

# **Report to the County Council Coalition**

***by the SCAC  
Policy Steering Committees***

**Thursday, October 21, 2021  
Virtual Meeting**



**SOUTH CAROLINA  
ASSOCIATION OF COUNTIES**

# 2021 SCAC LEGISLATIVE COMMITTEE

*Debra B. Summers, Lexington County Council  
Chairwoman, SCAC Legislative Committee*

## **ABBEVILLE COUNTY**

William Norris, Council Chairman

## **AIKEN COUNTY**

Gary Bunker, Council Chairman  
J. Clay Killian, County Administrator

## **ALLENDALE COUNTY**

C. Rick Gooding, Council Chairman  
William E. Robinson, County Council

## **ANDERSON COUNTY**

Robert T. Dunn, Council Chairman  
Ray Graham, County Council

## **BAMBERG COUNTY**

Larry Haynes, Council Chairman

## **BARNWELL COUNTY**

Harold Buckmon, Council Chairman

## **BEAUFORT COUNTY**

Joseph F. Passiment Jr., Council Chairman  
D. Paul Sommerville, Council Vice Chairman

## **BERKELEY COUNTY**

Johnny Cribb, County Supervisor/Chairman

## **CALHOUN COUNTY**

David K. Summers Jr., Council Chairman  
Cecil M. Thornton, County Council  
John E. McLaughlin Jr., County Administrator

## **CHARLESTON COUNTY**

Julie J. Armstrong, Clerk of Court  
Kristen Salisbury, Clerk to Council

## **CHEROKEE COUNTY**

Stephen L. Bratton, County Administrator

## **CHESTER COUNTY**

Dr. Wylie Frederick, County  
Supervisor/Chairman  
Joseph R. Branham, Council Vice Chairman

## **CHESTERFIELD COUNTY**

Mary D. Anderson, County Council  
Hattie Burns, County Council

## **CLARENDON COUNTY**

Dwight L. Stewart Jr., Council Chairman  
Theodore Felder, Deputy County Administrator

## **COLLETON COUNTY**

Steven Murdaugh, Council Chairman  
Phillip M. Taylor Sr., Council Vice Chairman

## **DARLINGTON COUNTY**

Bobby C. Hudson, Council Chairman  
Belinda D. Copeland

## **DILLON COUNTY**

Steven C. Grice, Council Chairman

## **DORCHESTER COUNTY**

William R. Hearn Jr., Council Chairman  
C. David Chinnis, Council Vice Chairman

## **EDGEFIELD COUNTY**

Scott Cooper, Council Chairman

## **FAIRFIELD COUNTY**

Moses Bell, Council Chairman

## **FLORENCE COUNTY**

Willard Dorriety Jr., Council Chairman  
Alphonso Bradley, County Council  
Waymon Mumford, County Council

## **GEORGETOWN COUNTY**

Louis Morant, Council Chairman

## **GREENVILLE COUNTY**

Willis Meadows, Council Chairman  
Joseph B. Dill, County Council

## **GREENWOOD COUNTY**

Theo Lane, County Council

## **HAMPTON COUNTY**

Rose Dobson-Elliott, County Administrator

## **HORRY COUNTY**

Johnny Gardner, Council Chairman  
Cam Crawford, County Council

## **JASPER COUNTY**

Barbara B. Clark, Council Chairwoman

## **KERSHAW COUNTY**

Julian Burns Jr., Council Chairman

## **LANCASTER COUNTY**

Steven R. Harper, Council Chairman  
Steve Willis, County Administrator

## **LAURENS COUNTY**

Brown Patterson, Council Chairman

## **LEE COUNTY**

Travis Windham, Council Chairman

## **LEXINGTON COUNTY**

M. Todd Cullum, Council Chairman  
Debra B. Summers, County Council

## **MARION COUNTY**

John Q. Atkinson Jr., Council Chairman

## **MARLBORO COUNTY**

Jason K. Steen, Council Chairman

## **McCORMICK COUNTY**

Charles T. Jennings, Council Chairman  
Columbus Stephens, County Administrator

## **NEWBERRY COUNTY**

Henry H. Livingston III, Council Chairman  
Leslie C. Hipp, County Council

## **OCONEE COUNTY**

John A. Elliott, Council Chairman  
Paul A. Cain, Council Vice Chairman

## **ORANGEBURG COUNTY**

Johnnie Wright Sr., Council Chairman  
Deloris Frazier, County Council

## **PICKENS COUNTY**

Chris Bowers, Council Chairman  
Roy Costner III, Council Vice Chairman

## **RICHLAND COUNTY**

Paul Livingston, Council Chairman

## **SALUDA COUNTY**

Raymond G. Strawbridge, Council Chairman

## **SPARTANBURG COUNTY**

Justin McCorkle, County Council

## **SUMTER COUNTY**

James T. McCain Jr., Council Chairman  
Charles T. Edens, County Council

## **UNION COUNTY**

J. Frank Hart, County Supervisor/Chairman

## **WILLIAMSBURG COUNTY**

Dr. Tiffany Wright  
County Supervisor/Chairman

## **YORK COUNTY**

Christi Cox, Council Chairwoman  
Robert Winkler, Council Vice Chairman

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REPORT TO THE  
COUNTY COUNCIL COALITION  
by the SCAC Policy Steering Committees

THURSDAY, OCTOBER 21, 2021  
VIRTUAL MEETING

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County Government and  
Intergovernmental Relations ..... Joseph B. Dill, Chairman  
Greenville County Council

Land Use, Natural Resources  
and Transportation..... Charles T. Edens, Chairman  
Sumter County Council

Public Safety, Corrections  
and Judicial..... Julie J. Armstrong, Chairwoman  
Charleston County Clerk of Court

Revenue, Finance and  
Economic Development ..... Belinda D. Copeland, Chairwoman  
Darlington County

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# LEGISLATIVE POLICY DEVELOPMENT PROCESS

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## GENERAL STATEMENT

The South Carolina Association of Counties (SCAC) has adopted a systematic consensus building legislative policy development process. The central goal in the process is to solicit and develop the expertise of county officials from all 46 counties on legislative issues affecting county government. Through participation in four legislative policy steering committees, county officials meet, discuss, and identify issues to be considered by the Legislative Committee.

## LEGISLATIVE COMMITTEE AND STEERING COMMITTEE SYSTEM

SCAC has four legislative policy committees: 1) *County Government and Intergovernmental Relations Steering Committee*; 2) *Land Use, Natural Resources and Transportation Steering Committee*; 3) *Public Safety, Corrections and Judicial Steering Committee*; and 4) *Revenue, Finance and Economic Development Steering Committee*. It is the responsibility of each committee to study the issues and analyze information that is pertinent to its designated policy area. Each committee will develop recommendations in the form of policy statements. Each committee chairman will present the committee's draft policy statements to the Legislative Committee during the Legislative Conference in December.

The Legislative Committee is composed of the 29 members of the SCAC Board of Directors and the chairman of the governing body of the county or his/her designee from each of the 46 counties. The total membership of the Legislative Committee is 75 members. It is the responsibility of the Legislative Committee to review each legislative policy steering committee's recommendations, resolve any conflicts, and adopt the legislative policy positions for the Association. The Legislative Committee is chaired by the Association's First Vice President. The Legislative Committee meets at the SCAC Legislative Conference in December. Once the formal policy statement has been approved by the Legislative Committee, it is the responsibility of the membership of the Association and the Association staff to advocate for its implementation.

During the course of a legislative session, the SCAC Board of Directors is responsible for any revision, modification, deletion, or addition to the legislative policy positions adopted by the Legislative Committee.

## TIMELINE FOR DEVELOPMENT OF LEGISLATIVE POLICY

**Late August** — The membership is notified of the date of the meeting of the four policy steering committees. County officials receive a list of the steering committees and a description of their areas of responsibility. County officials are encouraged to provide their thoughts and ideas on legislative issues for inclusion on a steering committee's agenda. Staff collects this input and prepares it for the steering committee meeting.

**Mid-September** — Each steering committee meets to discuss and analyze legislative policy issues and draft an initial report of proposed legislative policy recommendations.

**Mid-September to Mid-November** — The County Council Coalition meets in October to review and discuss the initial draft of proposed legislative policy recommendations. Each steering committee chairman presents the steering committee report to the Coalition. During the Fall, various groups of county official organizations meet and determine their group's legislative agenda for the coming session of the General Assembly. This information is collected and assigned to the particular steering committee responsible for that legislative area.

**Mid-November** — Each steering committee meets for the second time to incorporate additional issues into their proposed legislative policy recommendations. Each steering committee adopts a final proposed legislative policy recommendation.

**Early December** — The SCAC Legislative Committee meets at the Legislative Conference to receive the reports of the four legislative policy steering committees. Each steering committee chairman will present his/her committee report at a general session meeting of the Legislative Committee. The members of the Legislative Committee will discuss each proposed legislative policy position, and then either amend, adopt, or reject the recommendation. If adopted by the Legislative Committee, those policy positions will then be incorporated with the other steering committees' reports into an SCAC consensus legislative report. Once the SCAC consensus legislative report has been adopted by the Legislative Committee, it is the responsibility of the membership and the SCAC staff to advocate for its implementation.

## RULES AND OPERATING PROCEDURES

### A. Legislative Committee

1. **Committee Membership:** The Legislative Committee shall be composed of the members of the SCAC Board of Directors and the chairman of the governing body or his/her designee from each of the 46 counties. The chairman of the Legislative Committee shall be the First Vice President of the Association.
2. **Voting Procedures:** At a Legislative Committee meeting, the Chairman shall call the meeting to order and carry out the committee meeting agenda. Each committee member has one vote. All matters coming before the committee shall be decided by a majority vote of those present and voting.

3. **Proposed Policies and Amendments:** Each steering committee chairman shall present at the Legislative Conference the committee report for the steering committee. No legislative issue shall be considered at the Legislative Conference in December that does not appear in a steering committee report unless two-thirds of those Legislative Committee members present and voting vote to place the issue on the Legislative Committee agenda for consideration.
4. **Procedural Rules:** The latest edition of Robert's Rules of Order shall be used to govern the conduct of Legislative Committee meetings.

## **B. Legislative Policy Steering Committees**

1. **Committee Membership:** The Legislative Policy Steering Committees' membership composition is as follows: (a) the SCAC Board of Directors; (b) the Legislative Committee members who are either the chairman of the governing body of the county or his/her designee; and (c) not more than twenty-five (25) county officials who shall be appointed by the President based on the expertise of the county official in the subject matter of the particular steering committee. The President shall make steering committee assignments on an annual basis. The President shall designate a chairman for each of the four steering committees. Steering committee meetings will be held at the call of the President.
2. **Voting Procedures:** At each steering committee meeting, the committee chairman shall call the meeting to order and carry out the committee meeting agenda. Each committee member has one vote. All matters coming before the committee shall be decided by majority vote of the committee members present and voting.
3. **Proposed Policies and Amendments:** Any committee member may offer a proposed policy or an amendment to an existing Association policy. Any county official may propose a policy issue by submitting it to the Association and asking that it be included on the committee's meeting agenda. The chairman of the committee will call upon members to discuss the proposal as it has been offered. At the conclusion of the discussion, the chairman will call for a vote on the proposal.
4. **Procedural Rules:** The latest edition of Robert's Rules of Order shall be used to govern the conduct of steering committee meetings.

# STATEMENT OF PURPOSE for the 2022 SESSION

## of the SOUTH CAROLINA GENERAL ASSEMBLY

*The South Carolina Association of Counties hereby affirms its constitutional premise as stated in Article I, Section 2, that, "The purpose of the organization shall be to promote more efficient county government; to study, discuss, and recommend improvements in government; to investigate and provide means for the exchange of ideas and experiences between county officers; to promote and encourage education of county officials; to collect, analyze, and distribute information about county government; to cooperate with other organizations; and to promote legislation to effect more efficient administration of local government in the State of South Carolina."*

*The Association believes that counties cannot exist in isolation because their futures are intertwined. We realize that, as the saying goes, "Together we stand, divided we fall." Our problems are largely the same: if they are to be solved quickly and effectively, all counties must band together to work for the common good. Many common problems exist among South Carolina's 46 counties, and to solve these problems, cooperation is necessary.*

*The South Carolina Association of Counties establishes as a principle the goal of providing control of essential services at the level of government most capable of delivering them. Counties cannot be effective partners with the state and federal governments if their primary revenue source, the property tax, is eliminated or further eroded without replacement with revenue sources that are secure and predictable. Any restructuring of responsibilities should be coupled with a restructuring of revenue sources for counties so that the revenue sources are reflective of the economy in the same proportion as those of the state.*

*The Association believes strongly in maximum local authority consistent with attainment of statewide objectives. County officials recognize their responsibilities to carry out policies formulated by the General Assembly. At the same time, state policy-makers should recognize the limitations of the county revenue base and the need for the state to provide the revenue necessary to implement the increasing number of mandates.*

*We believe that joint cooperative action between county school board members and county council members is essential to the successful delivery of good public education. Comprehensive and efficient human services, including social services, health and mental health programs, are essential to the well-being of our society. These services must be clearly defined and adequately funded. State mandated services delivered at the county level should be financed from state revenue sources in order for every citizen of South Carolina to receive a substantially similar degree of service.*

*The South Carolina Association of Counties has traditionally maintained that its efforts should not be utilized on behalf of individual counties seeking legislative remedy for problems not statewide in nature. The Association staff will direct its efforts toward the support of sound legislation beneficial to the administration of all counties' affairs, and to the opposition of legislation detrimental to counties.*

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*Working Draft*

2021

COUNTY GOVERNMENT AND  
INTERGOVERNMENTAL RELATIONS  
STEERING COMMITTEE



SOUTH CAROLINA  
ASSOCIATION OF COUNTIES

TUESDAY, November 9, 2021  
ASSOCIATION OFFICES, COLUMBIA

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# **2021 COUNTY GOVERNMENT AND INTERGOVERNMENTAL RELATIONS STEERING COMMITTEE**

*The responsibilities of the County Government and Intergovernmental Relations Steering Committee include issues involving the structure of county government and all matters dealing with intergovernmental relations between counties and county officials and the federal, state, and municipal governments. Also included in the responsibilities of this committee are issues related to health and human service delivery and financing. Specific areas of concern include Home Rule authority, consolidation of political subdivisions, elections, ethics, personnel, indigent health care, indigent legal services, veterans' affairs, libraries, social services, and health boards.*

## ***MEETING DATES:***

**Wednesday, September 15, 2021**

**Monday, November 9, 2021**

***JOSEPH B. DILL, CHAIR  
Greenville County Council***

## **STEERING COMMITTEE MEMBERS\***

### ***County Representatives:***

Harold Buckmon, Barnwell County Council Chairman  
Christi Cox, York County Council Chairwoman  
M. Todd Cullum, Lexington County Council Chairman  
Robert T. Dunn, Anderson County Council Chairman  
Theodore Felder, Clarendon County Deputy Administrator  
C. Rick Gooding, Allendale County Council Chairman  
Steven C. Grice, Dillon County Council Chairman  
William R. Hearn Jr., Dorchester County Council Chairman  
Paul Livingston, Richland County Council Chairman  
Joseph F. Passiment Jr., Beaufort County Council Chairman  
Brown Patterson, Laurens County Council Chairman  
Kristen L. Salisbury, Charleston County Clerk to Council  
Travis Windham, Lee County Council Chairman  
Dr. Tiffany Wright, Williamsburg County Supervisor/Chairwoman

### ***SCAC Board Members:***

Mary D. Anderson, Chesterfield County Council  
Joseph R. Branham, Chester County Council Vice Chairman  
J. Clay Killian, Aiken County Administrator  
Johnnie Wright Sr., Orangeburg County Council Chairman

### ***President's Appointees:***

Amanda F. Brock, Oconee County Administrator  
W. Brian Carnes, Lancaster County Council Vice Chairman  
Blair T. Hinson, Oconee County Library Director  
Todd Humphries, Cherokee County Veteran Affairs Officer  
Lynn Sopolosky, Abbeville County Clerk to Council  
Dan Tripp, Greenville County Council  
Joanie Winters, Chester County Attorney

**SCAC Staff Contact: Leslie M. Simpson**

\*As of 10/7/21

# **2021 COUNTY GOVERNMENT AND INTERGOVERNMENTAL RELATIONS STEERING COMMITTEE**

## **GENERAL STATEMENT OF POLICY**

**In November of 1972, the people of South Carolina voted to empower the General Assembly to grant statutory Home Rule powers to county governments. The revised Article VIII (Local Government) to the State Constitution was implemented with the passage of Act No. 283 of 1975 and is known as the “Home Rule Act.” This structural reorganization of government service providers recognized that local elected governing bodies would meet the service needs of their communities in a more efficient and cost-effective manner. The people recognized that counties must be able to respond to changing issues without being limited by inefficient and ineffective restrictions imposed by state law. County Government officials recognize that they are directly responsible for and accountable to the people in their communities for raising and allocating revenues to provide the services that their people demand.**

**In addition to being providers of essential traditional local government services, counties understand their role to help the state administer state programs at the local level. However, counties are charged with implementing costly state and federal mandates without sufficient appropriations or revenue sources to pay for meeting the state’s or federal government’s objectives. Counties oppose the imposition of unfunded or underfunded state and federal mandates because it breaks the line of accountability that connects the implementing government responsible for the program with the cost required to pay for the program.**

**Counties are mindful of their obligation to protect and preserve the health, safety, and welfare of the citizens of this state. To this end, counties play a vital role in addressing the health and human service needs of the people in their communities. The growing cost of supporting these programs and the restructuring of the role of the federal government through the block grant program are a growing concern of counties.**

## **NEW POLICY ISSUES**

### **Certificate of Need**

Chesterfield County Councilwoman Mary Anderson has requested that SCAC support legislation that would modernize the state's Certificate of Need (CON) laws to limit the appeals process, reduce the projects that require approval and streamline the system.

