

# REPORT TO THE LEGISLATIVE COMMITTEE



BY THE SCAC  
**POLICY  
STEERING  
COMMITTEES**

DECEMBER 1, 2023  
AC HOTEL, GREENVILLE



**SOUTH CAROLINA  
ASSOCIATION OF COUNTIES**

# 2023 SCAC Legislative Committee

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Chairman, SCAC Legislative Committee***

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County Council

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## **LAURENS COUNTY**

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## **LEE COUNTY**

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## **LEXINGTON COUNTY**

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## **PICKENS COUNTY**

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

## **RICHLAND COUNTY**

Overture Walker, Council Chairman

## **SALUDA COUNTY**

James Moore, Council Chairman

## **SPARTANBURG COUNTY**

Justin McCorkle, County Council

## **SUMTER COUNTY**

James T. McCain Jr., Council Chairman  
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## **UNION COUNTY**

Phillip G. Russell II, County Supervisor/  
Chairman

## **WILLIAMSBURG COUNTY**

Kelvin C. Washington, County Supervisor/  
Chairman

## **YORK COUNTY**

Christi Cox, Council Chairwoman

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# Report to the SCAC Legislative Committee

December 1, 2023  
AC Hotel, Columbia

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County Government and Intergovernmental Relations .....	Joseph R. Branham, Chairman Chester County Council Chairman
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 .....	Jason P. Phillips, Chairman Anderson County Treasurer



# Legislative Policy Development Process

## 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 2024 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 policymakers 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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**2023**

**County Government and Intergovernmental  
Relations Steering Committee**



**SOUTH CAROLINA  
ASSOCIATION OF COUNTIES**

**December 1, 2023**

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# 2023 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 20, 2023  
Thursday, November 9, 2023

Joseph R. Branham, Chairmn  
Chester County Council Chairman

## Steering Committee Members\*

### County Representatives:

Beth A. Carrigg, Lexington County Council Chairwoman  
Matthew Connelly, Allendale County Council Chairman  
Christi Cox, York County Council Chairwoman  
Jerry R. Creech, Barnwell County Council Chairman  
Robert T. Dunn, Anderson County Council Chairman  
S. Todd Friddle, Dorchester County Council Chairman  
Steven C. Grice, Dillon County Council Chairman  
Bill Tuten, Charleston County Administrator  
Overture Walker, Richland County Council Chairman  
Travis Windham, Lee County Council Chairman

### SCAC Board Members:

Mary D. Anderson, Chesterfield County Council Vice Chairwoman  
W. Brian Carnes, Lancaster County Council Vice Chairman  
Joseph F. Passiment Jr., Beaufort County Council Chairman  
Brown Patterson, Laurens County Council Chairman  
Johnnie Wright Sr., Orangeburg County Council Chairman

## President's Appointees:

Dwight Bradham, Aiken County Veterans Affairs Officer  
Rose N. Dobson-Elliott, Jasper County Engineering Services Director  
Theodore Felder, Clarendon County Deputy Administrator  
Blair T. Hinson, Oconee County Library Director  
Connie N. Portee, Orangeburg County Clerk to Council  
Thomas Reitz, Beaufort County Council  
Lynne West, Laurens County Registration & Elections Director  
Joanie Winters, Chester County Attorney

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

# **2023 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

## Elections

### Combining up to Four Voting Precincts

Section 7-7-910 requires voters to vote at the designated polling place within the precinct of their residence. If a designated polling place in a precinct is unavailable for use during an election as a result of an emergency situation, the authority charged by law with conducting the election shall designate an alternative polling place to be used for the electors in that precinct for any election occurring during the emergency situation. An alternative polling place for an emergency situation must be approved by the majority of the legislative delegation if the designation occurs more than seven days prior to the election. If an alternative polling place for an emergency situation is designated seven days or less prior to the election, the authority charged by law with conducting the election must notify the members of the legislative delegation of the alternative polling place. Every attempt must be made to notify electors of the alternative polling place before the election and on the day of the election through the media and by posting notice at the designated polling place.

In addition to the provisions of Section 7-7-910, Article VII, Section 13 of our state Constitution gives the General Assembly the discretion to establish or alter voter precincts in any county.

The South Carolina Association of Registration and Election Officials (SCARE) has requested SCAC to support legislation that amends Section 7-7-910 to allow county boards and/or directors to combine up to four voting precincts. Combining precincts would accomplish the following:

- Improve voter access to polling locations, especially in densely populated areas.
- Relieve funding deficits for poll workers, facilities rental, and additional equipment.
- Allow for ADA-compliant polling locations.

**Status:** No legislation was introduced in 2023.

#### **2023 Steering Committee's Recommended Policy Position:**

**Support legislation that amends Section 7-7-910 to allow county boards of voter registration and elections and county voter registration and elections directors to combine up to four voting precincts.**

## Expediting Voting Tallies

**S. 406** provides that ballots cast during the early voting period may begin to be tabulated simultaneously as absentee ballots. Additionally, this bill creates a new felony for those who intentionally publicly report the results of the early voting period before the polls are closed.

SCARE has requested that SCAC support **S. 406**.

**Status:** A House Judiciary subcommittee amended **S. 406** to require that these tabulated ballots be reported prior to the precinct results in a manner to be prescribed by the State Election Commission Executive Director. The Senate passed **S. 406** on March 1, 2023, and sent the bill back to the House. **S. 406** is on the House contested calendar.

### **2023 Steering Committee's Recommended Policy Position:**

**Support S. 406 to provide that ballots cast during the early voting period may begin to be tabulated simultaneously as absentee ballots.**

## Increase Poll Worker Pay

Currently, the SEC provides that poll managers (and poll manager's assistants) receive \$60 for attending training and \$75 for working on election day, totaling \$135. Clerks (lead poll manager) receive poll manager pay and \$60 for additional training and duties, totaling \$195. Some counties may supplement poll manager pay.

In the 2023 State budget, **Proviso 102.2** provides that poll managers and clerks of state and county elections shall receive a per diem of \$75.00 for the day of work and \$60.00 for training and paperwork. Managers shall not be paid for more than two days for any election and clerks for not more than three days for any election. SEC may adjust the per diem of \$75.00 for the managers and clerks of the statewide election to a higher level only to the extent that the appropriation for the statewide election is sufficient to bear the added cost of increasing the per diem and the cost of the statewide election. Up to three additional managers per county may be appointed to assist county boards of voter registration and elections with the absentee/fail-safe voting process before, on Election Day, and immediately following statewide elections. Managers assisting the county boards of voter registration and elections in the absentee/fail-safe process may receive a per diem of \$75.00 per day for not more than a total of fifteen days regardless of whether one, two, or three additional managers are used.

SCARE has requested that SCAC support legislation for the following:

1. Amend **102.2 Budget Proviso** to include a minimum of \$100 per day of work (minimum wage) and \$75 for training for poll workers.
2. Support legislation to fund "standby poll worker" compensation (up to three standby workers per 10,000 voters) to reflect existing poll worker training pay. Training pay is tied to working on Election Day; pre-trained workers on "standby" should receive training pay also.

**Status:** No legislation was introduced in 2023; however, 102.2 Budget Proviso passed.

### **2023 Steering Committee's Recommended Policy Position:**

**Support legislation for the following:**

- (1) Amend 102.2 Budget Proviso to include no less than \$100 per day of work (minimum wage) and \$75 for training for poll workers.
- (2) Support legislation to fund "standby poll worker" compensation (up to three standby workers per 10,000 voters) to reflect existing poll worker training pay.

