

**2007 Acts  
That Affect Counties**



**South Carolina  
Association of Counties**

## FOREWORD

**2007 ACTS THAT AFFECT COUNTIES** is an annual report to the membership designed to provide county officials with a good place to begin a search for the law. This publication generally contains a brief description of those acts passed during the 2007 Session of the South Carolina General Assembly that affect county government operations. This publication is not designed to be the final word on the laws passed in the 2007 session which affect county government structure and operations. It is important to consult your county attorney when you have a questions regarding the law.

2007 was the first half of the two year 117<sup>th</sup> General Assembly. All legislation pending action when the 2007 session adjourned will retain its status as it existed when the General Assembly adjourned *sine die*. The General Assembly reconvenes in January of 2008.

The acts in this report are generally listed in ascending order by ratification number. Each new act is entitled by its assigned act number. Underneath and to the left of the act number are two different citations: the ratification number and a Senate or House bill number. Since the act number is permanent, citing to that number is the proper reference when drafting ordinances pursuant to an act, e.g. Act No. 19 of 2007. Underneath and to the right of the act number is the effective date of the act. Please note that some acts have yet to be assigned act numbers and that joint resolutions are not assigned act numbers.

**2007 ACTS THAT AFFECT COUNTIES is on the web.** This publication will be on the SCAC home page -[www.sccounties.org](http://www.sccounties.org). Within the publication, there are links to the text of legislative acts.

The **Quick Reference to Legislation** that immediately follows lists all the legislation contained in this report by act number, ratification number, and Senate/House bill number to allow you to quickly find a piece of legislation, no matter which number you may have as a reference.

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# QUICK REFERENCE TO LEGISLATION

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## 2007 ACTS

### THAT AFFECT COUNTIES

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#### ACT NO. 2

**R. 2, S. 152**

**EFFECTIVE DATE: FEBRUARY 13, 2007**

This act ratifies the constitutional amendment, approved by the voters in November, 2006, to Section 16, Article X of the State Constitution. The amendment removed limitations on investments in stocks of companies not based in the United States and private equity investments. Equity investments can not exceed 70% of the system's total portfolio. Previously this limit had been 40%. The act also eliminated the State Retirement Systems Investment Panel. Investment decisions for all investments made by the System will be overseen by the commission created by Act 153 in 2005. The Commission is made up of financial experts, the State Treasurer and a nonvoting retired member of the system.

#### ACT NO. 3

**R. 5, S. 146**

**EFFECTIVE DATE: MARCH 28, 2007**

This act amends §23-1-210, by allowing the transfer of municipal or county law enforcement officers on a temporary basis to work within multi-jurisdictional task forces for the mutual aid and benefit of the participating jurisdictions. A written agreement between the jurisdictions involved is required. Transfer to a task force can not affect or reduce the officer's compensation and related benefits. Salary for the officer will continue to be the responsibility of the county where the officer is permanently employed. The sending county shall be reimbursed for the cost of the officer's services by the county or municipality where the officer is transferred. The act also amends §23-1-215 of the Code by authorizing law enforcement officers to exercise jurisdiction in other counties as a part of an investigation of crimes involving multiple jurisdictions. These powers can only be exercised in cases where all involved jurisdictions have entered into written agreements. These agreements do not affect compensation or benefits. There is no reimbursement for an officer's services included in this section.

**ACT NO. 9**

**R. 9, S. 408**

**EFFECTIVE DATE: MARCH 27, 2007**

This act amends §12-6-3360(B) to dictate that a county's designation for the jobs tax credit cannot drop more than one tier in the following year as a result of the annual ranking and designation of counties by the Department of Revenue. Additionally the legislation provides that for tax year 2006 only, a taxpayer has until March 31, 2007 to lock into the county classification as provided in Section 12-6-3360(J), which ensures taxpayers can claim future credits despite a change in a counties designation.

**ACT NO. 7**

**R. 10, H. 3063**

**EFFECTIVE DATE: MARCH 22, 2007**

This act ratifies the amendment to the South Carolina Constitution, approved by the voters in November, 2006, by adding Section 15 to Article XVII to provide that a marriage between one man and one woman is the only lawful domestic union that shall be valid or recognized in this State.

**ACT NO. 10**

**R. 12, H. 3226**

**EFFECTIVE DATE: APRIL 12, 2007**

This act amends §8-13-740 of the Code by allowing a public official that has a conflict of interest to remain in office if they comply with the recusal requirements of §8-13-700(B), and allows an individual or business associated with the public official to represent a person before a local government entity. Governmental entity includes, but is not limited to, a planning board or zoning commission. This act does not preclude a county official from representing a person in court.

**ACT NO.\***

**R. 19, S. 529**

**EFFECTIVE DATE: MARCH 30, 2007**

This act is a joint resolution extending the reporting deadline of the Eminent Domain Study Committee from March 15, 2007 to April 17, 2007. R. 65, S. 661 further extends the report deadline to January 31, 2008.

\* Joint resolutions are not assigned act numbers. All joint resolutions will be marked by an asterisk in place of the act number.

## **ACT NO. 8**

**R. 20, H. 3396**

**EFFECTIVE DATE: MARCH 30, 2007**

This act amends §58-12-5 to add “video services” to the list of regulating activities totally preempted by state law in the South Carolina Competitive Cable Services Act of 2006. Section 58-12-300 is amended to define “video service” as video programming services provided through wireline facilities located at least in part in the public rights-of-way without regard to delivery technology, including Internet protocol technology. The act allows local governments to receive fees for both cable and video franchises and allows those in the "video" business to receive franchises through the State.

## **ACT NO. 12**

**R. 25, S. 153**

**EFFECTIVE DATE: APRIL 26, 2007**

This act ratifies the constitutional amendment, approved by voters in November, 2006, to Article III, Section 29 and Article X, Section 6 of the South Carolina Constitution.

The amendment states that taxes on real property must be ascertained by methods prescribed by the General Assembly. This changes the previous constitutional language which required taxes on real property be laid upon the actual value of the property. The amendment did not change language regarding the valuation of personal property.