South Carolina is among 35 states that rely on a CON process to expand, build, or add certain medical services. The Certificate of Need Program administers a regulatory regime known as the State Certification of Need and Health Facility Licensure Act (hereinafter referred to as "Act") that is set forth in S.C. Code Sections 44-7-110 to 44-7-230. The purpose of the Act is to promote cost containment, prevent unnecessary duplication of health care facilities and services, guide the establishment of health facilities and services which will best serve public need, and ensure high quality services are provided in health facilities in this State.

#### **2022 Steering Committee's Recommended Policy Position:**

- (1) Support legislation that would reform the state's Certificate of Need to limit the appeals process, reduce the projects that require approval, and streamline the system.**

**The following issue is likely to arise in the next session of the General Assembly and is not raised by any specific group or county.**

### **County Veterans' Affairs Officers**

Currently, Section 25-11-40 states that a County Veterans' Affairs Officer (CVA) is an at-will employee of the South Carolina Department of Veterans' Affairs (SCDVA) and subject to removal by the Secretary of SCDVA. However, to date, all CVA officers' salaries and expenses are paid by their respective counties.

S. 641 and H. 3416 (companion bills), provide that CVA Officers will be county employees and the county legislative delegation can remove a CVA officer. The bills provide SCDVA that the Secretary may offer recommendations to the county delegation after annual reviews of the local county CVA office. However, the Secretary of SCDVA testified at subcommittee hearings that CVA officers should be under his department and not at the county level.

Alternatively, S. 530 and H. 3839 provide that a CVA officer is an at-will employee of the state to be appointed by the Secretary of SCDVA. The bills provide that the State would fund the CVA officers and their staff.

**2022 Steering Committee's Recommended Policy Position:**

- (1) Support legislation that would provide a CVA officer is an at-will employee of the county legislative delegation and is considered a county employee;**
- (2) Support legislation that would provide that a CVA officer is subject to removal for cause, at any time, by a county delegation.**
- (3) Support legislation that would provide that the Secretary of SCDVA may offer recommendations to the county delegation after annual reviews of the local county CVA office.**

# **CARRYOVER POLICY ISSUES**

## **COUNTY OFFICERS AND EMPLOYEES**

### **County Council Residency Requirements**

Horry County has requested that SCAC support legislation that requires county council candidates to reside in the district that they file to run for.

Pursuant to the South Carolina Constitution, Article VI, Section 1, “no person may be popularly elected to and serve in any office in this State or its political subdivisions unless he possesses the qualifications of an elector...” Title 7 of the South Carolina Code indicates that a qualified elector is one who is registered to vote in the county and polling precinct in which the elector offers to vote; therefore, it implicitly follows that in order to be “elected to and serve”, a candidate must be a resident of the county he is running for at the time of election. However, it is unclear if, at the time of filing, the residency requirement is applicable.

In light of the fact that the residency requirement is in the Constitution, a two-thirds vote is required in both the House and Senate to place a Constitutional amendment on the next general election ballot.

**Status: No legislation was introduced in 2021.**

#### **2022 Steering Committee’s Recommended Policy Position:**

**Support legislation that would require that, at the time of filing, all qualified county electors must be a resident of the district that they file to run for and remain domiciled in that district throughout the length of the term.**

### **Workers’ Compensation and Health Insurance Coverage for Psychological Injuries**

South Carolina is among the majority of states that provides statutory workers’ compensation insurance coverage for psychological only injuries (called mental-mental claims) in the limited circumstance where the mental injury was caused by employment conditions that “were extraordinary and unusual in comparison to the normal conditions of the employment,” S.C. Code Ann. § 42-1-160(B)(1). A recent Supreme Court case upheld a decision by the Workers’ Compensation Commission denying workers’ compensation benefits for a deputy sheriff claiming Post Traumatic Stress Disorder after he shot and killed a suspect who had threatened to kill him. Although the court stated that it was “constrained to decide this case according to the standard mandated by the General Assembly,” the court went on to use the opinion to advocate for the removal of the higher standard provided in § 42-1-160.

Currently, only five states allow worker's compensation recovery for mental-mental injuries without the higher standard of proof South Carolina law provides (Hawaii, Michigan, New Jersey, New York, and Oregon). California adopted a higher standard in 1989 after realizing a 700 percent increase in mental-mental claims between 1979 and 1988.

Experts generally recognize three problems intrinsic to mental-mental claims. First, there is substantial subjectivity in claimed mental injuries because different workers will react differently to similar situations. This subjectivity creates numerous problems in providing clear medical evidence of injury. Second, the claims' focus depends on the mentally injured workers' perceptions of surrounding events. In physical injuries, the main focus is on the medical providers' opinions based on a degree of medical certainty.

Finally, it is often difficult to determine whether actual work-related stress events or personal stress caused the injury. Each of these factors contributes to the continuing susceptibility to abuse, fraud, or malingering in mental-mental injury claims.

**Status: Out of pocket costs for the treatment of PTSD for first responders has been covered through the 2021 State's budget. \$250,000 goes to SLED for law enforcement and \$250,000 goes to LLR to cover firefighters and emergency medical technicians (EMTs).**

**S. 94, (companion bill S. 282) and H. 3939 (companion bill H. 3413) were both introduced during the 2021 legislative session. S. 282 was referred to the Senate Judiciary Committee. H. 3413 was referred to the House Labor, Commerce and Industry Committee.**

**S. 94 passed the Senate Judiciary Committee, but SCAC staff was able to get an objection on the bill for the remainder of the year. H. 3939 passed the House and was referred to the Senate Judiciary Committee.**

**Both S. 94 and H. 3939 do the following:**

- **Exempt first responders from having to establish by a preponderance of the evidence that stress, mental injury, or mental illness diagnosed as post-traumatic stress disorder (S. 94) as described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association and arises from the first responder's involvement in a significant traumatic experience or situation in the course and scope of his employment stems from conditions that are extraordinary or unusual relative to the normal conditions of employment for purposes of collecting workers' compensation.**
- **H. 3939 goes further by including an anxiety disorder, conduct disorder, depression, obsessive-compulsive disorder, sleep-wake disorder, or post-traumatic stress disorder.**

- Define “first responders” as law enforcement officers and firefighters, including volunteers.
- Define “significant traumatic experience” to mean one of 11 defined events. The 11 compensable events in the new language are:
  1. Witnessing a deceased minor or the death of a minor;
  2. Witnessing an injury to a minor who subsequently died before or upon arrival at a hospital emergency department;
  3. Participating in the physical treatment of an injured minor who subsequently died before or upon arrival at a hospital emergency department;
  4. Manually transporting an injured minor who subsequently died before or upon arrival at a hospital emergency department;
  5. Seeing for oneself a decedent whose death involved grievous bodily harm;
  6. Witnessing a death, including suicide, that involved grievous bodily harm;
  7. Witnessing a homicide regardless of whether the homicide was criminal or excusable, including murder, mass killing (killing three or more individuals in a single incident), voluntary manslaughter, involuntary manslaughter, and self-defense;
  8. Witnessing an injury, including an attempted suicide, to a person who subsequently died before or upon arrival at a hospital emergency department if the person was injured with grievous bodily harm;
  9. Participating in the physical treatment of an injury, including an attempted suicide, to a person who subsequently died before or upon arrival at a hospital emergency department if the person was injured with grievous bodily harm;
  10. Manually transporting a person who was injured, including by attempted suicide, and subsequently died before or upon arrival at a hospital emergency department if the person was injured with grievous bodily harm; or
  11. Using deadly force or being subjected to deadly force in the course of the employment.
- Define “grievous bodily harm” as serious bodily injury including fractured or dislocated bones, deep cuts, torn members of the body, serious damages to internal organs, and other severe bodily injuries.

**2022 Steering Committee’s Recommended Policy Position:**

- (1) Oppose legislation that would amend § 42-1-160 to reduce the standard for mental-mental claims.
- (2) Support legislation that would provide preventative mental training and funding

**to ensure that there is health coverage for all first responders needing treatment for mental injuries.**

**Workers' Compensation Benefits for a First Responder, Healthcare Provider or Correctional Officer contracting COVID.**

Pursuant to Section 42-1-160 of the South Carolina Workers' Compensation Act, "injury" means only an injury arising out of and in the scope of employment and shall not include a disease in any form, except when it results naturally and unavoidably from the accident.

Section 42-11-10 addresses "Occupational Disease" which means a disease arising out of and in the course of employment that is due to the hazard in excess of those ordinarily incident to employment and is peculiar to the occupation in which the employee is engaged. In other words, the disease must be specific to the type of job and be because of that job. Most occupational disease claims are with employment types where the employee is around chemicals, fumes, silica, asbestos and specific chemicals, or substances that are because of the job in which they are employed.

While the COVID-19 is potentially a disease, it is not likely that it is considered a disease within the definitions of the South Carolina Workers' Compensation Act as that would give rise to flu claims, cold, and other illness. In addition, COVID-19 is not peculiar to employment.

Pursuant to Section 42-1-160 of the South Carolina Workers' Compensation Act, "injury" means only an injury arising out of and in the scope of employment and shall not include a disease in any form, except when it results naturally and unavoidably from the accident.

Section 42-11-10 addresses "Occupational Disease" which means a disease arising out of and in the course of employment that is due to the hazard in excess of those ordinarily incident to employment and is peculiar to the occupation in which the employee is engaged. In other words, the disease must be specific to the type of job and be because of that job. Most occupational disease claims are with employment types where the employee is around chemicals, fumes, silica, asbestos and specific chemicals, or substances that are because of the job in which they are employed.

While the COVID-19 is potentially a disease, it is not likely that it is considered a disease within the definitions of the South Carolina Workers' Compensation Act as that would give rise to flu claims, cold, and other illness. In addition, COVID-19 is not peculiar to employment.

**Status: H. 3192 would establish a presumption that a first responder, healthcare provider or correctional officer contracting COVID-19 is entitled to Workers' Compensation benefits as an occupational disease. The General Assembly intends for its provisions to apply retroactively to first responders, health care providers, or correctional officers who, before the effective date of**



this act, received a COVID-19 diagnosis from a physician; received a presumptive positive COVID-19 test; received a laboratory-confirmed COVID-19 test; or were directed to isolate by an employer due to confirmed or suspected COVID-19 exposure.

**2022 Steering Committee's Recommended Policy Position:**

**Oppose legislation that establishes a presumption that a first responder, healthcare provider, or correctional officer contracting COVID-19 is entitled to Workers' Compensation benefits as an occupational disease.**

**GENERAL**

**Library Funding**

The South Carolina State Library is an essential partner and resource for public libraries in each county. Through the State Library, each county library system receives financial assistance through the Library Services and Technology Act (LSTA) federal grants, State Aid grants, and other library development grant opportunities. In addition to financial assistance, the State Library provides each county library with professional development, database support, and training. Most notably, SC Discus (South Carolina's Virtual Library) has helped librarians in each county provide information and education to students from elementary school through college. As county governments work to fund their library system, supporting the State Library is essential to ensure all public libraries are meeting the needs of every citizen in South Carolina as well as keeping up with changing technologies.

County library systems in FY 2007-08 were receiving the all-time high per capita amount of \$2.25. Mid-year reductions and reduction in subsequent fiscal years reduced funding to a low of 78 cents per capita in FY 2011-12. Libraries lost hundreds of thousands of dollars at a time when public needs demanded continuation of traditional library services enhanced by new information technologies and online access as many federal, state, and local government services became paperless. The 2010 census indicated that 40% of households in South Carolina had no access to internet in the home. The digital divide in South Carolina has continued to grow. Library funding must continue to increase to allow South Carolina citizens access to the information and services they need to be productive.

The South Carolina Association of Public Library Administrators requested that SCAC support legislation for funding for FY 2021-2022 as follows:

1. State Aid funding in FY21/22 at \$2.25 per capita with a minimum grant of \$100,000 per county.

2. Education lottery funding of \$2 million to be distributed on a per capita basis.
3. Support funding of the S.C. State Library's budget requests.

**Status: The General Assembly provided a raise to library per capita funding from \$2 to \$2.25 in the 2021 State Budget. However, funding was done with non-recurring funds.**

**2022 Steering Committee's Recommended Policy Position:**

- (1) Support legislation for the recurring annualization of FY 2021-2022 library funding at the per capita level of \$2.25 with a minimum grant of \$100,000\* per county.**
- (2) Support legislation that would provide education lottery funding of \$2 million of the unclaimed prize money to be distributed on a county basis.**
- (3) Support legislation that would provide funding of the State Library's budget requests.**

**Veteran Surviving Spouse Property Tax Exemption**

The South Carolina Association of County Veteran Affairs Officers has requested SCAC support legislation that would enlarge the meaning of a qualified spouse so that a widow or widower of a deceased veteran, who was never determined permanent and totally disabled as a result of a service-connected disability but whose death resulted from a service-connected injury, will qualify the widow or widower for the relevant tax exemption.

Under Section 12-37-220, surviving spouses cannot receive tax exemption on their property unless the veteran was deemed 100% permanently service-connected **at the time of death**.

Proposed legislation would add that if the veteran **dies of a service-connected injury**, the surviving spouse would be eligible for the property tax exemption as well.

**Status: No legislation was introduced in 2021.**

**2022 Steering Committee's Recommended Policy Position:**

**Support legislation that would enlarge the meaning of a qualified spouse so that a widow or widower of a deceased veteran, who was never determined permanent and totally disabled as a result of a service-connected disability but whose death resulted from a service-connected injury, will qualify the widow or widower for the relevant tax exemption.**

**COUNTY GOVERNMENT AND INTERGOVERNMENTAL RELATIONS**

**Municipal Annexation and Adhesion Contracts**

Annexation has been a longstanding issue of contention between counties and municipalities. Florence County has requested that SCAC support legislation that would give county governments standing to challenge municipal annexations. As the law is currently written, municipal annexation and adhesion contracts negatively impact county governments with respect to county revenues, taxation, and land use.

SCAC previously adopted a comprehensive approach to this issue as outlined below:

- Make adhesion contracts null and void.
- Provide a procedure for municipal deannexation in a manner similar to county boundary changes.
- Create a mechanism to freeze revenue from business licenses upon the annexation of a business by a municipality in the same manner that local hospitality taxes are treated when annexation occurs.
- Grant legal standing to counties for all annexations within their jurisdiction.
- Require municipalities to notify counties of proposed annexations. Notice should be given in time for the county to actively participate and provide input into the proposed annexation.
- Require municipalities to conduct a study to analyze and mitigate the potential impact of proposed annexations on the delivery and level of service of public services and facilities, in order to assure that adequate public services and facilities will be available to serve development after annexation.