### **Modify Candidate Filing Deadlines for Special & Municipal Elections**

Military and overseas citizens are provided with special procedures and protections under federal and state law to help them overcome barriers to voter registration and voting caused by their military service or residence overseas. UOCAVA stands for the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), the primary federal legislation establishing these special rules for absentee voting. The FPCA (Federal Standard Form 76) allows UOCAVA citizens to register to vote and request an absentee ballot.

Currently, the SEC sends absentee ballots no later than 45 days before an election for those who are registered and have requested a ballot. Ballots returned by mail should be mailed no later than one week prior to election day to help ensure timely delivery.

Currently, Section 5-15-70 provides that each municipal governing body shall determine by ordinance:

- the time for filing nominating petitions,
- holding primary elections or conventions,
- the time for entry of candidates for nominations in municipal party primary elections or conventions,
- the time for closing of entries, and the time and manner of filing by candidates in nonpartisan elections.

The municipal governing body may determine by ordinance that **either** filing a statement of candidacy **or** a petition with the municipal election commission is required to place the name of the candidate on the ballot in nonpartisan general elections.

For **nonpartisan special elections**, if the petition method is authorized, the candidate shall file the petition with the municipal clerk **not later than noon, 60 days prior to the election**. The commission shall determine the validity of the petition **not later than 45 days prior to the election** and when so validated, shall place the candidate's name on the ballot. If the statement of candidacy is authorized, these statements must be filed **not later than noon, 45 days prior to the election**. For **partisan special elections**, petitions must be submitted pursuant to Section 7-13-190(B).

Section 7-13-190 provides **partisan elections** filing deadlines as follows:

- Seeking nomination by political party primary or political party convention
  - **Candidate filing shall open for the office at noon on the 3rd Friday after the vacancy occurs for a period to close 8 days later at noon**
- Seeking nomination by petition
  - **Verification of these petitions must be made not later than noon 45 days prior to the election**

SCARE has requested that SCAC support legislation that modifies the candidate filing deadline (for special and municipal elections) in Section 5-15-70 in order to mirror the candidate filing deadline (for special elections to fill vacancies) in Section 7-13-190 to comply with UOCAVA.

**Status:** No legislation was introduced in 2023.

**2023 Steering Committee's Recommended Policy Position:**

**Support legislation that modifies the candidate filing deadline in Section 5-15-70 in order to mirror the candidate filing deadline in Section 7-13-190 to comply with the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA).**

## **Municipal Elections**

**H. 3734** was introduced in 2023, which specifies that all municipal elections must be conducted using a voting system approved and adopted by the SEC. The bill also requires municipal general elections to be established by ordinance on odd-numbered years as follows:

- On the third Tuesday in March;
- On the first Tuesday in July; or
- On the first Tuesday after the first Monday of November.



The South Carolina Revenue and Fiscal Affairs Office (RFA) contacted all counties to determine the local expenditure impact for counties since they use an SEC approved voting system, and most counties conduct the municipal elections in their county. Dorchester and Aiken County provided the following responses. Aiken anticipates this bill will have no expenditure impact for the county as their board of voter registration and elections commission currently allows municipalities to use their voting equipment for elections, and the commission currently manages the elections for smaller municipalities. Dorchester also anticipates this bill will have no expenditure impact as they like Aiken use SEC approved voting equipment. Based on these responses, RFA anticipates this bill may have an expenditure impact for counties that do not currently allow their municipalities to use their voting systems and for counties in which a municipality asks the county to manage its election on behalf of the municipality. Therefore, the local expenditure impact on counties is undetermined.

SCARE has requested that SCAC support **H. 3734**.

**Status:** The House passed H. 3734 and the bill has been referred to the Senate Judiciary.

#### **2023 Steering Committee's Recommended Policy Position:**

**Support H. 3734 to provide that all municipal elections must be conducted using a voting system approved and adopted by the SEC and that municipal general elections be established by ordinance on odd-numbered years as follows:**

- **On the third Tuesday in March;**
- **On the first Tuesday in July; or**
- **On the first Tuesday after the first Monday of November.**

## **Freedom of Information Act (FOIA)**

### **Avoiding the Rules of Discovery in Litigation**

Attorneys and their clients use the Freedom of Information Act (FOIA) to circumvent the discovery rules to "fish" for potential legal claims instead of using the discovery process. While case law suggests that FOIA should not be used to circumvent the discovery process in legal proceedings, nothing in the FOIA statutes prohibits this. FOIA requests can be voluminous and time-consuming for counties; therefore, using the FOIA instead of the discovery rules is an abuse of the FOIA statutes.

Georgetown County Attorney Jay Watson has requested that SCAC support legislation to amend the provisions of FOIA to prohibit the use of FOIA to circumvent discovery in a pending legal action.

**Status:** No legislation was introduced in 2023.

**2023 Steering Committee's Recommended Policy Position:**

**Support legislation to amend the provisions of FOIA to prohibit the use of FOIA to circumvent discovery in a pending legal action.**

**Definition of "Public Record"**

Currently, Section 30-4-20 (c) provides:

(c) "Public record" includes all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials regardless of physical form or characteristics prepared, owned, used, in the possession of, or retained by a public body."

Aiken County Attorney Brad Farrar has requested that SCAC support legislation to amend the definition of "public record" in Section 30-4-20(c) to provide that a "public record does not include reports, spreadsheets, or compilations that a public body has the hardware, software, or other technological capability to create but has not created or does not have copies of at the time of a public records request." Just because a public body may be able to produce records in a particular format, the mere production in a particular format does not mean that the public body has to create a new public record that must always be produced in that requested format.

**Status:** No legislation was introduced in 2023.

**2023 Steering Committee's Recommended Policy Position:**

**Support legislation to amend the definition of "public record" in Section 30-4-20(c) to provide that a "public record does not include reports, spreadsheets, or compilations that a public body has the hardware, software, or other technological capability to create but has not created or does not have copies of at the time of a public records request."**

**Matters Exempt from Disclosure**

Currently, there is pending litigation concerning whether "cast vote records (CVR)" are exempt from disclosure from any election conducted pursuant to Section 7-1-10 *et seq.*

S.C. Code § 30-4-10 et seq., does not require the production of voted ballots, scanned images of voted ballots, and vote cast records. The South Carolina State Constitution guarantees the secrecy of the ballot. Article II, section 1 states, "All elections by the people shall be by secret ballot, but the ballots shall not be counted in secret." S.C. Const, art. II, § 1 (emphasis added). Moreover, Article II, section 10 directs the General Assembly to "insure secrecy of voting." S.C. Const. art. II, § 10. The South Carolina Supreme Court has explained the dominant purpose of these provisions "is to ensure the integrity of the voting process. It is calculated to secure privacy, personal independence, and freedom from party or individual surveillance. It tends to promote an independent and free exercise of the elective franchise." State ex rel. Edwards, 270 S.C. 87, 92, 240 S.E.2d 643, 645-46 (1978). To the extent that the disclosure of materials related to a cast ballot would lead to the identification of a voter, a court would hold such a disclosure is not required by the S.C. FOIA and violates the South Carolina Constitution. 2020 WL 5985610 (S.C.A.G. Sept. 28, 2020)); see 2022 WL 4229451 (S.C.A.G. Sept. 7, 2022).