There are two significant changes in the amendment to Article X, Section 6. First, is an explicit authorization for the General Assembly to define the fair market value of real property, when real property has been improved or losses have occurred to change the value of the real property, and when an assessable transfer of interest occurs.

The second change to Article X, Section 6 is the more substantive change. That change states that real property shall be valued by the method prescribed by the General Assembly so that, after adjusting for improvements and losses, its value does not increase by more than fifteen percent every five years, unless the real property is transferred. This is the fifteen percent cap on increases in value resulting from reassessment. The cap is cumulative, meaning that the increase in value is calculated upon the last value and not a base year.

## **ACT NO. 15**

**R. 26, S. 155**

**EFFECTIVE DATE: APRIL 26, 2007**

This act ratifies the constitutional amendment, approved by voters in November, 2006, and amends Section 13, Article I of the State Constitution by providing that private

property must not be condemned by eminent domain for any purpose or benefit including, but not limited to, economic development, unless the condemnation is for public use. The act provides an exception that allows a local government to use eminent domain to remedy blight. The act specifically defines blight as private property constituting a danger to the safety and health of the community by reason of lack of ventilation, light and sanitary facilities, dilapidation, deleterious land use, or any combination of these factors.

**ACT No. 30**

**R. 33, H. 3115**

**EFFECTIVE DATE: MAY 24, 2007**

This act amends §6-11-325 and allows a special purpose district which only provides sewage collection and disposal to use any method of financing authorized by law for the construction of sewer lateral collection lines within the district.

**ACT No. 56**

**R. 35, H. 3505**

**EFFECTIVE DATE: MAY 01, 2007**

This joint resolution directs the State Ports Authority to complete site acquisition in Jasper County for a new port terminal as quickly as possible and sets forth a plan for construction of the new terminal. The act also creates the Savannah River Maritime Commission to represent the state in all matters pertaining to navigability and collateral issues in regards to the use of the River as a waterway. A resident of Jasper County appointed by the county council shall be a member of the Commission.

**ACT No. 19**

**R. 36, H. 3509**

**EFFECTIVE DATE: MAY 15, 2007**

This act adds SC Code §31-22-10 to §31-22-40, the William C. Mescher Local Housing Trust Fund Enabling Act. The act allows local governments to create and fund local or regional housing trust funds to provide affordable, homeless and special needs housing. Local governments may provide funding for the trust funds from funds through it budgeting unless expressly prohibited by the laws of this State. The legislation does not confer additional tax or revenue authority to local governments. Local or regional housing trust funds may be used to match state, federal, or private funding sources. The trust funds must produce an annual report and accounting of funds to the local entity that they were created under and they may be included in the financial expense report or annual audit of the local government.

Section 31-22-30(B) may prohibit the reduction or alteration of funding by the county once begun. This provision should be closely examined before any appropriation to a local or regional housing trust fund is made.

### **ACT NO. 31**

**R. 52, S. 266**

**EFFECTIVE DATE: MAY 23, 2007**

This act, which enacts the Priority Investment Act, amends several sections related to local comprehensive plans. Section 6-29-510(8) is amended to require local comprehensive plans to include a transportation element that examines aspects of local transportation issues and likely funding. Section 6-29-510(9) adds a priority investment element to the local comprehensive plan. The priority investment element requires the plan to analyze likely sources of federal and state funding for public infrastructure. The act also amends §6-29-720 adding subsection (C)(7) creating a “priority investment zone” in which counties are encouraged to enact market-based incentives to encourage developers to meet the county’s land use goals. Such incentives include, but not limited to, cluster zones, density bonuses, fast-tract permitting and relaxed zoning regulations. Section 6-29-510 states that counties that have recently adopted comprehensive plans will not have to consider the new elements until the next time the plan is reviewed.

### **ACT NO. 33**

**R. 56, H. 3466**

**EFFECTIVE DATE: MAY 24, 2007**

The act creates Chapter 30 of Title 49 to enact the "Public Waters Nuisance Abatement Act." Section 49-30-40 creates the Public Waters Nuisance Abatement Fund to pay for costs incurred by the State associated with removing unpermitted structures from the public waters of the state. Unpermitted structures on the state’s public waters shall be removed. Owners of structures on the public waters that wish to maintain the structure at its current location must obtain a permit from the Department of Natural Resources (DNR) and pay a permit fee of \$50.00, which is credited to the fund. These permits will expire within 5 years. The permit may not be renewed, extended, or transferred. Section 49-30-60(D) outlines reasons the state can revoke a permit. Section 49-30-70, requires that the Federal Energy Regulatory Commission and DNR survey their respective bodies of water and report the location of all non-permitted structures to the Attorney General’s office. The Attorney General may maintain an action to remove any non-permitted structure, with the cost of removal borne by the owner.

**ACT NO.\***

**R. 65, S. 661**

**EFFECTIVE DATE: JUNE 1, 2007**

This act extends the reporting deadline of the Eminent Domain Study Committee from April 17, 2007 to January 31, 2008. \* Joint resolutions are not assigned act numbers.

**ACT NO. 45**

**R. 71, H. 3456**

**EFFECTIVE DATE: JUNE 4, 2007**

This act adds §6-1-150 which permits local governments and individuals to remove abandoned and derelict mobile homes through the magistrates courts. Local governments are permitted to levy a fee, not to exceed \$25, on mobile homes when they are registered in the county. The fee is to defray costs of identifying and removing derelict mobile homes. When a home is removed the auditor is permitted to remove any uncollectable taxes from the duplicate rolls (§12-49-85(D)).

The legislation also contains language adding §6-29-1145 requiring local governments to inquire if a request for a permit would violate local land covenants. If so, the permit may not be issued. Additionally, the legislation states that if the planning office has notice of a restrictive covenant which would not allow the permitted use, then the permit may not be issued. This provision was also amended by R. 70, S. 65, discussed below.