- Prohibit the creation of enclaves (donut holes) and provide incentives for municipalities to not create enclaves. The incentives would not require approval from landowners that would be affected by the annexation.
- Strengthen the Priority Investment Act (enacted in 2007 to improve the local government comprehensive planning process) by mandating that any municipal annexation that violates the Act would result in a reduction of the Local Aid to Subdivision funds the municipality receives.

**Status: No legislation was introduced in 2021.**

**2022 Steering Committee's Recommended Policy Position:**

**Support legislation that would grant legal standing to county governments to challenge municipal annexations within their jurisdiction. Further, support legislation that would require all municipal annexation, including enclave annexation, by referendum as follows:**

- **Make adhesion contracts null and void.**
- **Provide a procedure for municipal deannexation in a manner similar to county boundary changes.**
- **Create a mechanism to freeze revenue from business licenses upon the annexation of a business by a municipality in the same manner that local hospitality taxes are treated when annexation occurs.**
- **Grant legal standing to counties for all annexations within their jurisdiction.**
- **Require municipalities to notify counties of proposed annexations. Notice should be given in time for the county to actively participate and provide input into the proposed annexation.**
- **Require municipalities to conduct a study to analyze and mitigate the potential impact of proposed annexations on the delivery and level of service of public services and facilities, in order to assure that adequate public services and facilities will be available to serve development after annexation.**
- **Prohibit the creation of enclaves (donut holes) and provide incentives for**

**municipalities to not create enclaves. The incentives would not require approval from landowners that would be affected by the annexation.**

- **Strengthen the Priority Investment Act (enacted in 2007 to improve the local government comprehensive planning process) by mandating that any municipal annexation that violates the Act would result in a reduction of the Local Aid to Subdivision funds the municipality receives.**

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*Working Draft*

2021

LAND USE, NATURAL RESOURCES AND  
TRANSPORTATION STEERING COMMITTEE



SOUTH CAROLINA  
ASSOCIATION OF COUNTIES

Tuesday, November 9, 2021  
ASSOCIATION OFFICES, COLUMBIA

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# **2021 LAND USE, NATURAL RESOURCES AND TRANSPORTATION STEERING COMMITTEE**

*The responsibilities of the Land Use, Natural Resources and Transportation Steering Committee include growth policies, environmental issues, as well as transportation and other infrastructure issues. Specific areas of concern include issues related to land use; zoning and building code programs; solid and hazardous waste management programs; water resource systems; air quality; wetlands; energy conservation; eminent domain; parks and recreation; and state/federal transportation funding programs, to include “C” funds.*

## ***MEETING DATES:***

**Wednesday, September 15, 2021  
Tuesday, November 9, 2021**

***CHARLES T. EDENS, CHAIR  
Sumter County Council***

## **STEERING COMMITTEE MEMBERS\***

### ***County Representatives:***

Barbara B. Clark, Jasper County Council Chairwoman  
Deloris Frazier, Orangeburg County Council  
Steven R. Harper, Lancaster County Council Chairman  
Larry Haynes, Bamberg County Council Chairman  
Justin McCorkle, Spartanburg County Council  
Willis Meadows, Greenville County Council Chairman  
Steven D. Murdaugh, Colleton County Council Chairman  
William C. Norris, Abbeville County Council Chairman  
Jason K. Steen, Marlboro County Council Chairman  
Columbus Stephens, McCormick County Administrator  
Raymond G. Strawbridge, Saluda County Council Chairman

### ***SCAC Board Members:***

John Q. Atkinson Jr., Marion County Council Chairman  
Alphonso Bradley, Florence County Council  
Paul A. Cain, Oconee County Council Vice Chairman  
D. Paul Sommerville, Beaufort County Council Vice Chairman  
Dwight L. Stewart Jr., Clarendon County Council Chairman  
Cecil M. Thornton Jr., Calhoun County Council

### ***President’s Appointees:***

James D. Armstrong, Charleston County Deputy Administrator  
Danny Knight, Horry County Solid Waste Authority Executive Director  
Phillip L. Lindler, Greenwood County Planning and Zoning Director  
Andrea N. Melocik, Charleston County Planning and Zoning Deputy Director  
Michael Smith, Richland County Building Official  
Sammie Tucker Jr., Kershaw County Council Vice Chairman

**SCAC Staff Contact: John O. Wienges Jr.**

\*As of 10/7/21

**2021 LAND USE,  
NATURAL RESOURCES AND TRANSPORTATION  
STEERING COMMITTEE**

**GENERAL STATEMENT OF POLICY**

**South Carolina's counties have played a vital role in maintaining natural resources, governing the wise use of land, and making public infrastructure decisions. Protection of natural resources must be a shared effort between the state and local governments. Counties recognize the importance of Home Rule and community input regarding land use, natural resources, and infrastructure decisions and have traditionally opposed statewide legislation that would preempt community input and solutions tailored to local situations involving these matters. County officials acknowledge their responsibility to carry out policies formulated by the General Assembly regarding matters of statewide concern. To that end, if state law mandates that local governments assume new or expanded responsibilities, the General Assembly should provide adequate guidance and funding to accomplish legislative aims.**



## NEW POLICY ISSUES

### RIGHT TO FARM

Paul Cain, Esq., SCAC President and Vice Chairman of Oconee County Council, has requested that this steering committee support legislation to update the Department of Labor, Licensing and Regulation's (LLR) "Residential Property Condition Disclosure Statement Form" to include a new condition regarding agricultural operations that are located near a property that is being offered for purchase. The condition statement would also provide a description regarding the nature of the farming operations, what to expect in terms of sights, sounds, odors, and other conditions of which the prospective property owners may not be aware of or may not have fully considered. The new condition would further support South Carolina's "Right to Farm Act" by placing real estate purchasers "on notice" of any nearby agricultural operations and would potentially reduce nuisance litigation filed against farmers across the state.

#### **Steering Committee's Recommended Policy Position:**

**No position.**

### TREE PROTECTION

House Bill 3989 was introduced by Rep. J.E. Johnson from Horry County and was referred to the House Judiciary Committee last session. This legislation would amend the South Carolina Code of Laws by adding a new section which would limit a county's ability to restrict tree removals located on private property with a zoning designation of industrial, commercial, or agriculture, with the exception of "heritage" trees. The bill does not allow counties to require any percentage of tree canopy, natural buffers, wildlife corridors, or more stringent requirements other than Federal or State guidelines. H. 3839 would also restrict counties from requiring replanting or mitigation requirements for tree removal.

Robbie Derrick, Director of Lexington County Department of Community Development, emphasized the potential negative impacts that the bill may have on the protection of open spaces, scenic corridors, or buffer areas and requested that the steering committee discuss the issue this fall.

**Status: H. 3989 was introduced in February of 2021 and passed a House Judiciary Special Laws subcommittee during the last week of session. Although the bill moved forward, members of the subcommittee expressed concerns over the bill and noted that they may vote against the bill if it appears on the House Judiciary Committee's agenda in 2022.**

**Steering Committee's Recommended Policy Position:**

**Oppose legislation that would limit a county's authority to regulate the removal or protection of trees on private property.**

# CARRYOVER ISSUES

## LAND USE

### LAND USE POLICY STATEMENT

*Counties and municipalities are the only entities vested with the jurisdiction to adopt and enforce zoning ordinances, development regulations, and other land use measures. County governments encourage adequate open space that contributes to the quality of life of our citizens by providing recreational opportunities, enhancing air and water quality, and preserving and protecting South Carolina's unique natural beauty. Local communities are best able to understand the most beneficial use of land. To that end, local citizens require and expect local governments to establish and enforce local land use and zoning ordinances. The South Carolina Association of Counties believes that the state and other outside entities should avoid interfering in local land use matters.*

### Affordable Housing

Affordable housing is an issue that is likely to arise during this legislative session. As more people and businesses continue to move to South Carolina, the value of land and residences in urban areas continues to rise. As a result of a shortage of affordable housing, many people are unable to afford to live close to their workplace and getting to work becomes more costly and time consuming. Several bills have been introduced over the years to address the problem. These bills range from allowing counties to use inclusionary zoning strategies to increase the availability of affordable housing to statewide tax credits for affordable housing. Currently, no state law prohibits a county from adopting a land use regulation or plan to offer developers incentives to build affordable housing units. Possible incentives could include whole or partial waivers of development or impact fees, tax adjustments, or density adjustments.

The South Carolina Housing Forum began meeting in 2019 to discuss the driving factors behind a lack of affordable housing in South Carolina. SCAC staff was involved in the meetings and regularly heard complaints about local regulations and zoning practices inhibiting affordable housing. Many of these complaints were aimed at school districts imposing very high impact fees for new construction, but several cited high utility fees for new sewer and water taps as making affordable housing not profitable.

In August of 2020, the Forum held a Home Attainability Conference to further discuss the issue of affordable housing in South Carolina. Several speakers, including a developer and an economic

forecaster, discussed several barriers to affordable housing, including those listed above. The Forum is going to take ideas from the Conference and use them to introduce legislation to help alleviate the burdens faced by developers wanting to build affordable housing.

Michael Covert, Beaufort County Councilman, expressed concern over the issue of affordable housing and would like to the steering committee consider supporting legislation that would provide statewide tax benefits and incentives to landowners and developers of affordable single-family homes and apartments.

**Status: H. 3863 and S. 528 were introduced in 2021 and would enact the “South Carolina Home Attainability Act.” The Act would mandate that municipalities and counties must implement and expedite administrative and permitting requirements relating to residential development. Although the preamble of the legislation references a goal of promoting access to attainable housing, the bill would impose mandates that local governments must provide incentives and expedited permitting to all types of housing and development across the state. SCAC staff testified in opposition to S. 528 during a Senate Judiciary subcommittee in 2021 and expressed considerable concern regarding a ten percent cap that would be placed on the fees and taxes that are charged to developers on all residential construction. S. 528 was carried over by a Senate Judiciary subcommittee and H. 3863 was referred to the House Labor, Commerce and Industry Committee.**

**H. 3998 was introduced in 2021 to provide that counties and municipalities are authorized to adopt and use voluntary inclusionary zoning strategies to increase the availability of affordable housing. H. 3998 passed a House Medical, Military, Public and Municipal Affairs subcommittee in May of 2021.**

**Steering Committee’s Recommended Policy Position:**

**(1) Support legislation providing statewide tax benefits for affordable housing to developers and landowners; (2) Oppose legislation that would impose limits on impact fees and tap fees.**

**Balcony Inspections**

There has been legislation introduced in the past that would require counties to perform inspections of all exterior balconies on residential properties every five years. The Building Codes Council would be required to develop and administer a database of the results of the balcony inspections. Counties could assess and collect a fee for each balcony inspected. SCAC staff has provided alternative methods including the creation of a division under the Department of Labor, Licensing, and Regulation (LLR) which would perform balcony inspections in a similar manner to elevator inspections.

Steve Willis, Lancaster County Administrator, requests that the steering committee oppose any legislative efforts to require counties to perform inspections of balconies.

**Status: H. 3191 was prefiled in 2020 and would require the Department of Labor, Licensing and Regulation (LLR) to adopt a “Multifamily Dwelling Balcony Code” to set the minimum standards for balcony railings that are primarily constructed of wood located in multifamily dwellings. The legislation would also require LLR to inspect such balcony railings at least once every five years, beginning no later than ten years after the balcony was constructed. H. 3191 was referred to the House Labor, Commerce and Industry Committee.**

**Steering Committee’s Recommended Policy Position:**

**Oppose legislation requiring counties to perform inspections of residential balconies and buildings.**

**Lot Cleanup**

Counties have general powers under § 4-9-25 to enact ordinances to preserve health within the county, including to allow for the cleanup of property constituting a public nuisance. While they may not interfere with the rights of the general public sufficient enough to constitute a public nuisance, counties do have limited authority to address dwellings unfit for habitation. This authority is found in §§ 31-15-310 et seq. Section 31-15-310 allows counties to take corrective actions on dwellings unfit for habitation and add these costs to the property owner’s tax bill. If the property owner then fails to pay this portion of their property tax bill, the county may place a lien on the property. While this may temporarily alleviate the conditions, there is significant concern over the priority of the tax lien and the county’s ability to recover the money spent on the corrective actions.

Counties have the authority under § 6-9-50 to adopt the International Property Maintenance Code (IPMC), made available by the International Code Council. The IPMC provides specific maintenance requirements as well as requirements intended to maintain a minimum level of safety and sanitation for both the general public and occupants of a structure, residential or commercial. Counties that have adopted the IPMC have the authority under Section 109 to make emergency repairs to structures that pose a threat of imminent danger or under Section 110 to order the owner or owner’s agent to demolish structures that are unable to be repaired. Counties can then seek a judicial action against the owner for the recovery of the costs.

While counties can clean up or demolish structures in emergency situations, they do not have the power to clean up lots or to collect the cost as property taxes. Recovering costs from the owner of the property is not guaranteed, as many times the owner does not live in South Carolina and has no incentive or

ability to clean up the low value property. As a result, the taxpayers of the county often end up paying for the cleanup of private property.

Frank Hart, Union County Supervisor, would like to the steering committee to support legislation that would give counties the authority to clean up both structures and lots and recover the costs associated with the cleanup from the property owner on the tax bill.

**Status: S. 423 was introduced in 2021 and authorizes counties to adopt by ordinance a requirement that a residential or commercial property owner shall keep a lot or property free and clean of rubbish, and would provide a procedure for the enforcement of the ordinance. S. 423 was referred to the Senate Judiciary Committee.**

**Steering Committee's Recommended Policy Position:**

**Support legislation giving counties the authority to clean up both structures and lots and recover the costs associated with the cleanup from the property owner on the tax bill.**

**Plastic Bag Ban**

There have been numerous efforts over the years from the General Assembly to undermine counties' authority to enact ordinances that are in their best interest. One example was H. 3529 of 2018 which would have restricted enacting laws and regulations regarding the use, sale, or taxation of auxiliary containers to the General Assembly. Any county or municipality that has ordinances or regulations pertaining to the use, sale, or taxation of auxiliary containers would be superseded by the bill, unless the ordinance was adopted before January 31, 2018.

Paul Sommerville, Beaufort County Chairman, has requested that the steering committee oppose legislation which would preempt a county's ability to adopt an ordinance banning the use, sale, or taxation of auxiliary containers.

**Status: No legislation was introduced in 2021.**

**Steering Committee's Recommended Policy Position:**

**Oppose legislative efforts to preempt a county's ability to adopt an ordinance banning the use, sale, or taxation of auxiliary containers.**

## **Preemption of Land Use Measures**

Each session there are attempts made to restrict local governments' ability to regulate land use or to preempt local zoning authority. An example might include any regulation of installation of solar collectors. A policy of removing barriers to installation of solar panels may be laudable, but certain installations in historical or scenic areas may not be a good thing, and local governments are in the best position for understanding these land use issues.

**Status: No legislation was introduced in 2021.**

### **Steering Committee's Recommended Policy Position:**

**Oppose legislative preemption of local zoning or other restrictions on local land use regulation.**

## NATURAL RESOURCES

### NATURAL RESOURCES POLICY STATEMENT

*The task of preserving and maintaining South Carolina's natural resources encompasses numerous areas of concern and involves the exercise of authority by federal, state, and local governments. Since counties are charged with the task of balancing various interests, local community input and decision-making needs to be preserved. Counties have long recognized that efforts to ensure clean water and air and to protect wetlands transcend governmental boundaries. These efforts require close cooperation between federal, state, and local governments. To that end, the Association of Counties, and those directly impacted counties, should be included in any decisions concerning state and federal efforts to protect natural resources.*

### Electronic Waste

Act No. 178 of 2010 prohibited electronic waste, e.g., televisions, computer monitors, and printing devices, from being disposed of in the landfill. This ban has led to hazardous working conditions for landfill employees because the devices themselves can be toxic and unwieldy and have to be physically separated from the solid waste stream. SCAC staff anticipates legislation may be filed to exempt cathode ray tubes (CRTs) from the electronic waste ban, if not remove the ban completely.

Danny Knight, Executive Director of the Horry County Solid Waste Authority, Inc., expressed concern with rising costs to local governments under the current funding formula of the Act, which sunsets on December 31, 2021, and suggested that manufacturers and producers should be responsible for such costs under a legislative approach known as Extended Producer Responsibility ("EPR"). The EPR approach shifts the economic and management responsibility of end-of-life electronic products from the governments to producers. EPR would also absorb the cost of responsible end-of-life management into the cost of products and would encourage manufacturers to incorporate environmental considerations into the design of their products and packaging.