Aiken County Attorney Brad Farrar has requested that SCAC support legislation to amend Section 30-4-40 to provide that ballot images or "cast vote records" are exempt from disclosure from any election conducted pursuant to Section 7-1-10 *et seq.* This would help ensure that election voting records are kept confidential.

**Status: No legislation was introduced in 2023.**

**2023 Steering Committee's Recommended Policy Position:**

**Support legislation to amend Section 30-4-40 to provide that ballot images or "cast vote records" are exempt from disclosure from any election.**

**Right to Inspect or Copy Public Records**

As discussed above, Section 30-4-20 (c) defines "Public record" for purposes of FOIA. Section 30-4-20(B) states that records must be provided in a form that is both convenient and practical for use by the person who requested copies of the records concerned if it is equally convenient for the public body to provide records in this form.

Aiken County Attorney Brad Farrar has requested that SCAC support legislation to amend Section 30-4-30(A)(3) to provide that a public body is not required to create a record that does not exist at the time a request is made, even if the public body has the capability to create the requested record.

**Status: No legislation was introduced in 2023.**

### **2023 Steering Committee's Recommended Policy Position:**

**Support legislation to amend Section 30-4-30(A)(3) to provide the following:**

- (1) A public body is not required to create a record that does not exist at the time a request is made, even if the public body has the capability to create the requested record.**
- (2) The minutes of a public body are not subject to inspection or review under FOIA until approved by the governing body.**

## **County Officers and Employees**

### **Treasurers & Auditors Oversight**

The council-manager form of government is only the form of county government that authorizes by ordinance the county auditor and the county treasurer to be appointed. In other forms of county government, the auditor and the treasurer are elected.

Abbeville County Director David Garner has requested that SCAC support legislation that would create a mechanism for county council to ensure the auditor and treasurer functions are accomplished effectively and efficiently.

There two possible ways to accomplish this:

1. Change the type of county government -
  - a. Council form (Article 2);
  - b. Council-supervisor form (Article 3);
  - c. Council-administrator form (Article 4);
  - d. Council-manager form (Article 5); or
2. Amend Section 4-9-60
  - a. **Election or appointment, and terms, of county treasurer and auditor under certain forms of government; continuation of officials in office** - Under the council, council-supervisor and council-administrator forms of government provided for in this chapter the county treasurer and the county auditor ~~shall be elected~~ "shall be by ordinance prescribed." Officials serving unexpired terms when a form of government provided for in this chapter is adopted by a particular county shall continue to serve until successors are elected and qualify. Under all forms of county government, ~~the council-manager form~~ the county treasurer and county auditor shall serve out their unexpired terms but shall thereafter be elected or appointed as council shall by ordinance prescribe.

**Status:** No legislation was introduced in 2023.

### **2023 Steering Committee's Recommended Policy Position:**

**The role of the county treasurer and the county auditor is critical to the financial and economic functions of counties. If those offices fail to perform their duties, there needs to be a legislative mechanism where the county is able to still function effectively and efficiently by carrying out these functions. Therefore, SCAC should support the following:**

- 1. Support legislation that provides penalties for treasurers and auditors who fail to carry out their statutory duties; and**
- 2. Support legislation that provides a procedure for counties to carry out these functions when a treasurer or auditor fails to perform their duties.**

## **General**

### **Trespassing on County Facilities & Buildings**

It is only illegal to trespass in South Carolina if you have been notified by the "owner;" therefore, the crime of trespassing is considered an "after notice" law (Section 16-11-10 et. seq). Trespassing can take place on both private and public property, and the status of being public does not give people the right to access the area to use however they deem appropriate.

In its decision in *State v. Hanapole*, 255 S.C. 258, 178 S.E.2d 247 (1970), the State Supreme Court ruled that Section 16-11-620 applies **only** to private property and has no applicability to public property. In that case, the Court further stated that since the trespass statutes " ... applies only to private property, a conviction thereunder for an alleged trespass upon public property is not warranted and cannot be sustained."

Currently, Section 16-11-620 is the "general" trespass statute and provides penalties. However, it does not address trespassing from public property and, therefore, does not address the violation of a trespass notice from public property. This is becoming a growing problem at public facilities such as county recreation centers, where a person has been asked to leave the center due to disorderly conduct such as verbal threats and the use of profanity towards county employees and other members of the public. Even if the person leaves voluntarily or after law enforcement asks them to leave, there is nothing in the current trespass statute that prevents them from returning to the center and engaging in the same type of behavior. However, Section 16-11-625 provides that a person who enters a public library,

without legal cause or good excuse, after having been warned not to do so by the library director, the branch manager, or the acting branch manager of the library in consultation with the library director, is guilty of a misdemeanor and, upon conviction, must be fined not more than \$200 or be imprisoned not more than 30 days.

**Lancaster County Attorney Ginny Merck-Dupont has requested that SCAC support legislation to amend the trespass statutes to provide a public building provision that mirrors the language in Section 16-11-625.**

**Status:** No legislation was introduced in 2023

**2023 Steering Committee's Recommended Policy Position:**

**Support legislation to amend the trespass statutes to provide a "public facility" provision that mirrors the language in Section 16-11-625, by providing that a person who enters a public facility or enters public property, without legal cause or good excuse, after having been warned not to do so by a public facility director, a chief administrative officer or their designee in consultation with the county attorney, is guilty of a misdemeanor and, upon conviction, must be fined not more than \$200 or be imprisoned not more than 30 days.**

# Carryover Policy Issues

## County Officers and Employees

### 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 is subject to removal by the Secretary of SCDVA. However, to date, all CVA officers' salaries and expenses are paid by their respective counties.

In 2020, a bill was introduced (H. 3416) that provided that CVA Officers are county employees, and the county legislative delegation could remove a CVA officer. The bill also provided that the Secretary of SCDVA 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, a bill was introduced in 2021 (S. 530) which stated that a CVA officer is an at-will employee of the state to be appointed by the Secretary of SCDVA. The bill also provided that the State would fund the CVA officers and their staff. Neither bill passed.

**Status:** No legislation was introduced in 2023.

#### **2023 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.**

### **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.

Mental/mental claims are much more complex to establish and have a harder threshold in proving a link between the workplace and the mental condition. In fact, some states do not allow mental/mental health claims at all while others have specified the elements necessary to establish a Workers' Compensation mental/mental claim. For example, Maryland, Washington, D.C., Ohio, West Virginia, North Carolina, Georgia, Alabama, Arkansas, Oklahoma, South and North Dakota, Wyoming and Montana *do not allow any types* of mental/mental claims. However, there are states that allow worker's compensation recovery for mental-mental injuries without the higher standard of proof South Carolina law provides (e.g., 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:** In the 2023 State budget, out-of-pocket costs for the treatment of PTSD for first responders were covered through the \$750,000 allotment for PTSD treatment for first responders. S. 251 would exempt first responders seeking compensation from workers' compensation insurance ("mental-mental") from having to establish by a preponderance of the evidence that the conditions leading to stress, mental injury, or mental illness stemmed from extraordinary or unusual conditions and not the normal conditions of employment. The bill would also define the terms "first responder," "significant traumatic experience or situation," "witnessing," and "grievous bodily harm." Further, the bill would provide that a first responder who sustains stress, or mental injury, unaccompanied by a physical injury arising out of and in the course of his employment, shall be concluded to have sustained injury by accident under the following conditions:

