?

By state law, municipalities and counties must enforce the building codes adopted by the SC Building Codes Council. To enforce the building codes, the municipality may appoint a building official or contract for this service. A fee schedule can be adopted to fund the municipality's building inspection program.

If, however, the municipality determines it is not financially feasible to fund such a program or arrange for these services for any annual period, the entity must submit an affidavit to the South Carolina Building Codes Council to "opt out." The affidavit must explain in detail why the entity is unable to provide the enforcement services. If accepted by the Council, the municipality is exempt from the enforcement requirements until it is financially able to comply, or for five years, whichever is less. When the "opt out" time frame is over, affidavits can be renewed.

"It is important for municipalities to have a building inspection program. Not enforcing building codes can lead to a wide variety of problems down the road," said Harvey Mathias, director of risk management services at MASC.

Failure to enforce the building codes increases the possibility of a lawsuit against the municipality and its public officials from an aggrieved party and may compromise any grounds for defense. In such situations, the municipality's liability insurance policy may not provide coverage, leaving the municipality to foot the bill.

The Insurance Services Organization (ISO) recommends best practices and advisory rates to insurers on a wide variety of insurance products. A municipality's ISO rating could be affected if it is not enforcing building codes. Communities without building code enforcement programs will receive the lowest rating, requiring property owners to pay the highest building insurance premiums and deductibles, regardless of the type or quality of construction.

Finally, municipalities could lose federal funding if they don't comply with federal requirements. Some federal laws (the Federal Flood Act, accessibility laws like the ADA, energy laws, etc.) require review of plans and construction documents, in addition to inspection and verification that certain elements are in compliance.

Building codes adopted by the South Carolina Building Codes Council

- 2003 International Building Code
- 2003 International Fire Code
- 2003 International Plumbing Code
- 2003 International Mechanical Code
- 2003 International Energy Efficiency Code
- 2003 International Residential Code
- 2003 International Fuel Gas Code

"The potential costs associated with not enforcing building codes far outweigh the actual cost of implementing a building inspection program," said Mathias.



Classifieds

■ The Town of Fort Mill is accepting applications for the position of planning director. Send resumé to Town of Fort Mill, PO Box 159, Fort Mill, SC 29716.

■ The City of Anderson is accepting applications for the position of city engineer/assistant public works director. For an application, visit www.cityofanderson.sc.com or call 864.231.2209. Apply in person or mail application to 401 S. Main Street, City Hall Building, First Floor, Personnel Office, Anderson, SC 29624.

■ The City of Rock Hill is accepting applications for the position of development services engineer. Submit resumé to Human Resources Department, City of Rock Hill, PO Box 11706, Rock Hill, SC 29731.

Additional jobs are posted on MASC's Web site at www.masc.sc/misc/jobs/htm.



Educational Opportunities

Municipal Technology Association of SC

■ **January 18**, will hold its Annual Meeting at Seawell's in Columbia. Topics include a GIS update, contact management software and disaster preparedness.

Hometown Connection

■ **January 31**, municipal officials from Beaufort, Berkeley, Charleston, Colleton, Dorchester, Dillon, Florence, Georgetown, Hampton, Horry, Jasper, Marion and Williamsburg counties visit with their state legislators. Officials should meet at MASC's office at 1411 Gervais Street in Columbia at 10:30 a.m.

Municipal Elected Officials Institute of Government

■ **February 21**, will hold Sessions A and B at the Marriott in Columbia.

MASC

■ **February 22**, will hold its Hometown Legislative Action Day at the Columbia Marriott in Columbia. See related article on page 1.

Municipal Elected Officials Institute of Government

■ **March 2**, will present "Basic Budgeting for Municipal Officials." The session will be broadcast via satellite to the 10 regional councils of government.

SC Utility Billing Association

■ **March 8-10**, will hold its Annual Meeting at the Francis Marion Hotel in Charleston.

SC Municipal Clerks and Treasurers Institute

■ **March 15-17**, will hold its Spring Training Session at the Clarion Town House Hotel in Columbia.

SC Association of Municipal Power Systems

■ **March 22**, will hold its legislative event at Seawell's in Columbia.

Hometown Connection

■ **March 28**, 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.

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.



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