**Status: H. 4035 (Act No. 82 of 2021) extends the sunset on the South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act and applicable regulations until December 31, 2023. It also allows a stakeholder working group, including SCAC staff, to continue pursuing efforts to reform the current program and to alleviate the financial burden faced by many counties in storing e-waste. The working group is currently meeting throughout the fall and intends to have legislation crafted by the start of the 2022 legislative session.**



**Steering Committee's Recommended Policy Position:**

**Defer the issue until the November meeting.**

**Solid Waste Flow Control**

There will be strong continued legislative efforts to undermine counties' responsibilities under state law and Home Rule to determine what is in the best interests of its citizens regarding disposal of solid waste. If successful, these efforts will greatly erode counties' ability to regulate solid waste in order to comply with the Solid Waste Management Act and DHEC regulations.

"Flow control" is simply a local government determining where solid waste within its jurisdiction may go. Constitutional issues with such ordinances have been raised in the past, but in a 2007 U.S. Supreme Court case, a narrow set of circumstances was deemed constitutionally permissible; and in 2013, the South Carolina Supreme Court upheld Horry County's flow control ordinance.

**Status: No legislation was introduced in 2021.**

**Steering Committee's Recommended Policy Position:**

**Oppose legislative efforts to undermine counties' authority to address their responsibilities regarding the disposal of solid waste.**

**Waste to Energy Facilities**

Under current law, solid waste incinerators across the state are limited to a daily capacity of six hundred tons. Dwight Stewart, Chairman of Clarendon County Council, requests that this steering committee support legislation to update a portion of the "South Carolina Solid Waste Policy and Management Act" in order to increase the cap on the daily capacity for solid waste incinerators from 600 tons-per-day to 3,000 tons-per-day. This change would provide waste to energy facilities with the amount of capacity needed to operate effectively within the state.

**Status: H. 3753 was introduced in 2021 and would provide that post use polymers and recoverable feedstocks used in pyrolysis and gasification process would no longer be classified as "solid waste" and therefore would no longer be regulated by the Department of Health and Environmental Control (DHEC). The bill also contains language that proposes increasing the current 600 tons-per-day cap on incinerator capacity. A House Agriculture, Natural Resources and Environmental Affairs subcommittee adjourned debate on the bill in February of 2021.**

**Steering Committee's Recommended Policy Position:**

**(1) Support legislation to increase the cap on the daily capacity for solid waste incinerators from 600 tons-per-day to 3,000 tons-per-day while opposing any legislation allowing for the import of out-of-state waste to meet demand requirements at any solid waste facility. (2) Oppose legislation that would exempt waste facilities from DHEC regulation.**

## **TRANSPORTATION AND OTHER INFRASTRUCTURE**

### **TRANSPORTATION AND OTHER INFRASTRUCTURE POLICY STATEMENT**

*As communities across South Carolina grow, many counties are faced with increasing stress on public infrastructure. This has accelerated the demand for new and expanded airports, roads, bridges, water and sewer systems, and solid waste disposal. Counties should take a proactive role in determining the direction of infrastructure and should be included in decisions at the state level affecting local infrastructure.*

#### **Toll Roads**

The current system and formulas used by SCDOT are not adequate to address the growing needs for construction and maintenance of highways and roadways throughout the state. SCDOT states that it does not have sufficient funds to fix the roads and it is safe to say that local governments who wish to have their transportation projects completed will likely need to look to more local revenue-producing methods. Several funding proposals including the selective use of tolls have been previously considered by the legislature.

**Status: H. 3535 was pre-filed in 2020 relating to county transportation authorities and outlines the requirements for procurement methods when contracting for mass transit services. The bill also provides that sales and use taxes or tolls also may be used to finance transportation services.**

#### **Steering Committee's Recommended Policy Position:**

**Support legislation allowing for the selective use of tolls.**

#### **Transfer of Roads from SCDOT to Counties**

There have been past proposals to transfer over 19,000 centerline miles of state roads to local governments. Legislators and SCDOT acknowledge that these roads are in poor condition and contend that state funds are not available to continually maintain them. Further, they believe that many of these roads have no reason for being under the state system in the first place. A bill was previously filed that would have transferred these non-federal aid secondary roads to local governments at the option of county council with an increase in C funds to pay for their maintenance. Members of the legislature

have repeatedly stated that any legislation including the transfer of roads to counties would be optional at the county council level and that funding would be adequate to maintain these roads.

**Status: No legislation was introduced in 2021.**

**Steering Committee's Recommended Policy Position:**

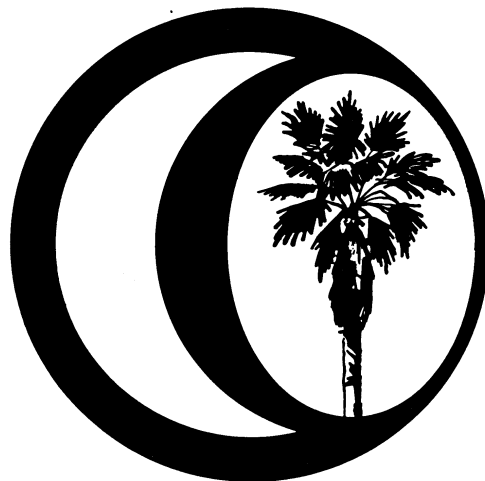
**Oppose legislation that would require a mandatory transfer of roads from SCDOT to local governments.**

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*Working Draft*

2021

PUBLIC SAFETY, CORRECTIONS AND JUDICIAL  
STEERING COMMITTEE



SOUTH CAROLINA  
ASSOCIATION OF COUNTIES

WEDNESDAY, NOVEMBER 10, 2021  
ASSOCIATION OFFICES, COLUMBIA

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# **2021 PUBLIC SAFETY, CORRECTIONS AND JUDICIAL STEERING COMMITTEE**

*The responsibilities of the Public Safety, Corrections and Judicial Steering Committee include issues relating to the funding and administration of law enforcement; corrections and jails; the judicial system; fire and life safety programs; and emergency disaster preparedness. Specific areas of concern include issues related to law enforcement; adult and juvenile detention; the court system, including clerks of court and registers of deeds, magistrates and probate judges; E-9-1-1 service programs; fire protection services; emergency medical services; and emergency preparedness programs.*

## ***MEETING DATES:***

**Thursday, September 16, 2021: Association Offices**

**Wednesday, November 10, 2021: Association Offices**

***JULIE J. ARMSTRONG, CHAIR***  
***Charleston County Clerk of Court***

## **STEERING COMMITTEE MEMBERS\***

### ***County Representatives:***

Moses W. Bell, Fairfield County Council Chairman  
Chris Bowers, Pickens County Council Chairman  
Gary Bunker, Aiken County Council Chairman  
Hattie Burns, Chesterfield County Council  
Scott Cooper, Edgefield County Council Chairman  
Bobby C. Hudson, Darlington County Council Chairman  
Theo Lane, Greenwood County Council  
James T. McCain Jr., Sumter County Council Chairman  
Louis R. Morant, Georgetown County Council Chairman

### ***SCAC Board Members:***

Cam Crawford, Horry County Council  
Ray Graham, Anderson County Council  
J. Frank Hart, Union County Supervisor/Chairman  
Waymon Mumford, Florence County Council  
William E. Robinson, Allendale County Council

### ***President's Appointees:***

Johnathan W. Bryan, Sumter County Attorney  
Doug Bryson, Spartanburg County Emergency Preparedness Director  
James C. Campbell, Sumter County Clerk of Court  
Charles Goodwin, Abbeville County Council Vice Chairman  
Kelvin Jones, Hampton County Detention Center Director  
David W. Kerr, Lexington County Public Safety Director  
Amy McCulloch, Richland County Probate Judge  
Lawrence P. McElynn, Beaufort County Council  
Timothy L. Nanney, Greenville County Register of Deeds  
Carolyn Rogers, York County Probate Judge

**SCAC Staff Contact: Daina M. Riley**

\*As of 10/7/21

**2021 PUBLIC SAFETY,  
CORRECTIONS AND JUDICIAL  
STEERING COMMITTEE**

**GENERAL STATEMENT OF POLICY**

**One of the primary responsibilities of government is to protect its citizens from those who threaten their life, liberty, and property. County government resources are being strained to the limit to provide sufficient law enforcement, to deal with the escalating complexities and backlog in the judicial system, and to cope with the crises in jail overcrowding and juvenile crime. Many of these responsibilities fall on the counties as state mandates with either inadequate or no state funding.**

**County government officials feel that the critical issues facing our counties cannot be solved in a vacuum, but only through partnerships with the federal, state, and local governments; the private sector; volunteer organizations; community groups; and others. The state must take a leadership role in examining the causes of crime so that we do not have to continually build more jails, to find better methods to deal with high recidivism rates, and to make improvements in a judicial system that moves at a less-than-acceptable pace and has not adequately kept up with societal changes. The federal and state governments must not only support these efforts through strong leadership, but sufficient financial support must be provided if we are to solve these issues and improve the quality of life of all South Carolinians.**

## NEW POLICY ISSUES

### **Animal Control – Custodial Arrest Authority**

Union County submitted this issue. Currently, Union County certifies all Litter & Animal Control code enforcement officers as Class III Law Enforcement Officers (LEOs). The Law Enforcement Training Council (LETC) has recently enacted regulations mandating a significant amount of additional training for armed class III LEOs. Based on the additional training requirements and the shortage of LEOs in rural counties, Union County would like to request that S.C. Code § 4-9-145 be modified to allow a minimum of four county code officers to have custodial arrest authority and enforce state law when enforcement is done *incident to their primary duties of enforcing litter control, animal control, and county ordinances*. The current law does not recognize Animal Control Officers as having custodial arrest authority and limits the number of officers to **one** in rural counties with less than 40,000 in population. Union County typically has only four Sheriff's Deputies patrolling the unincorporated areas of the county at any given time. Many times, our code enforcement officers are in remote areas of the county with the nearest backup officer 15-20 minutes away. Animal Control calls have become increasingly contentious and dangerous. To enhance officer safety, these officers need the ability to perform a custodial arrest during the performance of their duties when circumstances dictate.

SCAC staff is prepared to offer amendment language to S.C. Code § 4-9-145 that would read as follows:

“Section 4-9-145 (A) Except as provided in subsection (B), the governing body of a county may appoint and commission as many code enforcement officers as may be necessary for the proper security, general welfare, and convenience of the county. These officers are vested with all the powers and duties conferred by law upon constables in addition to duties imposed upon them by the governing body of the county. However, no code enforcement officer commissioned under this section may perform a custodial arrest, except as provided in subsection (B). These code enforcement officers must exercise their powers on all private and public property within the county. The governing body of the county may limit the scope of a code enforcement officer's authority or the geographic area for which he is authorized to exercise the authority granted.

(B)(1) The number of litter control officers vested with custodial arrest authority who are appointed and commissioned pursuant to subsection (A) must not exceed the greater of:

(a) the number of officers appointed and commissioned by the county on July 1, 2001; or

(b) one officer for every twenty-five thousand persons in the county, based upon the 2000 census.

Each county may appoint and commission at least ~~one officer~~ **four officers**, without regard to the population of the county.

(2)(a) A litter **and an animal** control officer appointed and commissioned pursuant to subsection (A) may exercise the power of arrest with respect to his primary duties of enforcement of litter **and animal** control laws and ordinances and other state and local laws and ordinances as may arise



incidental to the enforcement of his primary duties only if the officer has been certified as a law enforcement officer pursuant to Article 9, Chapter 6, Title 23.

(b) In the absence of an arrest for a violation of ~~the~~ **litter and animal** control laws and ordinances, **or violation of a county ordinance, a litter and animal** control officer authorized to exercise the power of arrest pursuant to subitem (a) may not stop a person or make an incidental arrest of a person for a violation of other state ~~and local laws and ordinances.~~

(3) For purposes of this section, the phrase ‘litter **and animal** control officer’ means a code enforcement officer authorized to enforce litter **and animal** control laws and ordinances.”

**Steering Committee’s Recommended Policy Position:**

- (1) Support providing animal control officers with custodial arrest authority incident to their primary duties of enforcing litter control, animal control, and county ordinances.**
- (2) Support increasing the number of officers a county may without regard to the population of the county pursuant to S.C. Code Section 4-9-145 from one to four officers.**

**Coroner Classification as First Responders**

Multiple counties and the International Association of Coroner and Medical Examiners have requested this issue be heard, and bills were filed during the 2021 legislative session. Coroners are requesting to be classified as first responders. Being classified as a first responder would allow coroners to receive additional benefits due to the risks involved with their service. For example, if coroners are classified as first responders, coroners would be eligible for hazard pay for their exposure to COVID-19.

**Steering Committee’s Recommended Policy Position:**

**Support legislation that would classify coroners as first responders.**

**Emergency Vehicles**

Spartanburg County Emergency Management Director Doug Bryson submitted this issue. H. 4000 was introduced this year and would classify emergency management department vehicles as “authorized emergency vehicles.” The authorized emergency vehicle classification allows for the use

of blue or red lights. Currently, only law enforcement vehicles, fire, and EMS are considered authorized emergency vehicles. Adding emergency management vehicles would be a common sense amendment to the law as emergency management vehicles need to be able to respond quickly to calls and other situations, similarly to police vehicles.

**Steering Committee’s Recommended Policy Position:**

**Support legislation that would classify emergency management department vehicles as “authorized emergency vehicles.”**

**Auditor’s and Assessor’s Endorsements on Deeds**

Aiken County and the South Carolina Association of Clerks of Court and Registers of Deeds have requested that the committee consider a past SCAC policy position regarding the statutory requirement for endorsements on deeds.

South Carolina Code Section 30-5-80 provides that before any deed that conveys real property can be recorded by the register or clerk of court, it must have the county auditor’s endorsement to show that it has been recorded in their office. Section 12-39-260(A) also requires the registers or clerks of court to have the auditor’s endorsement, and it provides a fee to the auditor of twenty-five cents for making the entry and endorsing the deed. Similarly, Section 12-37-100 requires the endorsement of the county assessor’s office before a deed can be recorded.

The Attorney General issued an opinion in 2017 that states: “This Office believes a court will find that South Carolina Code §§ 30-5-80, 12-39-260, and 8-21-130 are substantially complied with as long as the auditor receives a copy of the deed from the recording officer within a reasonable amount of time of being recorded. The statute requiring the auditor to endorse a deed prior to it being recorded was drafted over a century before the statutes authorizing electronic recording of documents.” 2017 WL 3567951, at \*5 (S.C.A.G. Aug. 10, 2017).

**Past SCAC Policy Position: Support the repeal of §§ 8-21-130, 30-5-80 and 12-37-100 and the striking of the second sentence of § 12-39-260(A) to remove the requirements that all deeds must be endorsed by the county auditor and assessor before being filed with the register or clerk of court.**

Aiken would like to

- (1) adopt the past policy position;
- (2) add a subsection to 30-5-120 that would read: “(B) All conveyances of real estate which were recorded by a clerk of court or register of deeds of any county, where the conveyances meet

the prerequisites for recording in SC Code 30-5-30, without the endorsement of the auditor of the county, have heretofore been declared to be valid and binding, to all intents and purposes, as if such conveyances have been endorsed by the auditor of the county.”; and

- (3) add the following sentence to Section 12-39-260(A): “(A) Each county auditor may keep a record of all sales or conveyances of real property made in the county, in which he shall enter, in columns, the names of the purchaser and seller, the quantity of land conveyed and the location and price of such land, and from such record he shall correct the county duplicates annually. ~~For the purpose of carrying out this provision, the clerk of courts or register of deeds of each county shall have the endorsement of the county auditor on each deed of conveyance for real property that the conveyance has been entered in his office before such deed can be placed on record in the recording office, and the county auditor shall be entitled to a fee of twenty-five cents, for his own use, for making such entry and endorsement. For the purpose of carrying out this provision, provided the county auditor chooses to keep a record of all sales or conveyances of real property made in the county, the clerk of court or register of deeds of each county may have the endorsement of the county auditor on each deed of conveyance for real property either before or after recording.~~

**Steering Committee’s Recommended Policy Position:**

**Support the repeal of §§ 8-21-130, 30-5-80 and 12-37-100 and the striking of the second sentence of § 12-39-260(A) to remove the requirements that all deeds must be endorsed by the county auditor and assessor before being filed with the register or clerk of court.**

**The following issues are likely to arise in the next session of the General Assembly and are not raised by any specific group or county.**

**Animal Control – Pit Bulls**

This issue or bill will likely come up next session as a bill is pending another subcommittee hearing before the House Judiciary Committee. H. 4094 would enact “Jayce’s Law” by requiring a person to register a fertile pit bull dog they keep, own, or harbor at the local level. The bill would also establish a breed determination procedure, where local governments may be asked to determine if a dog is a pit bull. As filed, the bill provides that counties and cities would enforce the provisions of the bill, and local governments would have to use funds collected to alter pit bulls at a reduced cost.