1. The injured is employed as a first responder, and the impairment causing the stress, mental injury, or mental illness, is medically diagnosed as PTSD, without regard to



whether the experience or situation was "extraordinary or unusual" in comparison to the normal working conditions of the first responder's employment;

2. The first responder participates in and receives clinical care through the South Carolina Law Enforcement Assistance Program, the South Carolina First Responders Assistance and Support Team, or their successor programs;
3. There is an incapacity to work as determined by the treatment physician;
4. When the capacity for work resulting from an injury is "total," the employer shall pay, or cause to be paid a weekly compensation equal to 66.66 percent of the average weekly wages, but not less than \$75 per week so long as the amount does not exceed the average weekly wages; if this amount does exceed the average weekly wages, the injured first responder may not be paid, each week, less than his average weekly wages;
5. The injured first responder may not be paid more each week than the average weekly wage in this state for the preceding fiscal year;
6. In no case may the covered by the compensation exceed 500 weeks, except as provided in section 42 -9-10 (C);
7. The injured first responder is not entitled to indemnity under Section 42-9-10, or Section 42-9-30, unless the incapacity for work resulting from any injury under this section is a total incapacity to work.
8. Stress or mental injuries unaccompanied by physical injury are not considered compensable if they result from any event, or a series of events, which are incidental to normal employer-employee relations; and
9. Stress, mental injury, and mental illness alleged to have been aggravated by a work-related physical injury may not be found compensable unless certain elements are met.

The bill would take effect on January 1, 2024, and apply to injuries that occur on or after this effective date. Although SCAC testified in opposition to reducing the standard for mental-mental claims currently in statute, this bill represents the compromise reached by stakeholders, including SCAC, last session. A Senate Judiciary subcommittee gave S. 251 favorable report, and the bill is pending before the full committee.

S. 82 and S. 81 would provide workers' compensation for first responders for purely mental injuries without having to show extraordinary or unusual working conditions (mental-mental ). Both bills are pending in the Senate Judiciary Committee.

### **2023 Steering Committee's Recommended Policy Position:**

- (1) Support legislation that would expand funding and healthcare to ensure that there is coverage for all first responders needing treatment for mental injuries.

**(2) While SCAC opposes legislation that would amend § 42-1-160 to reduce the standard for mental-mental claims, in the alternative, SCAC would support a compromise reached by stakeholders that requires an employee with mental injuries to be under the care of a treating physician and only be entitled to a claim for workers' compensation after the treating physician makes a determination that the employee is disabled as a result of a work-related mental injury.**

### **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 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, colds, and other illnesses. In addition, COVID-19 is not peculiar to employment.

The previous years, legislation was introduced that would have established a presumption that a first responder, healthcare provider, or correctional officer contracting COVID-19 should be entitled to Workers' Compensation benefits as an occupational disease. The General Assembly intended 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.

**Status: No legislation was introduced in 2023.**

**2023 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**

**County Elector Challenges and Hearing Timeframes**

Section 7-5-230 deals with challenges to whether someone has met the qualifications to be an elector for purposes of voting in an election. Under the provisions of the statute, once a person is registered, challenges of the qualifications of any elector must be made in writing to the county board of voter registration and elections in the county of registration. The board must, within 10 days following the challenge and after first giving notice to the elector and the challenger, hold a hearing, accept evidence, and rule upon whether the elector meets or fails to meet the qualifications. The statute is silent as to whether the 10 days are business days or calendar days.

Support legislation to amend Section 7-5-230 to specify that the hearing must be scheduled within 10 business days.

**Status:** No legislation was introduced in 2023.

**2023 Steering Committee's Recommended Policy Position:**

**Support legislation to amend Section 7-5-230 to specify that the hearing must be scheduled within 10 business days.**

**Veteran Surviving Spouse Property Tax Exemption**

Under Section 12-37-220(B)(1)(b), surviving spouses cannot receive tax exemption on their property unless the veteran was deemed 100% permanently service-connected disabled at the time of death.

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. Act 236 of 2022 allows a widow or widower to qualify for the tax exemption only if the deceased veteran was declared permanently and totally disabled as a result of a service-connected injury prior to their death or they were killed while in action.

**Status:** H. 3502 provides that if a veteran dies from a service-connected disability, the surviving spouse would be eligible for the property tax exemption. H. 3502 is pending in the House Ways and Means Committee. H. 3116 provides that a veteran of the US Armed Forces, who is permanently and totally disabled because of a service-connected disability and who files with the department and meets the other requirements of Section 12-37-220(B)(1) may immediately claim the tax exemption for the entire year in which the disability occurs. Also, a veteran who is permanently and totally disabled for any part of the year would be entitled to the exemption for the entire year. The House passed H. 3116 and it has been referred to the Senate Finance Committee.

H. 4219 allows a veteran who is permanently and totally disabled as a result of a service-connected disability to claim the property exemption for the entire year in which the disability occurred. H. 4219 is pending in the House Ways and Means Committee.

#### **2023 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 or illness, will qualify the widow or widower for the relevant tax exemption.**

## **Intergovernmental Relations**

### **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 reductions 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 their 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 State Aid funding for libraries in FY22/23 at a minimum of \$3.00 per capita with a minimum grant of \$150,000 per county.

**Status:** In 2023, State Budget Proviso 27.1 was passed - The amount appropriated in this section for "Aid to County Libraries" shall be allotted to each county on a per capita basis according to the official United States Census For 2020, as aid to the County Library. No county shall be allocated less than \$150,000 under this provision. To receive this aid, local library support shall not be less than the amount actually expended for library operations from local sources in the second preceding year.

**2023 Steering Committee's Recommended Policy Position:**

**Support legislation for State Aid funding for libraries in FY22/23 up to \$3.00 per capita with a minimum grant of \$150,000 per county.**

### **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.

Vice Chairman of Pickens County and SCAC Board President Roy Coster has indicated that a municipality in his county is threatening to cut off water services to an unincorporated part of the county unless they agree to be annexed. This would be an example of a post-facto adhesion contract, and he is requesting that SCAC support legislation prohibiting post-facto adhesion contracts.

**Status: S. 198 & H. 3770 amend Section 5-31-1520, relating to extension of water and sewer systems by a municipality, to prohibit extensions conditioned on annexation. S. 198 is pending in the Senate Judiciary Committee and H. 3770 is pending in the House Judiciary Committee. H. 3236 authorizes the governing body of a municipality to annex an area by ordinance if the area is completely surrounded by the municipality. H. 3236 is pending before the House Medical, Military, Public and Municipal Affairs Committee.**

### **2023 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:**

- **Support legislation prohibiting pre-facto and post-facto adhesion contracts.**
- **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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**2023**  
**Land Use, Natural Resources And**  
**Transportation Steering Committee**



**SOUTH CAROLINA**  
**ASSOCIATION OF COUNTIES**

**December 1, 2023**

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# **2023 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**

**Tuesday, September 19, 2023  
Wednesday, November 8, 2023**

**Charles T. Edens, Chair  
Sumter County Council**

## **Steering Committee Members\***

### **County Representatives:**

Dr. Jonathan Goodman II, Bamberg County Council Chairman  
Steven R. Harper, Lancaster County Council Chairman  
Alice G. Howard, Beaufort County Council  
Justin McCorkle, Spartanburg County Council  
Charles P. Midgley Jr., Marlboro County Council Chairman  
Chuck Moates, Greenwood County Council Chairman  
James Moore, Saluda County Council Chairman  
Steven D. Murdaugh, Colleton County Council Chairman  
William C. Norris, Abbeville County Council Chairman  
L. Martin Sauls IV, Jasper County Council Chairman  
Columbus Stephens, McCormick County Administrator  
Dan Tripp, Greenville County Council Chairman