All the provisions of this act took effect on June 4, 2007, except §6-29-1145 applies to applications for permits filed on and after July 1, 2007.

**ACT NO. 66**

**R. 86, S. 139**

**EFFECTIVE DATE: JUNE 6, 2007**

This act amends §12-37-224 to state that a boat or watercraft, or trailer used for camping and recreational travel on which the interest is deductible for federal tax purposes is also a primary or second residence for purposes of ad valorem property taxation in this State. This allows boats or campers that have a bathroom, a bedroom and a kitchen to qualify for the 6% assessment ratio.

The legislation is applicable for travel trailer or boat or watercraft property tax years beginning after 2006.

## ACT NO. 57

**R. 89, S. 367**

**EFFECTIVE DATE: JUNE 6, 2007**

This act makes several changes to clean up last year's property tax legislation. Those changes include:

Section 12-60-2545 is added to state that the county shall pay reasonable attorney's fees if a taxpayer prevails in his appeal of a county assessor's decision to remove the agricultural use classification and the administrative law judge makes a finding that the decision was not reasonable.

Section 6-1-50 is amended to change the date county and municipal financial reports are due to the Office of Research and Statistics from November 15 to January 15.

Section 6-1-320(A) is amended to state that for the purposes of the local government millage increase limitation, if the average of the twelve monthly consumer price indices experiences a negative percentage, the average is deemed to be zero. If an entity experiences a reduction in population, the percentage change in population is deemed to be zero. Additionally, §6-1-320(E) is amended to state that the section does not amend or to repeal any caps on school millage that are more restrictive than the limitation in §6-1-320(A). See also: R.177, H. 3749 and R.107, S. 91 as discussed below.

Section 11-11-156 is amended to provide a more delineated schedule of distribution to the school districts from the Homestead Exemption Fund. Additionally, the section is amended to guarantee at least a 4% increase per year if revenues are available in the Homestead Exemption Fund.

Section 12-37-670 is amended to allow a county governing body by ordinance to allow new improvements to real property be placed on the tax rolls on a quarterly basis. Additional tax attributable to new improvements will begin accruing on the listing date and will be paid when taxes are due on the property for that property tax year. This additional tax is due regardless of a tax receipt issue that does not reflect the value of the improvements.

Section 12-37-3130 (4) and (5) are amended to delete any reference to "beneficial use".

Section 12-37-3130(7) is amended to delete any requirement that a conveyance be recorded to constitute an assessable transfer of interest and state that a failure to record gives rise to no inference as to whether or not an assessable transfer of interest has occurred.

Section 12-37-3140 is amended to state that value attributable to additions and improvements, and changes in value resulting from assessable transfers of interest occurring in a property tax year are first subject to property tax in the following tax year.

Section 12-37-3160 is amended to state that the provisions of the section, which require the county assessor to annually send property owners a certificate which must be signed and returned by the property owner or the owner's agent certifying details of the ownership of the property, do not apply to a real property owner who is a natural person. A 'natural person' is defined as an individual or group of individuals who directly owns real property outside of any legal entity.

Section 12-60-2510(A)(4) is amended to provide that in years where there is no property tax assessment notice, the property taxpayer may appeal the fair market value, the special use value, the assessment ratio, and the property tax assessment of a parcel of property at any time. The appeal must be submitted in writing to the assessor. An appeal submitted before the first penalty date applies for the property tax year for which that penalty would apply. An appeal submitted on or after the first penalty date applies for the succeeding property tax year

#### **ACT NO. 52**

**R. 90, S. 391**

**EFFECTIVE DATE: JUNE 6, 2007**

This act amends §17-5-50 of the Code and revises the procedure to fill a vacancy in the coroner's office by authorizing the governor to appoint a replacement coroner in the event of a vacancy. Until the governor makes the appointment, the chief magistrate shall serve as the interim coroner. This act also authorizes coroners to appoint investigators and deputy coroners.

#### **ACT NO. 54**

**R. 92, S. 504**

**EFFECTIVE DATE: JUNE 06, 2007**

This act amends §6-9-40, relating to the adoption or modification of building codes and the adoption of emergency building codes. The act grants the South Carolina Building Codes Council the power to modify the building codes referenced in §6-9-50 in the same manner as a review or promulgation of a new code. Previously, the Council could only modify a building code by using certain procedures addressed in the Administrative Procedures Act. Additionally, the act grants the Council the power to promulgate emergency building codes in such cases when an existing code constitutes a new threat to life or safety of building occupants.

## **ACT No. 36**

**R. 98, H. 3659**

**EFFECTIVE DATE: JUNE 7, 2007**

This act in §12-33-245(C) holds harmless state agencies and local entities which received minibottle tax revenues for education, prevention and other purposes, from a loss of money as a result of the state going to free pour liquor. The act stipulates that payments to the entities will be distributed in four equal payments based on the total payments remitted to these state agencies and entities in fiscal year 2004-2005. If these entities are due more money as a result of the sales tax on liquor bringing in a greater amount than in 2004-2005, then a distribution will be remitted to the county treasurers within thirty days after the close of each fiscal year.

## **ACT No. 60**

**R. 104, S. 13**

**EFFECTIVE DATE: JUNE 8, 2007**

This act adds §20-7-27 creating uniform procedures for establishing and enforcing child custody and visitation orders when one of the parties resides in this state and the other does not. The courts of this state shall preserve all documents and pertinent records with respect to child custody proceedings until the child turns eighteen. An out of state child custody order may be registered and enforced in this state. A child custody order of a foreign country under factual circumstances that substantially conform with jurisdictional standards of this state may be enforced in this state. A court of this state may exercise emergency temporary jurisdiction over a child present in this state that is subject the jurisdiction of another state if the child, sibling or parent of the child is subjected to or threatened with mistreatment or abuse.