**Steering Committee's Recommended Policy Position:**

**SCAC expresses sympathy on behalf of Jayce, his mother, and his family; however SCAC opposes H. 4094 of 2021 or any similar legislation that would mandate dog breed registration by local governments.**

**Age of Marriage**

This issue is likely to come up during the 2021 legislative session as a bill has passed the Senate Judiciary Committee and other discussions from Senate Judiciary subcommittee members related to further marriage code updates. S. 591 would provide that a marriage entered by a person under the age of 18 is void ab initio and would repeal relevant S.C. Code Sections relating to marriages of persons under the age of 18. This bill received a favorable report from the Senate Judiciary Committee this year.

**Steering Committee's Recommended Policy Position:**

**Support legislation that amends the minimum age that a person may enter into a valid marriage from sixteen to eighteen years of age and provides that marriages entered into by person under the allowable age are void ab initio.**

## CARRY OVER ISSUES

### PUBLIC SAFETY

#### **PUBLIC SAFETY POLICY STATEMENT**

*Expenditures for public safety continue to be the largest program outlay for South Carolina counties, with increased spending of \$308 million from FY 2008-2014, representing a 22.7 percent increase. Higher incidences of crime, particularly juvenile crime, have placed demands on law enforcement for more and better services. Growth and changes in our communities have necessitated additional expenditures for fire and safety services.*

*The implementation of homeland security safeguards at the federal and state levels have placed additional demands on law enforcement and emergency services personnel. Continued devolvement of programs at the local level has resulted in more flexibility, but insufficient funding to address these critical needs.*

#### **911 Charges**

Lancaster County Administrator Steve Willis submitted this issue. Pursuant to Section 23-47-10, “911 charges” include start-up equipment costs, subscriber notification costs, addressing costs, billing costs, nonrecurring and recurring installation, maintenance service, and network charges. Currently, 911 charges or fees are not adjusted for inflation. Mr. Willis asks that SCAC support indexing 911 fees for inflation and to establish a periodic review to further adjust for inflation. Additionally, Mr. Willis would like for 911 charges to cover radio communications equipment or telecommunications costs.

**Status: No bills were introduced in 2021.**

#### **Steering Committee’s Recommended Policy Position:**

- (1) Support adjusting 911 charges for inflation.**
- (2) Support including radio communications equipment or telecommunications equipment in 911 charges so long as the equipment is for 911 centers or public safety answering points.**

### **EMS Personnel and Firefighters Acting as EMS Liability**

The South Carolina Tort Claims Act waives sovereign immunity for torts committed by the State, its political subdivisions, and governmental employees acting within the scope of their official duties. Section 15-78-60(6) of the Act provides that governmental entities and their employees performing police and fire protection are an exception to this waiver of immunity and will not be held liable for torts committed within the scope of their duties. There are no statutory exemptions for emergency medical services. *Curiel v. Hampton County E.M.S.*, held that emergency medical services were not specifically included in the waiver for immunity in § 15-78-60, thus, EMS personnel and their employing agency are subject to liability for torts committed while on the job. This can be problematic given that EMS personnel are first responders and engage in high-risk situations that inherently involve accidents.

Ginny DuPont, Spartanburg County Attorney asks that the committee consider supporting a further exemption for firefighters acting as or performing EMS services.

**Status: No bills were introduced in 2021.**

#### **Steering Committee's Recommended Policy Position:**

**Support legislation that would provide an exemption to the S.C. Tort Claims Act so that EMS providers are not subject to liability while acting in the scope of their official duties and to provide a further exemption for firefighters acting as or performing EMS services.**

### **Regulation of Hotels, Motels, Restaurants, and Boardinghouses**

Richland County Councilman Jim Manning raised the following issue. Currently, counties are not authorized to regulate the conduct and operation of hotels, restaurants, cafes, and lunch counters within the county to provide for the public health, comfort, and convenience of the public. Mr. Manning would like the committee to support legislation that would allow counties to, by ordinance, provide rules and regulations regarding the conduct and operation of hotels, restaurants, cafes, and lunch counters within the county.

**Status: No bills were introduced in 2021.**

**Steering Committee's Recommended Policy Position:**

**Support legislation that would allow counties to, by ordinance, provide rules and regulations regarding the conduct and operation of hotels, restaurants, cafes, and lunch counters within the county to provide for the public health, comfort, and convenience.**

**Reimbursement for Firefighter Training Costs**

Law enforcement entities are reimbursed for the costs of the sending an employee through the Criminal Justice Academy. Section 23-23-120 provides that if a law enforcement officer has completed the mandatory law enforcement training while employed by a governmental entity and within two years from completion is hired at a subsequent governmental entity, the subsequent hiring entity shall reimburse the governmental entity that paid for the law enforcement training of the officer.

Ginny DuPont, Spartanburg County Attorney, on behalf of the fire departments within Spartanburg County asks that the committee consider supporting a new code section that would mirror Section 23-23-120 and provide for reimbursement to a subsequent hiring governmental entity for the mandatory training of full-time firefighters.

**Status: H. 3466 was introduced and passed the House and received a favorable report from the Senate Labor, Commerce and Industry Committee (LCI), making the bill ripe for passage in 2022 as the bill awaits consideration on the Senate floor. This bill, as originally introduced, would provide that a fire department that assumes the cost of training a firefighter may be reimbursed for these costs by another fire department that subsequently hires the firefighter within two years of employment. The Senate LCI Committee adopted the subcommittee amendment to reflect a collaboration amongst all stakeholders. The amendment extends the bill to EMTs, clarifies what training is reimbursable, clarifies reimbursement covers training costs incurred within two years of employment, and defines employer to capture all appropriate departments. LCI also adopted an amendment that would limit the amount a volunteer fire department would reimburse to \$1,000.**

**Steering Committee's Recommended Policy Position:**

**Support legislation that would require a subsequent hiring governmental entity to reimburse the first entity for the costs of mandatory training of full-time firefighters and full-time EMS personnel if the firefighter or EMS worker is hired by the second entity within two years of training completion.**

## **Body Cameras**

Section 23-1-240 requires all law enforcement officers to be equipped with body-worn cameras. However, no law enforcement agency is required to implement the use of body cameras unless the agency has received full funding from the state for acquisition and ongoing costs of the cameras. Since 2015, the state has appropriated a recurring amount of roughly \$2.4M annually to law enforcement agencies for this purpose. The estimated body camera acquisition cost for state and local agencies is approximately \$21.5M. Richland County has asked the steering committee to support legislative efforts that will provide funding for body cameras for local law enforcement agencies. Congressman William Timmons has openly written letters to both the Speaker of the S.C. House and the President of the S.C. Senate requesting that the legislature fully fund body cameras.

**Status: Proviso 63.6 authorizes the Department of Public Safety to retain and carry forward unexpended funds associated with body cameras from the prior fiscal year into the current fiscal year and expend those funds for the same purpose. Proviso 118.18(B)(47)(d) allocates \$1,000,000 to the Department for the Body Cameras – Statewide Program.**

**Proviso 118.18(B)(75) allocates \$1,000,000 to the Florence County Sheriff's Office for program implementation.**

**H. 3049 would provide that as of July 1, 2023, all local law enforcement agencies shall provide body worn cameras to each officer and may seek funding. The bill is in the House Judiciary Committee.**

**H. 3050 provides that the Law Enforcement Training Council must implement uniform body worn camera use but does not discuss funding. This bill passed the House and was referred to the Senate Judiciary Committee and awaits a subcommittee hearing from Sens. Senn, Malloy, Kimpson, Matthews, Adams, Garrett, and Gustafson.**

<p><b>Steering Committee's Recommended Policy Position:</b></p> <p><b>Support legislation requiring the legislature to fully fund law enforcement body cameras.</b></p>
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## **Law Enforcement Reform, Accreditation, or Credentialing**

SC House Speaker Jay Lucas created the Equitable Justice System and Law Enforcement Reform Committee in June 2020 to, in part, examine law enforcement officer training, tactics, standards, and



accountability. Additionally, President Trump signed Executive Order on Safe Policing for Safe Communities, highlighting independent law enforcement credentialing bodies.

**Status:** H. 3050 would make a few law enforcement reforms. As originally drafted, the bill would provide that, beginning on July 1, 2021, a non-certified law enforcement officer shall only perform his duties while accompanied by a certified law enforcement officer. The House Judiciary Committee amended the bill by adding several sections. Pursuant to the committee amendment, the bill would add failure to intervene when observing another officer physically or psychologically abusing members of the public or prisoners to the definition of “misconduct.” Second, “chokehold” would be defined and the use of such a method would be limited to justifiable uses only. The Law Enforcement Training Council would establish required minimum standards for all law enforcement agencies, including policies relating to “no knock” warrants, implementation of body-worn cameras, vehicle pursuit standards, and more. A Compliance Division would be created that would inspect, at least once every three years, the policies and procedures for every law enforcement agency. Finally, the bill would provide for civil fines if an agency is non-compliant and would allow for certification suspension of every officer within an agency until the agency becomes compliant with the relevant policies and procedures. H. 3050 was also amended on the House floor. The floor amendment would require candidates for law enforcement certification to submit evidence that the candidate has signed an attestation form committing to ethical policing. The bill passed the House, was referred to the Senate Judiciary Committee, and will be up for consideration next session.

**Steering Committee’s Recommended Policy Position:**

**SCAC supports the General Assembly’s efforts to bring various parties together to find common ground and to reduce liability; however, any solution should include the voice of the county council and the sheriff.**

**Medical Marijuana**

Last session, bills were introduced that would legalize the use of medical cannabis for qualifying patients with a debilitating medical condition who possess a valid registry card. The bills specified what would be considered a debilitating medical condition. Medical use of cannabis would be prohibited in public places and in jails and prisons. The bills also established certain standards and requirements for medical cannabis cultivation centers, processing facilities, and dispensaries. The S.C. Sheriff’s Association opposes legalizing medicinal marijuana.

**Status:** S. 150 would enact the “South Carolina Compassionate Care Act,” which would provide for the sale and medical cannabis products under certain conditions. This bill is rumored to be debated in the Senate in January 2022.

**Steering Committee’s Recommended Policy Position:**

**Oppose the legalization of medicinal marijuana due to the lack of FDA approval.**

## CORRECTIONS

### CORRECTIONS POLICY STATEMENT

*National jail occupancy has increased 13,384 since midyear 2013, representing a 1.8 percent increase, and South Carolina still ranked sixth in the country for the number of inmates under the age of 18 as of 2006.*

*There must be an equitable relationship between the state and the counties for the growing demands of adult and juvenile incarceration. The “get tough on crime” policies enacted in recent years have compounded the problems of jail overcrowding, insufficient staffing, inadequate funding, and increased violence. Continual expansion and construction of jails are poor and unacceptable answers to jail overcrowding. The state and federal governments must provide financial support and alternatives to incarceration if we are to make any headway in the criminal justice system.*

The following issues are likely to arise in the next session of the General Assembly and are not raised by any specific group or county.

#### **Age Requirement of Law Enforcement Officers**

In light of recent events and the current dialogue regarding law enforcement reforms, SCAC anticipates this past SCAC policy position will come up again. Last year, a Senate Finance subcommittee heard from SC agencies employing law enforcement officers about the difficulties regarding the hiring of qualified officers. Lowering the age requirement for someone to become a law enforcement officer from 21 years old to 18 years old could assist in filling law enforcement vacancies.

**Status:** No bills were introduced in 2021.

#### **Steering Committee’s Recommended Policy Position:**

**Oppose lowering the minimum age required to become a law enforcement officer from 21 years of age to 18 years of age.**

## **Age Requirement of Class II Local Correction Officers**

The House Legislative Oversight Ad Hoc Study Committee that studied the South Carolina Department of Corrections recommends lowering the minimum age for certification of correctional officers from 21 years of age to 18 years of age.

**Status: No bills were introduced in 2021.**

### **Steering Committee's Recommended Policy Position:**

**Support legislation allowing an 18 year old to participate in a cadet program that would allow a cadet completing the program at 19 years old to serve as a Class II local corrections officer.**

## **Cell Phones in Jails**

S. 156 (2019-2020) was ripe for passage during the 2020 legislative session until COVID-19 changed the legislative calendar.

State and local corrections officials have been working with federal agencies and phone carriers on how to address this. One solution would be using cell-phone signal jamming devices. However, the Communications Act and Telecommunications Act, both federal laws, only allow federal agencies to use jamming technology and the FCC and phone carriers are not receptive to changing the laws. Lee Corrections is currently running a pilot program where it will give all phone carriers a list of phone numbers that are authorized to transmit in or out of the prison. Any other number will be unable to call in or out of the prison.

**Status: H. 3737 would memorialize the United States Congress to enact legislation to remove the federal impediments towards the implementation of a jamming system within a correctional facility.**

### **Steering Committee's Recommended Policy Position:**

**Support legislation that would aid in the elimination of cell phone use by inmates.**

## **Housing State Prisoners in County Jails**

Keeping state prisoners in county jails was recently discussed during a House Oversight Committee meeting for the South Carolina Department of Corrections. Additionally, the Post and Courier also published an article stating the General Assembly was considering amending state law to allow inmates with short sentences to serve their time in county jails. During the COVID-19 pandemic, county jails housed or are still housing state prisoners as SCDC halted inmate intake. At all times, SCAC staff and others discussed the need to adequately compensate counties for housing and caring for state prisoners.

There are approximately 35 states where county jails house state-sentenced prisoners to some extent. In all but two of these states, counties receive reimbursement from the state for keeping state-sentenced prisoners in county jails. South Carolina is one of the two states that do not reimburse counties for the housing of these prisoners. The reimbursement is generally based on a per diem per inmate. By statute, counties in South Carolina are required to keep prisoners sentenced to 90 days or less. Those sentenced to more than 90 days must be transferred to the state prison system upon sentencing. A perennial issue by state officials and legislators is requiring counties to keep prisoners sentenced longer than 90 days in an attempt to reduce overcrowding and save money at the state level.

**Status: No bills were introduced in 2021.**

### **Steering Committee's Recommended Policy Position:**

- (1) Should any legislation be introduced, SCAC supports a program that would transfer state prisoners to county jails so long as the program would be completely voluntary and would require the consent of the sheriff and the county governing body.**
- (2) Oppose legislation authorizing SCDC to refuse an inmate under SCDC jurisdiction.**

## **Operation of Vending Facilities by Commission for the Blind within Detention Centers**

Senate Bill 1017 (S. 1017), as introduced, prevented the S.C. Commission for the Blind from operating any vending facility at a local detention center. S. 1017 was amended during the 2020 legislative session to prevent blind persons from operating any commissary services provided in local detention facilities but would allow them to operate vending machines outside of the secured areas of a detention facility, or within the secured areas if those operations began prior to the effective date of the Act. The bill passed the Senate and was awaiting a subcommittee hearing in the House Judiciary Committee in March 2020. Because this bill passed one body, and because the legislative session was abbreviated by COVID-19, this issue will likely be discussed in 2021. S. 509 was filed in 2021 and would do the same as described above.

**Status:** The bill was filed again for the 2021-22 legislative session. Now S. 509 would do the same as described above. A subcommittee meeting was scheduled, but it was then cancelled.