### **SCAC Board Members:**

John Q. Atkinson Jr., Marion County Council Chairman  
Dr. Alphonso Bradley, Florence County Council  
Barbara B. Clark, Jasper County Council Vice Chairwoman  
Larry Haynes, Bamberg County Council  
Dwight L. Stewart Jr., Clarendon County Council Chairman  
Cecil M. Thornton Jr., Calhoun County Council

## **President's Appointees:**

Shawn Brashear, Florence County Director of Planning & Building  
Danny Knight, Horry County Solid Waste Authority Executive Director  
Claiborne Linnell, Pickens County Council  
Andrea N. Melocik, Charleston County Planning & Zoning Deputy Director  
Virginia Merck-Dupont, Lancaster County Attorney  
Kenneth S. Roper, Pickens County Administrator  
Steve Thigpen, Charleston County Public Works Director  
Joyce W. Thomas, Darlington County Council

**SCAC Staff Contact:** John O. Wienges Jr. and Avery D. Upchurch

# **2023 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

## Flood Maps and Building Code Requirements

New flood maps indicate a “Limit of Moderate Wave Action” (LiMWA) line, which is determined by FEMA, to delineate the Coastal A Zone (CAZ). Construction in a CAZ must comply with the same construction requirements as a V-Zone (Coastal High Hazard Area). FEMA makes complying with the CAZ *voluntary*. The updated South Carolina Building Codes *requires* compliance with the Coastal A Zone. For example, Coastal A Zones in Georgetown County (County) extend roughly seven miles inland from the ocean. This mandatory requirement increases construction costs, greatly impacts renovations and additions due to Substantial Improvement/Substantial Damage requirements in Special Flood Hazard Areas, and potentially impacts manufactured homes if placed within a CAZ because it now requires deep foundations designed by a registered engineer making affordable housing less affordable.

Georgetown County has applied to the Building Codes Council for a variance to the Coastal A Zone requirement based on their particular geographic conditions. The County has been in conversation with the SC Homebuilders Association who testified against them on this issue to work out a legislative fix. Language is being drafted to include an option for counties to opt out of the LiMWA line requirements, a clause stating that if FEMA changes the LiMWA line from optional to mandatory the legislation then becomes null and void, and if the legislation were to be enacted it would trigger a notification requirement to the SC Department of Insurance, Board of Flood Mitigation (who Steven Elliott is meeting with), and the Building Codes Council within the Department of Labor Licensing, and Regulation.

Georgetown County officials including Angela Christian, Georgetown County Administrator; Holly Richardson, Planning Director; Matthew Millwood, Senior Planner; and Steven Elliott, Building Official and Flood Officer, have contacted SCAC and stated that the LiMWA line *cannot* be appealed or amended. Even if the County had attempted to provide alternative data/an amended model for these areas, we have been told these lines could not have been changed. Georgetown County has requested that the steering committee support legislation that would provide relief from the LiMWA line requirements.

**Status: No legislation was introduced in 2023.**

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

**Support legislation that would provide relief from the LiMWA line requirements and restrictions on development within watersheds.**

## Infrastructure Definitions

The “Infrastructure Investment and Jobs Act” was passed into law in November 2021 with the goal of increasing federal spending on “infrastructure” by approximately \$550 billion over the next decade through grants to state and local governments. The Act defines infrastructure under § 70912(5) as:

*“structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.”*

Joe Passiment, Beaufort County Council Chairman, requested that the steering committee support legislation to make the state’s definition of infrastructure consistent with that of the federal government. This would likely help streamline a county’s ability to request grants from the federal government for in-state transportation projects.

**Status:** Although no legislation has been introduced specifically on this topic, a pair of companion bills were introduced last session addressing the uses for which revenues of sales taxes for transportation companies may be used.

H. 4059 and S. 562 expanded the uses of a sales tax for transportation facilities to include public transportation systems, aviation, railways, maritime transportation infrastructure. The bill defines public transportation system as “public buses, subways, light rail, commuter rail, trolleys, and ferries.”

### Steering Committee’s Recommended Policy Position:

Support legislation that would make the state definition of infrastructure match the federal definition and would add solid waste to the definition of infrastructure.

## Short Term Rentals- Defining Terms to Close Loopholes

A bill (H. 3253) has been introduced in the House regarding prohibitions on regulating short-term rentals but does not distinguish a “short-term guest” from a renter or roommate. Each session there are attempts made to restrict local governments’ ability to regulate land use or to preempt local authority. Counties have traditionally recognized the importance of Home Rule in regard to land use decisions and have opposed statewide legislation that would preempt community input and solutions involving these issues. The State and other outside entities should avoid interfering in local decisions regarding land use decisions because local governments are in the best position for understanding how these issues impact their locality.

A recent Lexington County Council proposed ordinance defined short-term rentals as “any property that is available for stays of between one and 29 days.” The ordinance sets a number of regulations on rental guests too. The guest making the booking must be at least 18 years old, and they cannot check in or check out between 11 p.m. and 7 a.m. The draft is set to come up for discussion at Lexington County Council’s Sept. 12 meeting, when Airbnb’s government relations official will also be present to discuss the rules with council members.

John (Jay) Watson, Georgetown County Attorney, has requested that the steering committee support legislation that would tighten definitions by distinguishing between “short-term renters” vs. “roommates.”

**Status:** As introduced, H. 3253 would prohibit counties from enacting or enforcing an ordinance, resolution, or regulation that prohibits the rental of a residential dwelling to a short-term guest. An amendment was proposed at a House 3M subcommittee meeting that would require the remittance of local accommodations taxes to counties. While the amendment would likely still contain some restrictions on counties’ ability to regulate short-term rentals, SCAC is involved in talks with affected entities and will continue to keep counties’ best interests in mind during negotiations.

Additionally, SCAC was successful in getting a proviso related to bans on short-term rentals removed this Spring (Proviso 113.11) by working with legislators and stakeholders to avoid unintended consequences from a penalty provision withholding Local Government Fund revenues.

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

**Support legislation that would tighten definitions by distinguishing between “short-term renters” vs. “roommates.”**

### **Solar Farm Decommissioning**

Discussions involving solar energy production have been occurring on a more frequent basis in the General Assembly as clean energy production continues to grow throughout the southeastern United States. Although solar farms can provide both public and economic benefits to certain areas, and often have a lifespan of over 20 years, concerns have been expressed by landowners and local governments as to what happens to properties and solar equipment when a solar-lease term ends, or when a solar farm site is abandoned earlier than anticipated. According to a report published earlier this year, the cost of decommissioning a solar site cost, on average, is approximately \$368,000/1-MW for a ground-mounted photovoltaic (PV) system.

Charles Edens, Sumter County Councilman, requested that this steering committee support legislation that would require solar companies to provide forms of financial assurance that would be dedicated to the decommissioning costs of solar farm facilities prior to such a facility locating within a county.