## **ACT No. 61**

**R. 105, S. 15**

**EFFECTIVE DATE: JUNE 08, 2007**

This act amends §20-4-320 relating to procedures for the uniform recognition and enforcement of foreign domestic violence protection orders. The act allows a person with a valid domestic violence protection order from a state that recognizes orders from this state to have the order enforced by South Carolina courts. The act specifies that local law enforcement shall enforce valid foreign orders upon determining that there is probable cause to believe that a valid protection order exists and the order has been violated. The act specifies that probable cause is presumed with the presentation of an order which identifies both the protected individual and a respondent. An order can be either printed or in an electronic format that can be printed. The order does not have to be certified for enforcement. The act does not require that a protection order be registered to be enforced, but sets out that an order can be registered by presenting a certified copy of the order to

the County Family Court. The act provides immunity to any governmental entity or official for acts or omissions arising from enforcement or registration of an order, or the arrest or detention of an alleged violator of an order if the action is done in good faith.

### **ACT NO. 80**

**R. 106, S. 17**

**EFFECTIVE DATE: JUNE 8, 2007**

This act amends Title 20 of the Code and adopts uniform procedures for the enforcement of family support orders under §20-7-960, the Interstate Family Support Act. It allows a support order of a foreign country or political subdivision to be enforced in this state if it is a foreign reciprocating country or political subdivision under federal law, has established a reciprocal arrangement for child support with this state, or has support procedures similar to this state. The foreign support order should be registered in this state and can be stored electronically as long as it is retrievable in a perceivable form.

### **ACT NO. 110**

**R. 107, S. 91**

**EFFECTIVE DATE: JUNE 21, 2007**

This act is one of the big annual tax bills. Of interest to the counties are:

Section 30 of the legislation amends §12-54-240(B)(12) to allow the Department of Revenue to disclose to state agency, county auditor, or county assessor, the taxpayer's address as shown on their tax return.

Section 32 amends §12-60-20 to state that the Revenue Procedures Act is intended to provide the people of this state with a straightforward procedure to determine a dispute regarding property taxes.

Section 34 amends §6-1-320 to state that for millage rate limitation purposes a negative population shall be counted as zero. (A version of this section is in R.89, S.367 which was signed by the Governor on June 6. That version included a statement that in the event of a negative Consumer Price Index, that factor in the local government millage rate limitation is deemed to be zero.)

Section 35 adds §12-4-535 to allow the Department of Revenue to issue a departmental determination directing the appropriate county official to comply with all applicable state law relating to the valuation, assessment, or taxation of property. Within 30 days after the determination is mailed or hand delivered, the county must respond in writing to the department and state its agreement or disagreement with the department determination. If the county disagrees with, or fails to respond to, determination, the department by its director or designee or the county governing body by resolution may request a contested

case hearing before the Administrative Law Court within thirty days after the date the county disagreement notice was, or should have been, mailed or hand delivered.

The act also states that a county governing body by resolution may request a department determination on any state law regarding the valuation, assessment, or taxation of property.

Section 39 amends §12-6-3360(B)(5)(f) and (h) to increase the number of years from three to five a taxpayer may receive a one tier higher jobs tax credit as a result of a loss by one employer in the county of more than 1500 jobs in years 2006, 2007 and 2008. In a county in which one employer has lost at least 1,500 jobs in calendar year 2006, the credit allowed is three tiers higher than the credit for which the county would otherwise qualify. This section extends that credit out for 5 years.

Section 47 amends §11-11-156(D) to stipulate that in the case of a redevelopment project area created pursuant to Chapter 6, 7, or 12 of Title 31, the reimbursements from the homestead exemption fund must include full payment to the city or county creating the redevelopment project area for amounts that would have been payable to the special tax allocation fund created pursuant to that chapter if no such exemption existed.

Section 56 amends §6-5-10(a) to add the following to the obligations a governing body of a political subdivision may invest in: the Federal Financing Bank, Federal Farm Credit Bank, the Bank of Cooperatives, the Federal Intermediate Credit Bank, the Federal Land Banks, the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Housing Administration, and the Farmers Home Administration.

Section 59 amends §12-20-105 allows a company to continue to be able to claim a credit against its license tax liability for amounts paid in cash to provide infrastructure for an eligible project, if a county sold the industrial shell building or industrial park after the company has paid in cash to provide the infrastructure for an eligible project.

The act contains many different effective dates. All of the sections outlined above are effective upon the governor's signature except Section 59. That section is applicable for tax years beginning after 2003.

## **ACT NO. 81**

**R. 108, S. 99**

**EFFECTIVE DATE: JUNE 19, 2007**

This act amends §§7-11-20, 7-13-15, 7-11-25, 7-9-110, and authorizes the State Election Commission (SEC) to conduct presidential primaries for the 2008 election cycle with the parties setting the date of the primaries and increases the candidate filing fees with a new tax check off to defray state expenses. The political party can opt out if chooses not to

conduct a presidential primary. It also allows polling places to be consolidated during a primary and allows a political party or the SEC to use any facility that receives state funds for a primary free of charge, subject to availability as determined by the governing agency. This act does not include municipal primaries or presidential preference primary elections.

## **ACT NO. 82**

**R. 109, S. 141**

**EFFECTIVE DATE: JUNE 12, 2007**

This act, commonly referred as the “Gang Prevention Act” creates in §16-8-210 (et seq) new criminal penalties for crimes committed by groups defined by statute as criminal gangs, or the individual members of those gangs. The act is aimed at cracking down on criminal gangs by giving law enforcement more tools to prosecute gang activity. Section 16-8-260 allows state and local law enforcement to seize property that has been used in the commission of crimes by or furthered the criminal enterprises of gangs and gang members. Counties, in §16-8-270, are authorized to bring civil suits for any damages sustained against gangs, individual members of a gang or any other person who is found to have acted to further a pattern of criminal activity by a gang. In §16-8-330, the State Law Enforcement Division is directed to create a statewide criminal gang database . Any gang related information obtained by state, county or municipal law enforcement must be transmitted to SLED for inclusion in the database. Section 7 of the act creates new grant programs available to counties and municipalities on a two-for-one match, with the local match consisting of cash. They can be used for programs aimed at after-school programs, job-training, reducing at-risk youth and youth idleness. Grant funding must be made by the General Assembly and will be administered through the Budget and Control Board

## **ACT NO. 69**

**R. 112, S. 268**

**EFFECTIVE DATE: JUNE 13, 2007**

This act amends §§33-56-30 and 33-56-50 by allowing charitable organizations to file their annual registration on the same date that financial reports must be filed and exempts counties from filing registration statements if their fundraising activities are not conducted by professional solicitors, professional fundraising counsel, or commercial co-venturers.