**Steering Committee's Recommended Policy Position:**

**Support legislation that encompasses the compromise language of S. 1017 of 2020 that would only allow blind persons to operate vending machines outside of the secured areas of a detention facility or within if those operations began prior.**

## JUDICIAL

### JUDICIAL POLICY STATEMENT

*The operation of the court system is a function performed by counties in their role as an arm of state government. As of July 31, 2014, a total of 193,702 cases were pending in circuit and family courts. This workload, as well as increased demands on county judicial staff and resources, has put a strain on county government finances. The state must look at methods to address the overload in the judicial system and to stop mandating additional requirements without providing sources of funding. Counties should not be the last in line to receive their portion of fines, fees, assessments, and surcharges.*

### State Loan Repayment for Public Service Lawyers and Other Professionals

Horry County Assistant Administrator Barry Spivey raised this issue. Student loan repayment Assistance programs (LRAP) exist for medical and education vocations but are limited or nonexistent for legal and other technical professions such as engineers, planners, and accountants. Recruiting and retaining qualified and motivated professionals builds a better judicial system and supports other professions. While counties often contribute to continuing education and professional development, counties have a limited ability to assist with student loan debt. Assisting with student loan debt would help counties recruit and retain qualified and motivated lawyers and other professionals.

Horry County requests the steering committee to support legislation that would create a State Loans Repayment Assistance Program for public safety lawyers and other professionals and to support legislation to provide a recurring funding source from existing or additional criminal, civil, and regulatory fees and fines.

**Status:** Several bills were introduced addressing student loan education and forgiveness for teachers and medical professionals; however, no bills were introduced that would address the above policy position directly.

### Steering Committee's Recommended Policy Position:

**Support legislation that creates a State Loan Repayment Assistance Program for lawyers and other college graduates who work in local and state government for at least a period of 5 years and to support legislation that provides a recurring funding**

**source from existing or additional criminal, civil, and regulatory fees and fines.**



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*Working Draft*

2021

REVENUE, FINANCE  
AND ECONOMIC DEVELOPMENT  
STEERING COMMITTEE



SOUTH CAROLINA  
ASSOCIATION OF COUNTIES

WEDNESDAY, November 10, 2021  
ASSOCIATION OFFICES, COLUMBIA

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# **2021 REVENUE, FINANCE AND ECONOMIC DEVELOPMENT STEERING COMMITTEE**

*The responsibilities of the Revenue, Finance and Economic Development Steering Committee include issues relating to the ad valorem tax system, to include assessment, collection, and administrative functions; Local Option Sales Tax and other specific authorizations for local use of sales taxes; business license taxes; service and user fees; franchise fees; State Aid to Subdivisions' Local Government Fund; lease-purchase financing; Fee-in-Lieu-of-Tax Agreements; and economic development incentive programs.*

## **MEETING DATES:**

**Thursday, September 16, 2021  
Wednesday, November 10, 2021**

***BELINDA D. COPELAND, CHAIRWOMAN  
Darlington County***

## **STEERING COMMITTEE MEMBERS\***

### ***County Representatives:***

Stephen L. Bratton, Cherokee County Administrator  
Julian Burns Jr., Kershaw County Council Chairman  
Johnny Cribb, Berkely County Supervisor/Chairman  
Rose N. Dobson-Elliott, Hampton County Administrator  
Willard Dorriety Jr., Florence County Council Chairman  
John A. Elliott, Oconee County Council Chairman  
Dr. Wylie Frederick, Chester County Supervisor/Chairman  
Johnny Gardner, Horry County Council Chairman  
Leslie C. Hipp, Newberry County Council  
John E. McLauchlin Jr., Calhoun County Administrator

### ***SCAC Board Members:***

C. David Chinnis, Dorchester County Council  
Roy Costner III, Pickens County Council Vice Chairman  
Charles T. Jennings, McCormick County Council Chairman  
Henry H. Livingston III, Newberry County Council Chairman  
David K. Summers Jr., Calhoun County Council Chairman  
Debra B. Summers, Lexington County Council  
Phillip M. Taylor Sr., Colleton County Council Vice Chairman  
Steve Willis, Lancaster County Administrator  
Robert Winkler, York County Council Vice Chairman

### ***President's Appointees:***

David A. Adams, Richland County Treasurer  
Victor J. Carpenter, Kershaw County Administrator  
Julian Davis III, Oconee County Council  
James H. Messervy Jr., Dorchester County Auditor  
Gary M. Mixon, Sumter County Administrator  
Jason P. Phillips, Anderson County Treasurer  
Joyce W. Thomas, Darlington County Council

**SCAC Staff Contact: Owen A. McBride**

\* As of 10/7/21

# **2021 REVENUE, FINANCE AND ECONOMIC DEVELOPMENT STEERING COMMITTEE**

## **GENERAL STATEMENT OF POLICY**

**The South Carolina Association of Counties is committed to the concept of Home Rule. It is only by allowing the citizens of the state's counties and communities to govern themselves by electing their own local governing bodies, that local communities are able to tailor the governmental services available to each community's individual needs and wishes. An integral part of providing services for the community is the ability to both adequately fund and fund in a fair and balanced manner the services provided.**

**In the same manner that no two communities want or need the same services or level of services, no two communities need or want the same package of revenue-raising measures. The South Carolina Association of Counties is committed to providing a menu of revenue-raising mechanisms to ensure that local governments can provide the services and levels of service that the citizens demand and expect. By allowing each community a range of revenue-producing mechanisms, each community is better able to fund public services in a manner that is fair and balanced for that particular locality.**

**The South Carolina Association of Counties believes that no matter what revenue-raising mechanisms are used, the mechanisms must be fair to both the individual taxpayer and the community of taxpayers as a whole. Efficiency, manageability, and stability of the revenue sources used must also be factors in determining the proper method of funding locally-provided services.**

# **NEW POLICY ISSUES**

## **Discount on Insurance Premiums**

Josh Whitley of Berkeley requests that the steering committee support legislation allowing the South Carolina Public Benefit Authority to offer discounted premiums for accident and health policies if the policyholders have a living will, advanced healthcare directive, medical power of attorney, or a combination of these declarations. The discount to policy holders, if awarded, would have substantial benefit to the policyholders that hold one of these declarations in their cost of healthcare and offers a free market solution that appropriately incentivizes individuals to control their own costs.

**Status: S. 688 was filed in the S.C. Senate in March of 2021 and was referred to the Senate Committee on Banking and Insurance.**

### **Steering Committee's Recommended Policy Position:**

**Defer consideration until November meeting.**

## **Low Income Reporting Requirements**

Section 12-37-220(B)(11)(e) of the S.C. Code provides a property tax exemption for “all property of nonprofit housing corporations or instrumentalities of these corporations when the property is devoted to providing housing to low or very low income residents” as long as the corporation or its instrumentality satisfies the safe harbor provisions of Revenue Procedure 96-32. These provisions contain income and rent requirements upon acquiring the property. There is nothing in statute that requires property owners to annually report that they continue to meet the qualifications in subsequent years after they acquire the property. Per the statute, the exemption is ongoing unless there is a change in ownership or a change in status that is reported to the Department of Revenue by the taxpayer, residents, concerned citizens or county representatives.

Jeff Anderson of Lexington County is concerned that owners of highly valuable property may be taking advantage of this and are paying no property taxes on properties that have a very high tax value. He hereby requests that the steering committee support legislation requiring yearly reporting by the property owner in order to continue to receive the above property tax exemption.

**Steering Committee's Recommended Policy Position:**

**Support legislation requiring yearly reporting by the property owner in order to continue to receive the property tax exemption provided for in § 12-37-220(B)(11)(e) of the S.C. Code.**

**Accommodations Tax Threshold**

Section 6-4-25 of the S.C. Code requires that a municipality or county that receives more than \$50,000 in revenue from the accommodations tax in county areas collecting more than \$50,000 appoint an advisory committee to make recommendations on the expenditure of revenue generated from the accommodations tax. The threshold was established in 1991 and due to inflation and population growth this now encompasses far more counties than it did when initially established, including many that do not benefit largely from tourism. Based on inflation alone, this \$50,000 would equate to \$98,823 in 2021 dollars. The committee must then list how funds from the accommodations tax are spent, except for the first \$25,000 and five percent of the balance which are to be allocated to the general fund.

Steve Willis, Lancaster County Administrator, requests that the steering committee support legislation that would amend the reporting threshold from \$50,000 to \$100,000 and the amount allocated to the general fund from \$25,000 to \$50,000.

**Steering Committee's Recommended Policy Position:**

**Support legislation to amend § 6-4-25 of the S.C. Code to increase the threshold for reporting requirements for a local accommodations tax from \$50,000 to \$100,000.**

**LOST Plus Educational Penny**

Section 4-10-470(B)(4) of the S.C. Code states that “[n]otwithstanding any other provision of law, if, within a county there is imposed the Education Capital Improvement Sales and Use Tax pursuant to this section, then no other local sales tax may be imposed in that county if the subsequent imposition causes the total sales tax to exceed two percent in any portion of the county.” This provision precludes counties from raising money for an underfunded educational system that is often considered to be failing the children of this state.

Cam Crawford of Horry County requests that the steering committee support legislation repealing or amending the Code to allow for the imposition of a Local Option Sales Tax in addition to an Educational Sales tax, regardless of the amount of each tax.

**Steering Committee's Recommended Policy Position:**

**Support legislation to repeal or amend the Code to allow for the imposition of a Local Option Sales Tax in addition to an Educational Sales Tax, regardless of the amount of each tax.**

**User Fees**

On June 30, 2021, the South Carolina Supreme Court struck down Greenville County user fees critical to public safety and infrastructure funding. In *Burns v. Greenville County Council*, the Supreme Court ruled that the fees in question are unauthorized taxes because the Court said they failed to benefit payers of the fee in a different manner than the general public. The outcome of the case puts all user fees in jeopardy and could lead to reduced essential services and crumbling infrastructure due to lost county revenue.

The now invalidated “telecommunications fee” provided Greenville County and its citizens with the necessary infrastructure for public safety agencies, including fire departments, EMS, and others in the county to effectively communicate with each other during emergencies. Prior to Greenville County Council approving the fee, the public safety agencies were forced to use outdated equipment and hardware. The “road use fee” funded many road projects that otherwise would not have been funded and helped improve the quality and safety of roads throughout the county. Lack of proper road funding jeopardizes the safety of all citizens within the county, and with a decreased ability to fund fire districts, EMS, and other public safety needs following the decision, citizens’ lives are at risk.

The most simple solution to this issue would be for the legislature to amend § 6-1-300(6). For instance, we believe the following amendment would suffice:

(6) "Service or user fee" means a charge required to be paid in return for a particular government service or program made available to the payer that benefits the payer in some manner different from or greater than the members of the general public not paying the fee. "Service or user fee" also includes "uniform service charges".

Another solution would be to amend the section to state that the general public may derive a benefit from the fee as long as the substantial benefit goes to the payer.

Kershaw County requests this steering committee support legislation to protect these county user fees and the important revenue that they produce.

**Steering Committee's Recommended Policy Position:**

**Support legislation to protect county user fees and the important revenue that they produce.**

**Millage Cap Exemption for Fire Protection**

Adding fuel to the fire of the *Burns* decision is a further limitation on counties in how they may raise revenue due to Act 388 millage cap restrictions. Many counties are already close to their millage cap while others could raise millage, but the slight increase in revenue would not pay for the services needed. One potential short-term solution would be for the South Carolina Legislature to pass Senate Bill 401. Kershaw County requests this steering committee support S. 401 and any other legislation that provides aid to county fire departments.

**Status: S. 401 would allow for a one-time millage increase above the caps for fire protection within two years of the effective date of the legislation. S. 401 is pending third reading on the Senate calendar but is currently being objected to.**

**Steering Committee's Recommended Policy Position:**

**Support S. 401 and any other legislation that provides aid to county fire departments.**

**The following issue is likely to arise in the next session of the General Assembly and is not raised by any specific group or county.**

**Titling of Boats and Motors**

Under current law, all motorized boats and watercraft and all outboard motors five horsepower and greater are required to be titled separately. At the end of the 2021 Session, there was an attempt in the Senate to amend this section to require titling of boats only. This would potentially cost counties revenue as the motor of a boat is often as much if not more expensive than the boat itself and could be purchased aftermarket or transferred between watercrafts without the county's awareness.

**Steering Committee's Recommended Policy Position:**

**Oppose any legislation that would amend the current process of titling boats and motors separately by only requiring the titling of boats.**

## **CARRYOVER ISSUES**

### **Alternative Energy Property Tax Exemptions**

For many years, legislation has been introduced to amend § 12-37-220 to create two property tax exemptions for alternative energy generating projects; including solar, hydro, geothermal, wind, and landfill gas energy. The first provision is a 10-year exemption of 80 percent of the value of the alternative energy equipment for commercial projects, which equates to a 2.1 percent assessment ratio. The second provision entirely exempts all alternative energy equipment rated to produce 20 kilowatts or less and defines these to be “residential” regardless of the class of property where they are located.

**Status: Act No. 68 (H. 3554) was passed in 2021 and provides a property tax exemption, beginning in 2021, for low-power solar panels installed and running on the rooftops of residential homes.**

**Steering Committee's Recommended Policy Position:**

**While SCAC supports the use of alternative energy, the Association opposes legislation to create statewide property tax exemptions for alternative energy as it impacts a county's ability to offer local incentives to attract these projects.**

### **Annual DMV Registration Fees**

The South Carolina Association of Auditors, Treasurers, and Tax Collectors asks the steering committee to support legislation to amend § 56-3-610 to apply the vehicle registration fees imposed by the Department of Motor Vehicles annually as opposed to biennially.

**Status: S. 727 and H. 4151 were both introduced in 2021 and would change the registration of vehicles from biennial to annual. S. 727 was referred to the Senate Transportation Committee and H. 4151 was referred to the House Education and Public Works Committee.**



**Steering Committee's Recommended Policy Position:**

**Support amending §56-3-610, et seq., to apply an annual vehicle registration fee by the Department of Motor Vehicles that is revenue neutral and support language requiring all counties be compliant with the latest version of the County Issuance of Decals and Registrations system (CIDRS-2).**

**Assessed Value Appeals**

Kevin Madden, York County Treasurer, requests the steering committee support legislation to prohibit businesses from claiming loss revenue from COVID-19 as a means to appeal their assessed value under the income-based approach.

**Status: No legislation was introduced in 2021.**

**Steering Committee's Recommended Policy Position:**

**Support a legislative solution to provide that if a property's assessed value is reduced due to COVID-19, it will be assessed at the appropriate value the following year.**

**Assessment Ratios**

Previous legislative sessions have seen a major push to reduce the assessment ratio on manufacturing and business personal property from 9 and 10.5 percent, respectively, to 6 percent and the assessment ratio on second homes and commercial property from 6 to 5 percent.

Both of these proposals have ramifications for both property taxpayers and local governments. To the extent that these changes reduce revenue, county and municipal governments would have to find some combination of service cuts and millage rate increases to maintain a balanced budget. Making up the difference caused by assessment ratio changes becomes even more difficult when faced with the millage cap imposed by the General Assembly.

Any increase in the millage rates would shift the tax burden to other classes of tax property, including owner-occupied residences and individual motor vehicles. Thus, the property tax relief programs adopted by the General Assembly in the past several years would be taken away. More likely, because

of the millage cap, a reduction in services will become necessary should additional changes in assessment ratios take place.

**Status: No legislation was introduced in 2021.**

**Steering Committee's Recommended Policy Position:**

**Oppose legislation to decrease the manufacturing assessment ratio from 9 percent to 6 percent as it limits the county's ability to provide local economic development incentives. Oppose legislation reducing the commercial property assessment ratio from 6 percent to 5 percent because of its drastic negative impacts on local property tax revenue.**

**County and University Economic Development Ventures**

Roy Costner, Pickens County Council Chairman, asks the committee to support legislation allowing local governments and public institutions of higher education to enter into a partnership for economic development purposes and allow the higher education institutions to have a vested interest in enterprises developed under these partnerships. It appears that legislation is needed to allow these institutions to enter into these types of arrangements with local governments and have an interest in resulting ventures. There are statutes on the books permitting similar projects with the University of South Carolina's Innovista economic development arm in conjunction with the City of Columbia and Richland County. Mr. Costner also notes that in our neighboring states that permit this activity, it has helped lead to the development of the research triangle in North Carolina and several enterprises owned by the University of Georgia and Georgia Tech. It is reasonable to assume that any new revenue streams can be used to offset tuition increases. Mr. Costner asks the committee to support legislation granting authority to public institutions of higher education to enter into agreements with local governments or the state and have a vested interest in enterprises or ventures that result from these arrangements.