**Status:** No legislation was introduced in 2023.

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

**Support legislation that would require solar companies to provide forms of financial assurance that would be dedicated to the decommissioning costs of solar farm facilities prior to such a facility locating within a county.**

**Uniform Process for the Dedication of Roads to Local Governments**

Unlike states in which dedication procedures for roads are set by statute, South Carolina dedication rules derive from case law and are often viewed as ambiguous and provide little certainty. South Carolina courts have held that there are two key elements involving road dedication: (1) an offer to dedicate the road to the public and (2) acceptance by the public. While evidence of the first element is usually found to be more concrete, “proof of acceptance by the public” under the second element is often more difficult to decipher. As a result, uncertainty is created as to whom the rights and liabilities associated with roads should accrue.

Establishing a statutory form of road dedication, executed by both the landowning offeror and the government counterpart, and recorded in the chain of title, would provide every county and municipality with a uniform process. This would benefit counties and municipalities from inadvertently becoming responsible for roads through public use.

Lancaster County has requested that the steering committee support legislation that would provide for a statutory scheme of road dedication in order to provide legal certainty and a uniform process for local governments.

**Status:** No legislation was introduced in 2023.

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

**Support legislation that would provide for a statutory scheme of road dedication in order to provide legal certainty and a uniform process for local governments.**



# 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 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.

Beaufort County 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:** S. 284, the “Local Sales Tax for Workforce Housing Act,” was enacted into law as Act No. 57 in 2023. This law allows local accommodation tax proceeds, as well as a special fund for tourism, to be used for workforce housing. It allows local governments to issue bonds to finance workforce housing projects. These proceeds must be used to promote home ownership. If the local government intends to use the funds for workforce housing, the governing body must prepare a housing impact analysis prior to the second reading of the enabling ordinance. If a local government has adopted a local comprehensive plan, they are required to solicit input for their analysis from homebuilders, developers, contractors, and housing finance experts.

Additionally, the law creates a Land Development Study Committee to examine current and future methods to plan for and manage land development in the state. The committee is composed of three members of the Senate appointed by the President of the Senate and three members of the House appointed by the Speaker of the House. The study committee will seek assistance from agencies and organizations, including SCAC.

There is an annual 15% cap on the amount of Accommodation Tax revenues that a local government could devote to workforce housing. Provisions of the law sunset on December 31, 2030.

In 2022, Senator Kimpson prefiled S. 309, the “South Carolina Inclusionary Zoning Act,” which would provide that counties and municipalities are authorized to adopt and use voluntary inclusionary zoning strategies to increase the availability of affordable housing.

In 2023, Reps. W. Jones, Gilliard, King, Williams, and Cobb-Hunter introduced H. 4334, which would provide that counties and municipalities are authorized to adopt and use voluntary inclusionary zoning strategies to increase the availability of affordable housing.

H. 3869 was also introduced and would include affordable housing for hospitality workers as a tourism-related expenditure under the allocation of accommodations tax revenues (S.C. Code 6-4-10(4)(b)).

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

**(1) Support legislation providing statewide tax benefits for affordable housing or local incentives 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: S. 508, the “Multifamily Dwelling Safety Act,” was introduced in 2023 which would require 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 10 years after the balcony was constructed. S. 508 was referred to the Senate Judiciary Committee. A companion bill, H. 4064, was introduced in the House and was referred to the House Labor, Commerce and Industry Committee.**

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

**(1) Oppose legislation requiring counties to perform inspections of residential balconies and buildings; (2) Support S. 508 moving balcony inspections under LLR's purview.**

**Disposal of Lithium-ion Batteries**

As the popularity of electric vehicles continues to grow, concerns have been raised regarding the handling and disposal of the lithium-ion batteries that power such vehicles. Currently, the lithium-ion battery industry lacks a clear path to large-scale economical recycling. One of the major factors

currently driving the recycling of lithium-ion batteries is the price of cobalt, a major component of the battery systems. If the market price of cobalt drops, recycled cobalt would struggle to compete with mined cobalt, severely decreasing the likelihood of a lithium-ion battery being recycled. Additionally, if the lithium-ion batteries are placed into landfills, lithium, cobalt, manganese, and other metals found in batteries could leak from the casing of buried batteries and contaminate soil and groundwater.

Paul Cain, Oconee County Council Vice Chairman, requests that the Steering Committee support legislation or regulations that would provide guidelines for the proper disposal of lithium-ion batteries.

**Status:** S. 694 would reduce the minimum level of investment that a Qualified Recycling Facility under the South Carolina Income Tax Act must have from \$300 million to \$100 million and adds batteries, solar panels, turbines, and related structures may also be considered “postconsumer waste material” under the Act. The bill was referred to the Senate Finance Committee.

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

**Support legislation or regulations providing disposal guidelines for lithium-ion batteries.**

**Disposal of Rooftop Solar Panels**

The current nationwide regulatory scheme for managing the end-of-life process for solar panels is complex and often varies by jurisdiction. Beginning in the early 2000s, the residential use of solar panels has become increasingly popular as a renewable form of energy due to its affordability to a much wider market across the country. Although solar power is a form of clean energy, many solar panels are often composed of hazardous metals and other materials that aid in the energy generation process and must be considered when the panels are discarded.

Horry County expressed concerns regarding the challenges of identifying these potentially hazardous materials contained in discarded solar panels due to their diverse composition that is dependent upon each manufacturer’s specific design. As a result, Horry County is not accepting rooftop solar panels into the county’s solid waste facilities at this time.

Barry Spivey, Assistant County Administrator for Horry County, would like the steering committee to support legislation that would provide state oversight with manufacturer/distributor participation in the disposal process.

**Status:** S. 694 would reduce the minimum level of investment that a Qualified Recycling Facility under the South Carolina Income Tax Act must have from \$300M to \$100M and adds batteries,

solar panels, turbines, and related structures may also be considered “postconsumer waste material” under the Act. The bill was referred to the Senate Finance Committee.

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

**Support legislation or regulations by DHEC providing disposal guidelines for rooftop solar panels in landfills.**

**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.

Several counties have requested that the steering committee 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:** Representative Sandifer introduced H. 4224 in March 2023 and the bill was referred to the House Judiciary Committee. The bill allows for any action taken by a county pursuant to Sections 108, 109, or 110 of the IPMC on property to be collected in a manner similar to property taxes. The county may enforce the lien in any manner provided by law, including utilizing Chapters 51 and 56, Title 12. The bill does not authorize a county to use its authority on farmland, agricultural land, land containing a residential dwelling, or solely for aesthetic purposes.

**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.**

**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 2023.

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

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

**Waste Tires**

South Carolina's waste tire management program began in the early 1990s with counties recovering nearly 110 million tires from current generation and stockpiles of illegally dumped or stored tires across the state. This figure does not include waste tires sent directly to recyclers and not through county programs. The end-of-life management of waste tires was addressed with the passage of the South Carolina Solid Waste Policy and Management Act of 1991 which, among other things, bans the

disposal of whole tires in landfills, requires county governments to manage waste tires generated within the county with collection and enforcement programs, and places a \$2 fee on the purchase of specific new tires that provides funding for the proper management and recycling of tires.

In recent years, issues have emerged that threaten the current program including significant costs to counties for the collection, hauling, and processing of waste tires that present funding methodologies cannot sustain as well as limited markets for the recycling and reuse of waste tires. DHEC recently reinstated the South Carolina Scrap Tire Sustainability Coalition, which held its first meeting in late September, to develop solutions for sustainable tire management and to develop new funding mechanisms for counties across the state.

Gary Mixon, Sumter County Administrator, asks the committee to support legislation that would address the cost of waste tire disposal that county governments currently face in South Carolina.