**ACT NO. \***

**R.122, S. 784**

**EFFECTIVE DATE: JULY 1, 2007**

This is a resolution states that if the budget for fiscal year 2007-2008 has not taken effect by July 1, 2007 then the appropriations made in 2006 are authorized for 2007 until the 2007 budget bill takes effect. \* Joint resolutions are not assigned act numbers.

**ACT NO. 88**

**R. 123, H. 3034**

**EFFECTIVE DATE: JUNE 20, 2007**

This act is intended to promote effective energy and environmental standards for construction, rehabilitation and maintenance of large state-funded construction and renovation projects. The act creates §18-52-800 et seq. and applies to state-funded new construction larger than 10,000 square feet and renovation projects where the cost is greater than 50% of the structure's replacement value. The act does not apply to public K-12 level school buildings, correctional facilities and buildings constructed for archival storage of documents. Projects must seek certification from either the US Green Building Council (USGBC) as meeting LEED Silver Standards or the Green Building Initiative (GBI) as meeting two globed on the Green Globes standard before making the first application for a building/construction permit. Information directed to State/local governments on certification standards and applications for these standards can be found on the USGBC and GBI websites:

[www.usgbc.org/docs/member\\_resource\\_docs/toolkit\\_statelocal.pdf](http://www.usgbc.org/docs/member_resource_docs/toolkit_statelocal.pdf). or  
[www.thegbi.org/greenglobes/default.asp](http://www.thegbi.org/greenglobes/default.asp)

**ACT NO. 89**

**R. 124, H. 3045**

**EFFECTIVE DATE: JUNE 22, 2007**

This legislation creates the "Volunteer Strategic Assistance and Fire Equipment Pilot Program (V-Safe)" whose purpose, is to offer grants to eligible volunteer and combination fire departments for protecting local communities and regional response areas from fire, hazardous materials, terrorism, and to provide for the safety of volunteer firefighters. In order to be eligible for a grant, a fire department must be staffed by at least fifty percent volunteer firefighters. The grants are limited to \$30,000 per year and a fire department may only receive one grant in a three-year period. The State Fire Marshall administer the grants. This act also amends §23-9-10 of the code by transferring the State Fire Marshall's Office to operate as a division under the State Budget and Control Board. The Governor shall appoint the State Fire Marshall. This pilot program will expire on June 30, 2008.

## **ACT NO. 91**

**R. 127, H. 3233**

**EFFECTIVE DATE: JUNE 14, 2007**

Section 50-23-295 states that the title to watercraft or an outboard motor may not be transferred if the Department of Natural Resources has notice that property taxes are owed on the watercraft or outboard motor. This act amends §50-23-295 to state that the provisions of this section are not applicable to sales of watercraft and motors which took place prior to 2000. The legislation further states that used watercraft and outboard motors obtained from a licensed dealer on or after October 3, 2000, are free and clear a lien for property taxes for property tax years before the 2000 property tax year and that property taxes paid on watercraft and outboard motors for property tax years before the 2000 property tax year are not refundable pursuant to any provision of this act.

## **ACT NO. 76**

**R. 135, H. 3568**

**EFFECTIVE DATE: JUNE 13, 2007**

This act adds §12-43-223 to allow for additional supplemental and incidental uses, referred to as “agritourism”, of an agricultural use valued parcel to not disqualify the parcel from receiving the ag use value. Examples of agritourism given in the legislation are: wineries, educational tours, farm schools, farm stores, roadside stands, agricultural festivals, on-farm theme playgrounds for children, on-farm fee fishing and hunting, pick your own, horseback riding, horseback sporting events and training for horseback sporting events.

## **ACT NO. \***

**R. 136, H. 3569**

**EFFECTIVE DATE: JUNE 14, 2007**

This act creates a the 17 member South Carolina Technology and Communications study committee. The committee is to with study the state’s current broadband capabilities, level of investment in private broadband services and areas of the state under served or lack broadband access. One member of the study committee must be a member of the Association of Counties and will be appointed by the Governor. The report to the General Assembly is due December 31, 2007. \* Joint resolutions are not assigned act numbers.

## **ACT NO. 78**

**R. 142, H. 3820**

**EFFECTIVE DATE: JUNE 11, 2007**

This is the Omnibus Coastal Property Insurance Reform Act of 2007. For the most part, this act has little or no affect on county governments. The act, however, amends §38-75-

470 of the code to provide that the Director of Insurance shall appoint an advisory committee to the director and the South Carolina Building Codes Council to study issues associated with the development of strategies for reducing loss of life and mitigating property losses due to hurricane, earthquake, and fire. Included in the membership of the advisory committee is a member appointed by the South Carolina Association of Counties.

**ACT NO. \***

**R. 145, H. 3933**

**EFFECTIVE DATE: JUNE 15, 2007**

This joint resolution creates a governmental advisory committee to the Department of Health and Environmental Control named the South Carolina Environmental Justice Committee. The Committee shall study the existing practices at State agencies related to the consideration of environmental justice issues related to the economic development and revitalization projects of this State. As a part of this study, the Committee may consult with the National Brownfields Association, South Carolina Chapter, to utilize its expertise in revitalization projects. The Committee shall produce a report of its findings and recommendations to the House Speaker, the Senate President Pro Tempore and the Governor no later than January 1, 2010, at which time the Committee shall cease to exist unless continued by the General Assembly. \* Joint resolutions are not assigned act numbers.