**Status: H. 3248 creates the State Institution of Higher Learning Enterprise Act but does not allow for agreements between these institutions and government entities.**

**Steering Committee's Recommended Policy Position:**

**Support legislation granting authority to public institutions of higher education, including two-year technical colleges, to enter into agreements with local governments and have a vested interest in enterprises or ventures that result from these arrangements.**

## County Budget Flexibility

Several state statutes and budget provisos mandate what county revenue must be spent on and in some cases set budgetary floors for several local and state agencies funded by county government. These mandates appear to create poor fiscal policy, because budgetary floors require spending without looking at actual needs of an agency and ignore the shifting impact on local agencies without spending floors. Mandates require spending regardless of whether the responsibilities are state rather than local or whether the community wants its revenues to be spent in such a manner. Several county officials have asked that SCAC take a position supporting greater revenue flexibility. The past few years, the General Assembly has passed a budget proviso that allows a political subdivision receiving aid from the Local Government Fund (LGF) to reduce its support to any state-mandated program or requirement for which a specific level or amount of support or funding is not provided by law by up to a percentage equal to the percentage reduction in the actual amount appropriated to the LGF as compared to the last completed fiscal year. However, the following items were exempted from these reductions: Administrative Law Judges and their offices, Court of Appeals and their offices, Circuit and Family Courts and their offices, Magistrates and their offices, Masters-in-Equity and their offices, Probate Courts and their offices, Public Defenders and their offices, Solicitors and their offices, and the Supreme Court and its offices.

Act 388 of 2006 amended § 6-1-320 to create a millage rate increase limitation of the percentage increase in the CPI over the previous year plus the percentage increase in the population of the entity over the previous year. Section 6-1-320 applies to counties, municipalities, school districts, and special purpose districts. The millage rate cap may only be exceeded upon a two-thirds vote of the entire governing body for the following reasons:

1. the deficiency of the preceding year;
2. any catastrophic event outside the control of the governing body, such as a natural disaster, severe weather event, Act of God, or act of terrorism, fire, war, or riot;
3. compliance with a court order or decree;
4. taxpayer closure due to circumstances outside the control of the governing body that decreases by 10 percent or more the amount of revenue payable to the taxing jurisdiction in the preceding year;
5. compliance with a regulation promulgated or statute enacted by the federal or state government after the ratification date of this section for which an appropriation or a method for obtaining an appropriation is not provided by the federal or state government;
6. purchase by the local governing body of undeveloped real property or of the residential development rights in undeveloped real property near an operating U.S. military base which property has been identified as suitable for residential development but which residential

development would constitute undesirable residential encroachment upon the U.S. military base as determined by the local governing body; or

7. to purchase capital equipment and make expenditures related to the installation, operation, and purchase of the capital equipment including, but not limited to, taxes, duty, transportation, delivery, and transit insurance, in a county having a population of less than 100,000 persons and having at least 40,000 acres of state forest land.

Since 2006, there have been two more exemptions carved out of the millage cap. The governing body of a fire district serving less than 700 homes may request that the governing body of the county conduct a referendum to suspend the millage rate limitation for general operating purposes of the fire district; and the governing body of a county may adopt an ordinance, subject to a referendum, to suspend the millage rate limitation for the purpose of imposing up to six-tenths of a mill for mental health.

**Status: S. 401 was introduced and would allow for a one-time millage increase above the caps for fire protection within two years of the effective date of the legislation.**

**Steering Committee's Recommended Policy Position:**

**Support any legislation that provides county budget flexibility. Support legislation to allow a county to conduct a referendum for voters in the county to approve an exemption from the millage cap found in § 6-1-320 for any local government function.**

**County Insurance Premium Taxes and Franchise Fees**

Municipalities in South Carolina have the authority to impose taxes on insurance premiums, grant franchises and charge for those franchises. Section 38-7-160 allows municipalities to impose insurance premium taxes. Counties do not have this authority. Article VIII, Section 15 of the SC Constitution and § 4-9-30(11) provide counties with the authority to grant franchises in general, but exempt counties' ability to grant them or impose charges for telephone, telegraph, gas and electric utilities, or suppliers, or utilities owned and operated by a municipality. Municipalities have the authority to grant franchises for all of these activities in the Constitution and in § 5-7-30.

Barry Spivey, Horry County Assistant County Administrator, requests the committee to support legislation allowing counties the same authority as municipalities in imposing both insurance premium taxes and franchise fees in the unincorporated areas of the county.

**Status: No legislation was introduced in 2021.**

**Steering Committee's Recommended Policy Position:**

**Support legislation allowing counties the same authority as municipalities in imposing both insurance premium taxes and franchise fees in the unincorporated areas of the county.**

**Delinquent Tax Sales Online**

Horry County asks the committee to support legislation to allow counties to conduct delinquent tax sales online. Section 12-51-50 currently allows the person officially charged with delinquent tax collection to sell the property at public auction at the courthouse or other convenient place within the county. The statute requires all advertisement requirements to be met prior to the sale. Horry County would like to see the section amended to give the official responsible with delinquent tax collection the option of conducting tax sales online.

Horry County also asks the committee to support legislation amending Section 15-39-610, et seq., to give the official responsible to judicial sales the option of conducting sales online.

**Status: No legislation was introduced in 2021.**

**Steering Committee's Recommended Policy Position:**

- 1). Support legislation to allow counties to conduct delinquent tax sales online.**
- 2). Support legislation to allow the official responsible for judicial sales the option to conduct sales online.**

**Filing Business Personal Property Returns**

The South Carolina Association of Auditors, Treasurers, and Tax Collectors requests the steering committee to oppose legislation to require all business personal property tax returns be filed with the Department of Revenue (DOR). Currently, § 12-39-70 requires owners of certain types of business to file annual property tax returns with the County Auditor while all other businesses file with DOR. County Auditors currently have the option to have DOR accept all filings within a county and they oppose legislation that takes away that option.

Horry County requests the steering committee support legislation that would allow counties, at their option, to contract with the South Carolina Department of Revenue (DOR) to directly receive returns

required by § 12-37-970, with the exemption of manufacturing or other personal property normally valued by DOR (i.e. PT-100 forms). Counties bill, receive revenue, and collect delinquent amounts for Business Personal Property. Correcting erroneous or inaccurate estimated billing is an onerous and untimely process for taxpayers when multiple entities are involved. The taxpayer expectation is that the billing entity has the authority to correct errors in billing. As a county has limited enforcement options for personal property collections, delaying issuance for requested fee services can be used to encourage collection. Correcting obvious errors at the county level can expedite resolution and collection of delinquent amounts as well as avoid unnecessary financial burdens on taxpayers due to unnecessary delays.

**Status: No legislation was introduced in 2021.**

**Steering Committee's Recommended Policy Position:**

- 1). Oppose legislation requiring all business personal property tax returns be filed with the Department of Revenue (DOR).**
- 2). Support legislation that would allow counties, at their option, to contract with the Department of Revenue (DOR) to directly receive returns required by § 12-37-979, with the exemption of manufacturing or other personal property normally valued by DOR (i.e. PT-100 forms).**

**Homestead Exemption**

The County Assessors of South Carolina (CASC) requests SCAC support legislation to require that a qualifying dwelling for purposes of the homestead exemption also meet all requirements for the 4 percent special assessment ratio and be receiving the 4 percent special assessment ratio.

**Status: No legislation was introduced in 2021.**

**Steering Committee's Recommended Policy Position:**

**Support legislation to require that a qualifying dwelling for purposes of the homestead exemption also meet all requirements for the 4 percent special assessment ration and be receiving the 4 percent special assessment ratio.**

## Impact Fees

Sections 6-1-910 through 6-1-2010 of the Code are the Development Impact Fee Act. The statutes contain the restrictions and procedures involved in adopting, implementing, and administering a development impact fee. Currently, the impact fee statutes place cumbersome requirements on local governments which often make it cost prohibitive to explore the possibility of implementing an impact fee. Before an impact fee ordinance may be adopted, a governmental entity must have adopted a comprehensive plan or a capital improvements plan which complies with § 6-1-960(B). Additionally, a governmental entity must prepare a report that estimates the effect of recovering capital costs through impact fees on the availability of affordable housing within the political jurisdiction of the governmental entity.

Prior to adoption of an impact fee, the governing body must enact a resolution directing the local planning commission to conduct a study and recommend an impact fee ordinance. Upon receipt of this resolution, the local planning commission has to prepare and adopt its recommendation in the same manner used in the development of recommendations for a comprehensive plan. The ordinance imposing the impact fee must be approved by a positive majority.

In order to help offset the economic impact of growth, SCAC has been asked to support legislation allowing South Carolina counties to make impact fees easier to impose and administer.

**Status: H. 3460 would allow counties to impose a one-time impact fee on a private developer for each new residential and commercial unit constructed by the developer within the county. The funds may only be used to fund the South Carolina Gentrification Trust Fund. Developers that dedicate at least fifteen percent of the housing development to low income housing are exempt from the impact fee. The Trust Fund must provide financial assistance for relocation to low income and fixed income individuals, churches, and groups adversely impacted and displaced by gentrification. Also provides that the General Assembly shall appropriate five million dollars each year to the Trust Fund. H. 3460 was referred to the House Ways and Means committee.**

### Steering Committee's Recommended Policy Position:

**Support legislation allowing South Carolina counties to broaden the allowable scope of impact fees, and to make them more flexible and easier to impose and administer.**

## Internet Sales Tax

In *South Dakota v. Wayfair*, the United States Supreme Court ruled that states are now permitted to collect sales tax from online retailers regardless of whether they have a physical presence in the state. If South Carolina passes a law to start collecting sales tax on online purchases made from residents of

this state, then online retailers providing goods to South Carolina residents will have to collect the sales tax at the point of sale. There is a question of whether or not the state law permitting the collection of sales tax on online sales will make provisions for collecting locally imposed sales taxes, e.g. capital project sales tax, transportation tax, etc. and remitting those revenues back to the appropriate county government. David Adams, Richland County Treasurer, requests the steering committee to support legislation requiring online retailers to remit all sales taxes to the appropriate taxing authority, including county government in the case of locally imposed sales taxes.

**Status: No legislation was introduced in 2021.**

**Steering Committee’s Recommended Policy Position:**

**Support legislation requiring online retailers to remit all sales taxes to the appropriate taxing authority, including county government in the case of locally imposed sales taxes.**

**Legal Residence for Foreign Nationals**

CASC asks the committee to support legislation to require a foreign national to have a permanent residence card to qualify for the 4 percent assessment ratio. Current law is not clear as it relates to foreign nationals applying for legal residence which leads to increased litigation. CASC believes clarifying the requirements in statute will help alleviate the strain of litigation on their offices.

**Status: No legislation was introduced in 2021.**

**Steering Committee’s Recommended Policy Position:**

**Support legislation to require a foreign national to have a permanent residence card to qualify for the 4 percent assessment ratio.**

**Local Government Fund**

The Local Government Fund (LGF) is likely the oldest example of state-shared revenue intended as property tax relief. Prior to the adoption of the Home Rule Act, the legislative delegations produced the county budget, or supply bill. When property tax rates across the state began to get high or new services were being adopted across the state, a portion of an existing state tax or some increment of a new tax would be earmarked for “aid to subdivisions.” Later, when the various earmarked revenue sources became increasingly difficult to predict, those sources of revenue were converted into a



percentage of the State General Fund and the resulting money was called the LGF. The old statutory formula required the LGF be funded at 4.5 percent of the State General Fund.

Act 84 of 2019 enacted a new formula for the LGF that mirrored the policy position taken by this steering committee last year. Under the new formula, in any fiscal year in which state general fund revenues are projected to increase or decrease, the appropriation to the LGF for the upcoming fiscal year must be adjusted by the same projected percentage change, but not to exceed five percent. With the pandemic projected to impact both the state general fund and county budgets, it is imperative that the General Assembly not deviate from this new formula.

**Status: The General Assembly fully funded the Local Government Fund under the new formula, including an increase from 2020 that was in peril due to the General Assembly operating under a continuing resolution due to COVID-19.**

**Steering Committee’s Recommended Policy Position:**

**Support the current Local Government Fund formula with a yearly increase in the fund corresponding with the growth in the state general fund, up to 5 percent.**

**Local Option Infrastructure Funding Limitations**

Section 4-37-40 provides “At no time may any portion of the county area be subject to more than one percent sales tax levied pursuant to this chapter (Optional Methods for Financing Transportation Facilities), Article 3, Chapter 10 of this title (the Capital Project Sales Tax Act), or pursuant to any local legislation enacted by the General Assembly.”

This language prohibits a county from imposing more than one cent in transportation sales tax, capital project sales tax and any other sales tax authorized pursuant to local legislation combined. The Capital Project Sales Tax Act (which can be imposed for road projects) contains a similar prohibition against sales tax in excess of one percent at Section 4-10-310: “at no time may any portion of the county area be subject to more than one percent sales tax levied pursuant to this article (the Capital Project Sales Tax Act), pursuant to Chapter 37, Title 4 (the transportation sales tax), or pursuant to any local law enacted by the General Assembly.”

These sections severely limit the ability for counties to meet additional infrastructure needs, even if the citizens are willing to vote for the additional taxes necessary to provide them.

In 2004, the Dorchester County voters approved a referendum allowing for the imposition of a 1 percent sales and use tax for transportation projects. The tax will end after 25 years. The county has spent \$125,000,000 in bond proceeds on approved projects, as authorized in a separate referendum, and now rely on pay-go funding to carry the rest of the program through 2029.

Dorchester County has at least another \$500M in additional transportation infrastructure needs. These restrictions unnecessarily tie the hands of county government and their constituents. Dorchester and Horry Counties request SCAC adopt a position allowing for an overlay of the infrastructure pennies, allowing for an additional penny to be added to these authorizations, or both.

**Status: H. 3948 would allow the counties that impose a Transportation Penny Tax pursuant to Chapter 37, Title 4 to also conduct a referendum to impose a 1 percent Capital Project Sales Tax. The bill deletes the restriction that the area of the county can only be subject to one of those authorizations. The bill further allows counties with the Capital Project Sales tax to conduct a referendum to impose a Transportation Penny as well. H. 3948 has passed the House and it was referred to the Senate Finance Committee.**

**Proviso 113.9 allows a county that has CPST collections in excess of the amount necessary to complete all projects for which the tax was imposed to pledge and use the excess collections to fund road improvements, intersection improvements, and pedestrian transportation, as long as the tax has not yet expired. However, the county must first adopt an ordinance specifying the purposes for which the excess funds will be used.**

**Steering Committee's Recommended Policy Position:**

**Support legislation allowing for an overlay of the various infrastructure pennies, allowing for an additional penny to be added to these authorizations, or both.**

**Magistrates Salaries**

Section 22-8-40 provides the amount magistrates are to be paid by county governments and the salary supplements for Chief Magistrates. Currently, magistrates' salaries are based on years of service, education requirements, and the population of the counties in which they serve. In counties with a population greater than 150,000, a magistrate is paid 55 percent of a circuit judge's salary. In counties with a population range of 50,000 to 150,000, a magistrate is paid 45 percent of a circuit judge's salary. In counties with a population less than 50,000, a magistrate is paid 35 percent of a circuit judge's salary.

Legislation has previously been introduced to provide that all magistrates be paid a base salary of 55 percent of a circuit judge's salary regardless of the size of the county. The bills also increased the salary supplements for full-time chief magistrates from \$3,000 to \$10,000, part-time chief magistrates from \$1,500 to \$5,000 and created two new salary supplements of \$5,000 and \$2,500 for full-time and part-time associate chief magistrates, respectively. The bills imposed a \$15 assessment on all civil filings in magistrate's court to fund the increase. The legislation also required South Carolina Court Administration to monitor counties' compliance with funding these positions and to report to the

legislature by January 20, any noncompliance. Other legislation has been introduced to increase all judges' salaries which would increase magistrate salaries with no funding provided.

**Status: S. 27 was introduced in 2021 and provides salary supplements for magistrates. S. 27 was referred to the Senate Judiciary Committee.**

**Steering Committee's Recommended Policy Position:**

**Support increasing magistrates' salaries as long as the legislation doing so is revenue positive and the salaries remain decoupled from circuit judges' salaries.**

**Millage Cap Opt-Out**

Steve Willis, Lancaster County Administrator, requests that the steering committee consider supporting legislation to allow a county to opt out of the millage cap limitation found in § 6-1-320. Mr. Willis suggests that the opt out be triggered automatically to make up an audited budgetary shortfall or by an ordinance passed by a majority vote of county council.