**Status:** Senator Loftis introduced S. 763 in May 2023 and the bill was referred to the Senate Medical Affairs Committee without further action. The bill removes the cap on tipping fees that a county may charge for recycling and disposal of certain waste tires. Additionally, the bill directs DHEC, DOR Recycling Materials Development Program to develop a state plan for the management of waste tires; develop an approach to develop markets emphasizing higher end uses for waste tires; promote economic benefits of waste tire recycling; among other things.

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

**Support legislation that would address the increasing cost of waste tire disposal that county governments are currently facing, including, but not limited to: (1) Increasing the current \$2 advanced recycling fee. (2) Eliminating the current \$150/ton cap to allow counties across the state to address their local cost of disposal.**

## 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.*

### 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 2023.

### Steering Committee's Recommended Policy Position:

**(1) Oppose legislative efforts to undermine counties' authority to address their responsibilities regarding the disposal of solid waste. (2) Support legislation providing counties with increased flexibility and accessibility to solid waste disposal.**



# 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.*

### 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 the SC Department of Transportation (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 2023.

### Steering Committee's Recommended Policy Position:

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

### Transportation Infrastructure Project Funding

Several counties have stressed that 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 all roads in the state 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 or HOV lanes have been previously considered by the legislature.

Barry Spivey, Assistant County Administrator for Horry County, raised concerns with local option gas taxes for road maintenance and construction. Mr. Spivey suggests that this should be shared with municipalities but should be managed at the county level as gas stations and travel are both in and out of municipalities.

**Status:** No legislation was introduced in 2023.

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

**Support legislation providing alternative funding sources and methodologies that would expedite project delivery for transportation infrastructure projects.**



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**2023**  
**Public Safety, Corrections and Judicial**  
**Steering Committee**



**SOUTH CAROLINA**  
**ASSOCIATION OF COUNTIES**

**December 1, 2023**

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# 2023 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 19, 2023**  
**Wednesday, November 8, 2023**

**Julie J. Armstrong, Chair**  
**Charleston County Clerk of Court**

## Steering Committee Members \*

### County Representatives:

Chris Bowers, Pickens County Council Chairman  
Gary Bunker, Aiken County Council Chairman  
Hattie Burns, Chesterfield County Council  
Jeff Carroll, Laurens County Council Vice Chairman  
Matthew Durham, Oconee County Council Chairman  
Bobby C. Hudson, Darlington County Council Chairman  
Todd Johnson, Newberry County Council Chairman  
James T. McCain Jr., Sumter County Council Chairman  
Louis R. Morant, Georgetown County Council Chairman  
Douglas Pauley, Fairfield County Council Chairman  
Phillip G. Russell II, Union County Supervisor/Chairman  
Albert Talbert, Edgefield County Council Vice Chairman  
Kelvin C. Washington, Williamsburg County Supervisor/Chairman

### SCAC Board Members:

Cam Crawford, Horry County Council  
Waymon Mumford, Florence County Council  
William E. Robinson, Allendale County Council Vice Chairman

## President's Appointees:

David Bartholomew, Beaufort County Council  
Johnathan W. Bryan, Sumter County Attorney  
Doug Bryson, Spartanburg County Emergency Services Director  
James C. Campbell, Sumter County Clerk of Court  
Brandon Ellis, Georgetown County Emergency Services Director  
Mario Formisano, Dorchester County Deputy Administrator for Public Safety  
John C. Hicks, York County Chief Jail Administrator  
Theo Lane, Greenwood County Council Vice Chairman  
Amy McCulloch, Richland County Probate Judge  
Timothy L. Nanney, Greenville County Register of Deeds  
Bobbi Jo O'Neal, Charleston County Coroner  
Carolyn Woodruff, York County Probate Judge

**SCAC Staff Contact: M. Kent Lesesne**

# **2023 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

## 911 Monthly Fee Cap

Florence County Administrator Kevin Yokim has requested that SCAC support legislation to increase the current 911 monthly fee cap for wireless phones from \$0.67 to \$1.00. This fee is used to provide computer hardware and software for the 911 systems. It is also used for mapping software as well as training. All of these are vital to providing an effective and efficient 911 dispatch center, and these costs are constantly increasing.

**Status: No bills were introduced in 2023.**

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

**Support legislation to increase the current 911 monthly fee cap for wireless phones from \$0.67 to \$1.00.**

## Amending the Safekeeper Statute

Section 24-3-80 of the SC Code of Laws allows the director of the Department of Corrections (DOC), at the request of the Governor, to admit and detain in the Department any prisoner tendered by any law enforcement in this state as long as the prisoner was issued an arrest warrant within 48 hours of their commitment. This is commonly referred to as the Safekeeper Statute. This statute allowed our local detention centers to house an inmate designated as a high security risk at DOC. For years this was a great benefit to the counties. However, several years ago, DOC became concerned that they could be personally held accountable/liable if a county inmate being housed at DOC under the Safekeeper Statute was injured or killed. Based on their concern, DOC has refused to admit any county inmates under for the last several years. This has created a significant security risk to our officers and other inmates in county detention centers who do not have the resources/staff to safely house high security risk inmates. The detention center and jail administrators are proposing an amendment to § 24-3-80 that DOC has indicated they would not oppose, which would authorize a general sessions court to issue a safekeeper order to transfer an extraordinary security risk prisoner in a pretrial detention facility to the custody of DOC.

The amendment language is as follows:

**SECTION 24-3-80. Detention of prisoner ~~when authorized by Governor~~ by the Department of Corrections.**

~~The director of the prison system shall admit and detain in the Department of Corrections for safekeeping any prisoner tendered by any law enforcement officer in this state by commitment duly authorized by the Governor, provided, a warrant in due form for the arrest of the person so committed shall be issued within forty-eight hours after such commitment and detention. No person so committed and detained shall have a right or cause of action against the State or any of its officers or servants by reason of having been committed and detained in the state prison system.~~

- (a) Whenever necessary to avoid an extraordinary security risk in a pretrial detention facility, the resident circuit court judge or any circuit court judge holding a term of the Court of General Sessions is authorized to order that a prisoner be transferred to the custody of the South Carolina Department of Corrections where the prisoner shall be held for such length of time as the court may direct.
- (b) For purposes of this section, a prisoner may be found to pose an extraordinary security risk if the prisoner:
  - (1) Poses an unusually high escape risk;
  - (2) Exhibits extremely violent and aggressive behavior that cannot be contained in a pretrial detention facility and warrants a greater level of supervision;
  - (3) Needs to be protected from other inmates, and a pretrial detention facility cannot provide such protection; or
  - (4) Otherwise poses an imminent danger to the staff of the pretrial detention facility or to other prisoners in the facility.
- (c) This section shall not be utilized as a means to acquire or provide the prisoner with medical or mental health care and services in the Department of Corrections.
- (d) The circuit solicitor, at the request of the sheriff or the appointed facility manager of the pretrial detention facility in the county where the prisoner is detained, may petition the Court of General Sessions for a safekeeper order. The petition shall be accompanied by sworn affidavit(s) and by all other admissible evidence demonstrating that the prisoner poses an extraordinary security risk as defined in this section and is thus an appropriate candidate for transfer to the Department of Corrections as a safekeeper. A copy of the petition shall be promptly served on the prisoner and his retained or appointed criminal defense attorney. The prisoner shall be entitled to a hearing to contest that petition. The hearing shall be held within five business days of the filing of the petition unless the court finds that additional time is warranted. A copy of the petition shall also be promptly delivered to the General Counsel for the Department of Corrections, and the Department shall have the right to request and participate in a hearing should the Department wish to contest whether the prisoner is an appropriate candidate for transfer under this section and any terms related thereto. If warranted by the evidence presented, the resident circuit judge or any circuit judge or any circuit court judge holding a term of the Court of General Sessions shall issue a safekeeper order setting forth the duration of the transfer to the Department of Corrections and such other stipulations as deemed appropriate.
- (e) After transfer to the Department of Corrections pursuant to a court order under this section, the prisoner, through his criminal defense counsel, shall have the right to petition the Court of General Sessions for a change in circumstances that would merit a termination of the safekeeper order or an amendment of its terms. The petition shall