**ACT NO. 100**

**R. 152, S. 327**

**EFFECTIVE DATE: JUNE 18, 2007**

This act amends §§7-5-10, 7-5-35, and 7-13-70 of the Code by requiring all members of a county board of voter registration or election commission as well as designated staff members of the board or commission to complete a training and certification program conducted by the State Election Commission within eighteen months after they are appointed or employed, or eighteen months after reappointed or reemployed if there is break in service. If a board or commission member fails to complete the training within the time frame, they must be removed by the Governor, unless the Governor grants an extension to complete the training program based upon exceptional circumstances. If the county operates its elections through a combined election and registration commission, after completing the initial training and certification program, each commission member and designated staff person must take at least one training course each year.

## ACT NO. 108

**R. 154, S. 446**

**EFFECTIVE DATE: JUNE 21, 2007**

This act, the “Indigent Defense Act,” is intended to create parity between public defenders and the circuit solicitors. The legislation repeals §§17-3-60 and 17-3-70 which was the previous method for creating county public defender corporations and their funding. Public defender offices would operate by circuit, with a circuit public defender heading the office within a given judicial circuit. The circuit public defender will be appointed by a Circuit Public Defender Selection Panel (§17-3-510.) The circuit public defender for each judicial circuit will be a full-time employee of the State and be compensated and have the same benefits as the circuit solicitor. A circuit public defender may not engage in the private practice of law or another full-time business for profit §17-3-510(c). The circuit public defender would be able to hire chief county public defenders, assistant public defenders, investigators, and other staff in order to ensure adequate representation of indigent people. (§17-3-540)

The bill is written with the intent of holding counties harmless for any additional costs associated with creating this new system. Personnel hired by the circuit public defender would be county employees; however, all personnel costs must be reimbursed to the administering county from operational funds provided to the circuit public defender office from county and state appropriated funds. (§17-3-540(B))

The bill does codify language which has been in the budget for several years which states that a county may not reduce funds appropriated for indigent defense below the amount it appropriated in the previous fiscal year. (§17-3-550)

The circuit public defender is to expend funds received from all sources for the general operation of the circuit defenders office including reimbursement to the administering county for employee compensation and fringe benefits. Each circuit public defender is to enter into an agreement with the appropriate county within the judicial circuit to administer the funds provided and the funds must be directed to the administering county. The administering county shall account for the receipt and disbursement of the funds separately from other funds administered by the county. (§17-3-560)

The governing body of a county is required to provide, in cooperation with the other counties in the judicial circuit, and in a pro rata share according to the population of each county, appropriate offices, utilities, telephone expenses, materials, and supplies as are necessary to equip, maintain, and furnish the office or offices of the circuit public defender in an orderly and efficient manner. (§17-3-590)

## **ACT NO. 103**

**R. 156, S. 213**

**EFFECTIVE DATE: JULY 1, 2007**

This legislation amends §56-5-2941 by requiring the placement of an ignition interlock device on any vehicle operated by a person convicted of a subsequent DUI offense to prevent the operation of the vehicle if the person has consumed alcohol. The cost of installing the device in the vehicle will be borne by the offender. However, if the person is judged to be indigent by the court and can not afford the cost of installation then the device must be affixed to the vehicle and the cost paid for through the Interlock Device Fund managed by the Department of Probation, Parole and Pardon Services.

## **ACT NO. 107**

**R. 161, H. 3457**

**EFFECTIVE DATE: JANUARY 1, 2007**

This act amends §61-4-590 of the Code by providing notice to the permit holder for the sale of beer and wine of an independent investigation by the Department of Revenue before the permit may be revoked or suspended. It also requires a local peace officer to immediately report any permit violations to the Department of Revenue.

## **ACT NO. 111**

**R. 163, S. 332**

**EFFECTIVE DATE: JUNE 25, 2007**

This legislation is intended to make comprehensive reforms to the Worker's Compensation System. The following are some of the changes in the system:

- 1) Penalties for fraud are strengthened (§38-55-540);
- 2) Defines actionable fraud in such a way as to allow prosecution for a number of employer and insurance carrier practices that affect premiums (§38-55-530 by adding new subsection (D));
- 3) Requires claimants to present medical evidence to prove causation in medically complex cases, and defines the term, "medically complex" case (§42-1-160);
- 4) Exempts independent owner-operators of trucks from the Workers' Compensation Act (§42-1-360);
- 5) Requires the parties to be more specific in pleading their claims (§42-1-700, and §42-1-705);

- 6) Gives commissioners increased contempt powers (§42-3-175), and increases fines (§42-5-40);
- 7) Requires the Commission to maintain records of claims for 15 years, rather than the current 5 (§42-3-230);
- 8) Makes two previously unscheduled body parts, the hip and the shoulder, scheduled body parts by amending §42-9-30: a maximum of 280 weeks for the hip (§42-9-30(17)), 300 weeks for the shoulder (§42-9-30(14));
- 9) Limits recovery of awards for an injury to a single body part, if the injury affects only a single body part (§42-9-35);
- 10) Clarifies that the claimant has the burden of proof (§42-9-35);
- 11) Defines “repetitive trauma” and requires that claims be proven by a preponderance of medical evidence (§42-1-172) and establishes notice requirements (§42-15-20) and a statute of limitation for repetitive trauma claims (§§42-15-40, 42-17-90);
- 12) Allows employers and their attorneys to communicate directly with medical providers if claimant is notified of the conference in advance (§42-15-95);
- 13) Allows claimants interest on the unpaid portion of an award at the legal rate during the appeals process (§42-17-60);
- 14) Second Injury Fund: immediately removes arthritis as a preexisting condition as the basis for an SIF claim (§42-9-400(d)), bars SIF claims for injuries occurring after July 1, 2008 (§42-7-320(B)), shuts down the SIF completely as of July 1, 2013 (§42-7-320(A)), lowers ratio for computing the SIF assessment from 175% to 135% (§42-7-310(d)(2));
- 15) Requires Department of Insurance oversight and regulation of the loss cost modifier component of the premium rate (does not affect self-insurers) (§38-73-525) ;
- 16) Eliminates the circuit court step of the appeal process (§§1-23-600(D), 14-8-200);
- 17) Makes the presumption of total disability for a 50% or more loss of the back rebuttable; also, increases the value of the back in claims where there is more there is a 50% or more loss of the back to 500 weeks rather than 300 weeks (which is the case for 49% or less) (§42-9-30(21));
- 19) Allows additional injuries to be claimed in the claimants’ pre-hearing briefs (§42-1-700(B)(3));
- 20) Defines “medical evidence” so as to include opinion or testimony of “licensed health care providers” (not necessarily limited to medical doctors) (§42-1-160(G));

21) Defines “medically complex cases” and requires in such cases that the “employee . . . establish by medical evidence that the injury arose in the course of employment,” (§42-1-160).