**Status: No legislation was introduced in 2021.**

**Steering Committee's Recommended Policy Position:**

**Support legislation to allow a county to opt out of the millage cap limitation found in § 6-1-320 and support that the opt out be triggered automatically to make up for an audited budgetary shortfall or by an ordinance passed by a majority vote of county council.**

**Mobile Home Titles**

Horry County and CASC ask the committee to support legislation to require mobile homes to be titled similarly to vehicles. They would like the mobile home titles to be in the owner's name with the lender on the title as a lienholder. Notice would be required to be on the title explaining that the owner has 15 days to register with the county. The Department of Motor Vehicles (DMV) would require the situs and county code on the title before registering the mobile home. Finally, the DMV would periodically notify the county of all mobile homes in the county.

**Status: No legislation was introduced in 2021.**

**Steering Committee's Recommended Policy Position:**

**Support legislation to require mobile homes to be titled similarly to vehicles.**

**Municipal Capital Projects Sales Tax**

The Municipal Association of South Carolina continues to push for legislation that would allow municipalities to enact a capital project sales tax only within the boundaries of the enacting city for purely municipal projects. The county and other municipalities would have no input in this process.

There are several problems inherent in this proposal:

- Cities participate in deciding which projects are funded by the countywide sales tax, but no provision is made for county projects or participation in the municipal proposal.
- Unincorporated area residents who would pay sales tax get no vote on the municipal capital projects sales tax.
- If a municipal sales tax were adopted, there would be very little likelihood of getting a countywide sales tax until that municipal tax phased out. This could effectively preclude the unincorporated areas of the county from getting needed infrastructure.

Horry County requests that the committee oppose legislation creating a Municipal Capital Project Sales Tax.

**Status: No legislation was introduced in 2021.**

**Steering Committee's Recommended Policy Position:**

**Oppose legislation creating a Municipal Capital Project Sales Tax.**

**Online Document Storage Fee**

Large counties in South Carolina typically have a higher volume of real property transfers and associated financing transactions impacting the Register of Deeds Office. A higher volume of real estate transfers results in a large demand for historical documents to complete the required title search to acquire title insurance. To defray the expense of providing documents in an electronic format, counties have implemented access or copy fees to recover the equipment, materials, and related cost

of providing electronic access to the records. With the onset of the COVID-19 pandemic and the need to provide social distancing and safe environments for both employees and customers, counties are challenged to provide electronic record access and continue to provide the revenue necessary to cover the related cost. As a fee-based service, those individuals receiving the benefit of the service should bear the cost and not the general public through property tax revenues.

Horry County requests that the steering committee support legislation giving counties the option to impose a technology fee on recorded instruments and public records for the purpose of defraying the cost of converting the records to electronic storage and providing electronic access.

**Status: No legislation was introduced in 2021.**

**Steering Committee's Recommended Policy Position:**

**Support legislation giving counties the option to impose a technology fee on recorded instruments and public records for the purpose of defraying the cost of converting the records to electronic storage and providing electronic access.**

**Online Public Notice**

There are several instances throughout the code requiring notice to the public of a public hearing before an action can be taken by a political subdivision. In each of these instances, the political subdivision is required to advertise the public hearing in at least one South Carolina newspaper of general circulation in the area. With almost all newspapers offering online reading and the decreasing demand for printed publications, Roy Costner, Chairman of Pickens County Council, requests the steering committee support legislation allowing for online publications to meet the requirement for public notice.

**Status: No legislation was introduced in 2021.**

**Steering Committee's Recommended Policy Position:**

**Support legislation allowing online publications to meet the requirement of public notice. The online publication must be posted prominently on the county's homepage.**

**Out-of-State License Tags**

Horry County asks the committee to support legislation to ensure that nonresidents pay their property taxes upon establishing a domicile in this state or operating a vehicle for more than 150 days in South Carolina.

The legislation is intended to prevent persons from living in South Carolina but registering in another state, thus evading the property taxes due on the automobile.

**Status: No legislation was introduced in 2021.**

**Steering Committee's Recommended Policy Position:**

**Support legislation to ensure that nonresidents pay their property taxes upon establishing a domicile in this state or operating a vehicle for more than 150 days in South Carolina, with the exception of active duty military.**

**Private Residence Vacation Rentals**

Section 6-1-510, et al. provides that if a county imposes a local accommodations tax by ordinance, then the tax is imposed on every person engaged in the business of furnishing accommodations to transients for consideration. In recent years, several apps and websites have been developed to allow private residences to be posted online to be rented to transients for consideration. These rentals fall under the requirements of the local accommodations tax, but many of these property owners are failing to remit the tax. Additionally, the hosting sites, e.g. Airbnb, home away, Vrbo, etc. are refusing to collect the local taxes and remit them to the appropriate taxing authority. Roy Costner, Pickens County Council Chairman, asks the committee to discuss an appropriate legislative fix to capture this tax revenue that is currently going uncollected.

**Status: No legislation was introduced in 2021.**

**Steering Committee's Recommended Policy Position:**

**Support legislation to require short-term residential rental services to collect and remit all local taxes to the appropriate local taxing authority, including the local accommodations tax. Also, oppose any legislation that preempts county government's ability to regulate short-term residential rentals.**

**Protection of Delinquent Taxpayers**

Under Section 12-51-130 of the Code, the seller of property at a tax sale is entitled to any overage if the tax sale of an item produces more cash than the full amount due. However, due to inadequate protections in the Code, opportunists are able to purchase delinquent property at the last moment and claim the overage without informing the seller that there is an overage. The sellers are also vulnerable

to scams such as overage “finders” where oftentimes non-attorneys act on behalf of the sellers and charge the sellers to collect the overage and people using quitclaim “jackpot” deeds to take advantage of desperate property owners who are unaware that they are entitled to the overage.

Johnathan Bryan, Sumter County Attorney, requests that the committee support legislation to protect delinquent taxpayers. Such measures could include requiring the seller to sign a statement stating that they are the owner of record and have been advised of their rights and entitlements and have been made aware of their right to appeal. Another measure could be to allow a public body to exempt from disclosure the identity of anyone who bids at a delinquent tax sale unless the bidder consents in writing and until there is a successful bidder.

**Status: No legislation was introduced in 2021.**

**Steering Committee’s Recommended Policy Position:**

- (1) Support legislation to amend § 12-51-130 to require a statement signed by the owner of record immediately before the end of the redemption period acknowledging that the owner has been advised that they are entitled to claim any tax sale overage.**
- (2) Support legislation to add § 30-4-40 (20) allowing a public body to exempt from disclosure the identity or personal identifying information of anyone who bids at a delinquent tax sale unless the bidder consents in writing to the release of such information in a manner satisfactory to the delinquent tax collector who conducted or was responsible for overseeing the conduct of the sale where the bidder’s information was obtained; provided, however, that upon the expiration of the redemption period, the identity of the successful bidder of the sale at issue shall be subject to release.**
- (3) Support legislation to add § 40-5-400 to clarify that any assistance offered or provided for a fee, consideration, or compensation to anyone in the collection of a tax sale overage shall constitute the practice of law.**
- (4) Oppose legislation requiring the clerk of court or register of deeds to require an affidavit from a delinquent tax payer stating the amount, if any, of overage generated by a tax sale and acknowledging that the grantor has either received the overage or has at least been advised of the overage.**

## **Return to Work**

Years ago, the Public Employee Benefit Authority (PEBA) brought suit against Bamberg County after the County retained an administrator on an independent contract basis, i.e. no benefits, no PEBA contributions, and no taxes withheld. The suit was settled by Bamberg County bringing the administrator in as an employee. As a result of the lawsuit, legislation was filed in 2019 giving PEBA the ability to audit counties to determine whether employees are properly classified. If legislation is filed again in 2022, it will likely include language relating to return to work earning limitations as well as language affecting the time period an employee must remain out of work before they can return to work.

**Status: Proviso 108.12 was adopted in the budget and provides that for Fiscal Year 2021-2022, the earnings limitation does not apply to retired members of the South Carolina Retirement System or the Police Officers Retirement System who return to covered employment to participate in the state's public health preparedness and response to the COVID-19 virus.**

**Proviso 117.135 was adopted in the budget and provides that any Class I law enforcement officers who retired under the Police Officers Retirement System on or before December 31, 2017, may return to employment with a public school district as a critical needs School Resource Officer without affecting the monthly retirement allowance that they are receiving from the Police Officers Retirement System.**

### **Steering Committee's Recommended Policy Position:**

**Support legislation removing the \$10,000 earnings limitation and reducing the time period an employee must remain out of work before they can return to work.**

## **South Carolina Retirement System**

County governments and their employees have participated in the state retirement system since its inception. The enabling act (Act No. 157 of 1945) creating the South Carolina Retirement System (SCRS) allowed for the inclusion of county governments as employers and their employees as participants in the system upon application to the Retirement Board. Similarly, Act No. 799 of 1962 allowed any county to become an employer under the Police Officer's Retirement System (PORS) upon applying to the board and a majority vote of all persons employed as police officers by the county. County government participation in SCRS and PORS has enabled South Carolina counties and sheriffs to hire and retain excellent employees and deputies. It is important to all counties of this state that the retirement systems remain financially strong and attractive to current and future employees.



Like the General Assembly, county budgets have been significantly impacted by the failure of the system to meet the assumed rate of return on investments. Seventy-one percent of the participating employers in SCRS are comprised of cities, counties and other local subdivisions of government. These entities employ 28 percent (53,532) of the active members of the system.

The statutorily mandated increases in employer and employee contribution rates have hit county governments hard. County government's ability to raise revenue is severely limited. To a large degree, counties must rely on property taxes for general operating revenue. This stream of revenue is restricted by the millage cap contained in §6-1-320 (population plus CPI.) Other sources of revenue have either been limited by the General Assembly (Local Government Fund) or are limited by use (for instance the Capital Projects Sales tax, or state grants.) The instability of the retirement system is requiring a greater allocation of property tax revenue to employee benefits, which reduces the ability for counties to improve the services they want to provide to their citizens. Additionally, static salaries combined with increasing employee retirement contributions make it difficult to hire and retain employees, also leading to a reduction in county service packages.

**Status: S. 176 was introduced in 2021 and would close the current retirement system to new members and offer a Shared-Risk Defined Benefit Plan or a South Carolina WealthBuilder-Primary Retirement Savings Plan. The bill was referred to the Senate Finance Committee and has not received a hearing.**

**Steering Committee's Recommended Policy Position:**

**SCAC understands the dilemma facing the State with regards to the unfunded liability of the retirement system; however, any fundamental change to the system must not affect promises made to current employees and retirees in the existing state pension system. SCAC supports having county government be involved in the administration of any new system. If the state decides to go to a defined contribution plan, SCAC supports county governments being allowed to develop and operate their own independent defined contribution plan.**

**State Health Plan Employer Premiums**

Unlike state agencies, local governments covered by PEBA are subject to experience rating of health insurance premiums. This is because local governments are viewed as "optional" entities by PEBA. (Local governments who have participated for 4 years or more in the state health plan may leave the plan after giving a 90-day notice. State agencies must participate in the State Health Insurance Plan.) Local governments are separated into three categories for experience rating: Small groups, with fewer than 100 covered lives; medium groups, with 100 to 500 covered lives; and large groups, with more than 500 covered lives. When new optional employers enroll in the state insurance benefits program, their health premiums are rated according to the average claims experience of other employers in their

category. The rate, or load factor, assigned remains in effect until they have incurred enough claims to be rated using the same formula as other groups in their category. The load factor is capped at 50 percent. Local subdivisions are notified annually of their assigned experience rating for the next year.

The formula for determining an experience rating depends on the group the employer is separated into: Small groups are rated according to average claims experience of all of the small groups. For Medium groups, once 24 months of claims are incurred, the employer is rated using a formula that gives 50 percent weight to the average claims experience of all medium groups combined and 50 percent weight to the claims experience of the individual group. Large groups (once 12 months of claims are incurred) are rated based solely on the claims experience of that group.

Bamberg County has asked SCAC support legislation that would offer some relief to counties participating in the State Health Plan. Bamberg County argues that PEBA's subgrouping of counties creates inequalities in the State Health Insurance premium rates. They also believe that PEBA's different methods of determining a group's experience rating creates even more disparity. Bamberg County is in the medium subgroup and have been given a 1.50 load factor, the maximum factor allowed. This is the highest load factor in the state. For the current fiscal year Bamberg County had to budget \$1,012,632 for health premiums, an increase of \$351,803 over projections. Health premiums now represent 13 percent of the County's General Fund budget. This budgeted amount means Bamberg County has had to allocate just over \$20,000 per full time employee with family coverage. The county asks that SCAC bring these concerns before the General Assembly and ask that they provide relief from the system PEBA has established.

**Status: No legislation was introduced in 2021.**

**Steering Committee's Recommended Policy Position:**

**Support legislation requesting PEBA to reevaluate the three categories for experience rating under the State Health Plan, expanding the small group classification from 100 covered lives to 150 covered lives.**

**Tiny Homes**

There appears to a sizable increase in the purchase and movement of "Tiny Homes" into South Carolina. These small living structures are appearing on vacant lots, in backyards, and some Tiny Home communities are being developed.

Unfortunately, there is no general consensus on how to regulate these structures, nor on how they can be, or should be taxed. The industry appears to be marketed as a method to avoid regulation and evade taxation. Recently, the International Building Code published an appendix regarding standards for Tiny

Homes. However, if the home is on wheels, does it need to meet that standard, or the standard for manufactured or mobile homes?

There is no statewide consistency in how to tax, what construction standards need to be met, and how to inspect Tiny Homes. Lexington County asks that SCAC support legislation that would standardize the treatment of Tiny Homes for taxation, inspection, and code enforcement.

**Status: No legislation was introduced in 2021.**

**Steering Committee's Recommended Policy Position:**

**Support legislation that would standardize the treatment of tiny homes for taxation, inspection, and code enforcement.**

**Tort Claims Act**

In the past there have been several attempts to increase the limits on damages that can be recovered from governmental entities pursuant to the South Carolina Tort Claims Act (TCA), § 15-78-10, et seq. The TCA was enacted in 1986 and waived sovereign immunity from certain torts committed by governmental entities. In the findings of the Act, § 15-78-20, the General Assembly noted that while total immunity wasn't desirable, damages owed by tortious governmental actors should be limited because the government must act for the public good. There are also the stringent financial limitations of government entities, and ultimately of taxpayers, which necessitate restrictions on damages owed. When the TCA was enacted the limits were set at \$250,000 per individual claim and \$500,000 per occurrence. In 1988 the TCA was amended to provide a \$1 million dollar limit for medical malpractice committed by a physician or dentist employed by a government entity. In a 1997 State Budget Part II proviso these limits were increased to \$300,000, \$600,000, and \$1.2 million, respectively. There have been several attempts over the years to further increase the limits with the most recent attempt coming this past session. S. 82 would increase the limits from \$300,000 to \$500,000 per individual and from \$600,000 to \$1 million per occurrence. SCAC was successful in slowing down the bill but the issue is likely to come up again in the upcoming session. If the limits found in the TCA were increased as proposed by the most recent bill, then that would drastically increase insurance costs for counties and could possibly force county government out of some areas in which it currently provides services.

**Status: S. 82 raises the existing caps on damages found in the Tort Claims Act (TCA) from \$300,000 to \$500,000 per individual, and from \$600,000 to \$1 million per occurrence. The bill also contains a provision to encourage settlement of litigation covered by the TCA. This increase will still have a fiscal impact on county governments, but it is less severe than what was initially proposed last session. S. 82 has passed the Senate and was referred to the House Ways and Means Committee.**

**S. 81 was introduced and would make substantive changes to the Tort Claims Act. S. 81 would substantially raise the cost to counties of insuring against such claims. S. 81 is in the Senate Judiciary Committee.**

**Steering Committee's Recommended Policy Position:**

**Although SCAC believes the current tort claims limits are appropriate, SCAC staff will monitor any amendments and ensure county interests are protected to the greatest extent possible.**