## **ACT NO. 112**

**R. 169, H. 3826**

**EFFECTIVE DATE: JUNE 27, 2007**

This act primarily deals with physicians employed by hospitals covered by the SC Retirement System being allowed to opt-out of the system. Section 9-1-580 provides that a physician must opt-out of the System within 30 days of beginning employment with the hospital. This act would cover not only physicians employed directly by the hospital, but also physicians whose existing practices are purchased or merged with the hospital.

The act also contains provisions related to retirement benefits for judges, solicitors and public defenders. The act amends §9-8-60(7) and lowers the retirement eligibility age for these persons from 62 to 60 years of age. The act allows these persons to receive retirement benefits while continuing their employment until age 72 under the state’s TERI plan. The TERI provision allows covered employees who are not yet 60 years old but are eligible to retire and receive maximum monthly benefits to participate in the plan. Section 9-8-110(2) was amended to included a survivor benefit payable to a judge’s, solicitor’s or public defender’s spouse unless the member has designated another beneficiary. A final provision §9-1-2210(I) prohibits members from participating in the program if they have previously received benefits from any state retirement system unless the person has been restored to active service and repaid paid benefits

## **ACT NO. 113**

**R. 170, S. 65**

**EFFECTIVE DATE: JUNE 27, 2007**

This act primarily deals with public ingress and egress to cemeteries located on private property. The act however, also amends §6-29-1145 of the Code and corrects an issue created with the passage of R. 71, H. 3456, the “mobile home bill”. That legislation requires the local planning agency to inquire whether a tract of land or parcel is restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the permitted activity. This act specifically states that the local planning agency is not required to conduct a search in any records offices for filed restrictive covenants.

ACT NO. \_\_\_\_

**R.175, H. 3620**

**EFFECTIVE DATE: JULY 1, 2007**

The state general appropriations act generally contains a number of temporary and permanent statutory provisions which are referred to as "provisos." Part IA of the budget are actual monetary distributions. Temporary provisos are effective only for the fiscal year which stipulate how monies are to be spent appear in Part IB of the act, hence the label "Part IB provisos" or "temporary provisos." Many Part I provisos are adopted every year as part of the budget process with little or no changes, others are truly temporary in nature and only appear for one of two years. Permanent statutory changes contained in the budget are incorporated into the Code of Laws and appear in Part II of the budget act. This year the General Assembly chose to not put any Part II provisos in the budget. The effective date of all Part IB provisos are for the fiscal year in which the act has been passed, in this case, Fiscal Year 2007-2008. As of the date of this publication the Governor's vetoes had not been issued. Therefore, the outcome of some of these provisos are still in question.

Part IA:

The Local Government Fund was fully funded in accordance with §6-27-30.

The Public Libraries per capita was increased by \$.25.

State employees were given a 3% pay increase. (See Proviso 63.54)

\$3 million was allocated for VSAFE Fire Fighter Grants.

\$5 million was allocated for the service contract for the 800 MHz system. (See Proviso 63.52)

\$3 million was allocated for competitive grants. (See Proviso 63.37)

The following are some of the new IB provisos of interest to governmental entities in this year's appropriations act:

**Proviso 13.27:** This proviso directs the Department of Social Services to provide a detailed report to the General Assembly on the status of the Child Support Enforcement System.

**Proviso 27.35:** This proviso states that the funds appropriated to the Division of Aeronautics for FAA grant matching may be used to match state and local aviation airport projects whether or not they have received FAA funding.

**Proviso 27.30:** This proviso sets aside \$1.5 million of the Coordinating Council for Economic Development Funds for the "County Industrial Utility Infrastructure Grant Program." Originally, a county was eligible for the grant only if the project was to assist with an existing or planned utility infrastructure project in an industrial park located within five miles of interstates 20, 26, 73, 77, 85, 95, or any of their spurs, and if the

county unemployment rate was 10.0% or higher for the most recent month. The proviso now only requires that the county unemployment rate be 10.0% or higher.

**Proviso 37.36:** This proviso is intended to provide funding to expand the capabilities of the Department of Corrections (DOC) to more expeditiously accept and process newly-sentenced inmates who are awaiting transfer from local jails. \$1.9 million was placed in the budget to expand the R&E centers at the Kirkland and MacDougall Housing Units. This proviso provides a permanent solution to DOC not accepting its prisoners from local jails in a timely manner and it recognizes that DOC must comply with its statutory obligations.

**Proviso 62.1:** This proviso states that the maximum amount of compensation for County Registration Board Members and County Election Commissioners may not exceed the \$12,500 per county limit. If the number of appointments in a county exceeds eight members, compensation shall be reduced on a prorata basis in order to adhere to the \$12,500 per county limit.

**Proviso 62.7:** This proviso requires of members of the County Board of Voter Registration and County Election Commission to receive a common curriculum on the duties and responsibilities of such boards and commissions. The proviso was amended this year to require the State Election Commission to withhold the stipend of members if they do not complete the training and certification program or fail to complete at least one training course in a year. Additionally, the proviso requires the commission to make the courses available in various locations including the upstate, coastal, and midlands areas of the state.

**Proviso 63.37:** This proviso creates the Grants Review Committee for the purpose of awarding competitive community grants to counties and municipalities. The committee consists of five members appointed by the Governor, the President Pro Tempore of the Senate, the Speaker of the House, the Chairman of the Finance Committee, and the Chairman of the Ways and Means Committee. The committee is to adopt guidelines for awarding the grants which must include priorities for funding, including, DHEC orders and consent decrees, the ability to match grant funds, and a focus on community festivals;

The proviso requires a signature of sponsorship on each application by a member of the General Assembly who represents the county or municipality applying for the grant or the signature of the Governor. Counties and municipalities are required to report annually on the expenditure of the funds received until the funds are expended and final financial reports must be received by the committee within ninety days of the completion of the project along with a description of the results achieved in the interest of the community.

**Proviso 63.52:** This proviso directs the State CIO to administer and coordinate First Responder Interoperability operations for the statewide Palmetto 800 MHz radio system. Grant funds to county and city 800 MHz systems to purchase equipment that supports

interoperability with the Palmetto 800 MHz system requires a two-for-one match at the local level.

**Proviso 63.54:** Grants state employees a 3% pay increase.

**Proviso 73.10:** This proviso allocates the first \$50 million in unexpended revenue to address other post employment benefits (OPEB). Any remaining balance may be appropriated for infrastructure improvements, school buildings, school buses and expenses incurred by this State as a result of natural or other disasters.

**ACT NO. \_\_\_\_**

**R. 177, H. 3749**

**EFFECTIVE DATE: JUNE 28, 2007**

R. 177, H3749 is another big annual tax bill. Of interest to the counties are:

Section 1 amends §12-10-80 to allow a taxpayer who qualifies for the job development credit and who is located in a multi-county business or industrial park to receive a credit equal to the amount designated to the county with the lowest development status of the counties contained in the park.

Section 7 makes numerous fee in lieu of tax (FILOT) changes. Some of those changes include amending §§ 4-12-30(C)(4), 4-29-67(C)(3), and 12-44-30(20) to allow a sponsor to apply for an up to 10-year extension of the FILOT. The extension may be granted by resolution of the county council upon a finding of substantial public benefit. Additionally, the minimum requirements to receive a 4% assessment ratio from the FILOT is reduced to:

- (1) a single sponsor investing at least \$150 million and creating 125 jobs in the state;
- (2) a single sponsor investing \$400 million in a project; or
- (3) a project that satisfies the requirements of Section 11-41-30(2)(a), and for which the Secretary of Commerce has delivered certification pursuant to Section 11-41-70(2)(a). (Section 11-41-30(2)(1) defines an “Economic development project” pursuant to the “State General Obligation Economic Development Bond Act” requiring a sponsor to invest \$400 million and create 400 new jobs.)

Section 9 amends §12-37-220 to exempt from the property tax real property not subject to property tax, leased by a state agency, county, municipality, other political subdivision, or other state entity to an entity that would not be subject to property tax if the entity owned the property.

Section 10 allows a county council by ordinance to delay implementation of reassessment scheduled for the current tax year until property tax year 2008

Section 36 amends §12-54-240(B)(12) and (13) to allow the Department of Revenue to disclose to state agency, county auditor, or county assessor the taxpayer's address as shown on their tax return.

Section 38A amends §12-60-20 to state that the Revenue Procedures Act is intended to provide the people of this state with a straightforward procedure to determine a dispute regarding property taxes.

Section 40 amends §6-1-320 to state that for millage rate limitation purposes a negative population shall be counted as zero. (A version of this section is in R.89, S.367 which was signed by the Governor on June 6. That version included a statement that in the event of a negative Consumer Price Index, that factor in the local government millage rate limitation is deemed to be zero.)

Section 41 adds §12-4-535 to allow the Department of Revenue to issue a departmental determination directing the appropriate county official to comply with all applicable state law relating to the valuation, assessment, or taxation of property. Within 30 days after the determination is mailed or hand delivered, the county must respond in writing to the department and state its agreement or disagreement with the department determination.

If the county disagrees with, or fails to respond to, determination, the department by its director or designee or the county governing body by resolution may request a contested case hearing before the Administrative Law Court within thirty days after the date the county disagreement notice was, or should have been, mailed or hand delivered.

The act also states that a county governing body by resolution may request a department determination on any state law regarding the valuation, assessment, or taxation of property.

Section 45 amends §12-6-3360(B)(5)(f) and (h) to increase the number of years from three to five a taxpayer may receive a one tier higher jobs tax credit as a result of a loss by one employer in the county of more than 1500 jobs in years 2006, 2007 and 2008. In a county in which one employer has lost at least 1,500 jobs in calendar year 2006, the credit allowed is three tiers higher than the credit for which the county would otherwise qualify. This section extends that credit out for 5 years.

Section 52 amends §11-11-156(D) to stipulate that in the case of a redevelopment project area created pursuant to Chapter 6, 7, or 12 of Title 31, the reimbursements from the homestead exemption fund must include full payment to the city or county creating the redevelopment project area for amounts that would have been payable to the special tax allocation fund created pursuant to that chapter if no such exemption existed.

Section 61 amends §6-5-10(a) to add the following to the obligations a governing body of a political subdivision may invest in: the Federal Financing Bank, Federal Farm Credit Bank, the Bank of Cooperatives, the Federal Intermediate Credit Bank, the Federal Land

Banks, the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Housing Administration, and the Farmers Home Administration.

Section 64 amends §12-37-220(B)(38) to allow a county by ordinance to exempt 42.75% of the fair market value of a boat from the property tax.

Section 66 amends §12-37-714. This section states that all boats present in South Carolina are subject to taxation. A boat used in interstate commerce which is present in the state for a total of 30 days is subject to property taxes. Noncommercial watercraft are subject to property tax in this State if present within this State for 60 consecutive days or for 90 days in the aggregate in a property tax year. The section was amended to state that when a boat is subject to a written contract for repairs and located in a marine repair facility in this state, the time periods are tolled.

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