- be accompanied by sworn affidavit(s) and other admissible evidence. If such a petition is filed, a hearing shall be held within thirty days of the filing date unless emergency circumstances warrant an expedited hearing. The circuit solicitor and the Department of Corrections shall each be allowed to participate in such hearing. The circuit solicitor and the Department of Corrections shall each similarly have the right to petition the Court of General Sessions for a change in circumstances that would merit a termination of the safekeeper order or an amendment of its terms. In such instance, the petition shall be accompanied by sworn affidavit(s) and other admissible evidence. Further, a copy of the petition shall be promptly served on the prisoner and his retained or appointed criminal defense attorney, who will have a right to participate in a hearing and contest petition.
- (f) The sheriff or the appointed facility manager of the pretrial detention facility in the county from which the prisoner is removed shall be responsible for transporting the prisoner to the Department of Corrections and for returning the prisoner to the pretrial detention facility from which the prisoner was transferred. The return shall be at the expiration of the time designated in the safekeeper order directing the transfer unless the Court of General Sessions, by appropriate order, directs otherwise. The sheriff or appointed facility manager of the pretrial detention facility designated in the court order shall receive and release the custody of the prisoner in accordance with the terms of the safekeeper order.
  - (g) The sheriff or appointed facility manager of the pretrial detention facility designated in the safekeeper order shall provide the Department of Corrections with all available and pertinent records relating to the prisoner, including but not limited to, any special facts, issues, or circumstances known to the sheriff or appointed facility manager of the pretrial detention facility concerning the particular propensities of the prisoner, the medical records for the prisoner, and any information as to security risks posed by the prisoner.
  - (h) All medical costs associated with the prisoner held by the Department of Corrections for safekeeping who develops a need for hospitalization or other special medical attention while in the custody of the Department of Corrections shall be the responsibility of the county from which the prisoner is removed.
  - (i) The sheriff or the appointed facility manager of the pretrial detention facility in the county from which the prisoner is removed shall be responsible for transporting the prisoner to any court hearings and to any scheduled medical appointments. In emergency situations, the Department of Corrections is authorized to provide transportation.
  - (j) No prisoner transferred to the custody of the Department of Corrections under this section shall have a right or cause of action against the State, its agencies and political subdivisions, and any of the officers or servants thereof, by reason of having been committed or detained in the Department of Corrections.
  - (k) This section is applicable only to requests for detention of unsentenced prisoners within the Department of Corrections and is not intended to impact nor to restrict the authority of the sheriff or appointed facility manager of the pretrial detention facility from arranging for the assignment of any such prisoners to a local regional correctional facility which may be created under the provisions of Section 24-3-27, nor from arranging for the temporary placement of any such prisoners in some other local detention facilities, either through mutual agreement or through official contract as indicated in Section 24-3-30(A).

**Status:** H. 4002 as originally drafted amends § 24-3-980 and provides that it is unlawful for an inmate under the jurisdiction of DOC to possess a telecommunication device unless authorized by the director. SCAC was successful in getting the bill amended in the House to also make it unlawful in county detention centers. Currently H. 4002, as amended, is pending before the

**Senate Corrections and Penology Committee. SCAC along with the SC Sheriffs' Association will attempt to get the proposed Safekeeper Statute amendment added to H. 4002 when the General Assembly returns in January.**

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

**Support amending H. 4002 to include the provisions proposed by the jail administrators and detention facility managers to amend the Safekeeper Statute.**

**Assaults on Public Employees**

In 2010, the General Assembly rewrote the assault and battery statutes and repealed several sections of state law that provided harsher penalties for assaults on correctional facility employees, emergency medical service providers, firefighters, and home healthcare workers.

S.C. Code §16-3-630, one section repealed, provided that a person convicted of assault upon a state or local correctional facility employee must serve a mandatory sentence of not less than six months nor more than five years. This sentence must be served consecutively with any other sentence the person is serving. By repealing this section, there is no "special treatment" provided to these employees whose jobs continually put them at risk for assault. Similarly, § 16-3-635 was repealed, which provided harsher penalties for assaults on emergency medical service providers, firefighters, and home healthcare workers. These public employees are more at risk for assault because of the nature of their duties. John Hicks, York County Chief Jail Administrator, has requested that SCAC support legislation to reinstate those repealed sections.

**Status: No legislation was filed in 2023.**

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

**Support legislation to reinstate §16-3-630 dealing with the assault on state and local correctional facility employees, and to reinstate § 16-3-635 dealing with the assault on emergency medical service providers, firefighters, and home health workers.**

## **Camp LeJeune Water Contamination Litigation**

The Camp Lejeune water contamination problem occurred at Marine Corps Base Camp Lejeune in Jacksonville, North Carolina, from 1953 to 1987. During that time, United States Marine Corps (USMC) personnel and families at the base bathed in and ingested tap water contaminated with harmful chemicals at all concentrations from 240 to 3,400 times current safe levels. An undetermined number of former residents later developed cancer or other ailments, which could be due to the contaminated drinking water.

In addition to multiple lawsuits being filed on this issue, federal legislation has been passed that allows affected veterans to file a claim for current benefits and death benefits under the “Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022,” also known as the “Honoring our PACT Act of 2022,” Public Law 117-168. Because an estate would have to be probated where death benefits are involved, this presents a problem when a death occurred more than 10 years ago, and no estate was probated previously. Section 62-3-108 of the SC Probate Code of Laws requires a probate action to be brought within 10 years of the decedent’s death. Survivors and beneficiaries have no recourse to obtain these death benefits for family members that died from exposure to the water contamination more than 10 years ago. Richland County Probate Judge Amy McCulloch is requesting that SCAC support legislation to amend § 62-3-108 to allow a probate action to be brought specifically for death related claims due to exposure to the contaminated water at Camp LeJeune, regardless of when the decedent died.

**Status: Legislation has been drafted to be filed in 2024.**

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

**Support legislation to amend § 62-3-108 to allow a probate action to be brought specifically for death related claims due to exposure to the contaminated water at Camp Lejeune, regardless of when the decedent died.**

## **Changes to Article V of the Probate Statutes**

The Uniform Guardianship and Protective Proceedings Act, S.C. Code Ann. §§ 8-21-800 (2019); 62-1-112, -302, -401; 62-5-101 to -716 (Supp. 2018) (effective January 1, 2019), substantially altered the Probate laws and procedures relating to Guardianship and Conservatorship proceedings.

Instead of the dichotomy of the prior law – a person being deemed “incapacitated” and losing his or her rights, or a person being deemed to have capacity and retaining all of his or her rights, a full Guardianship/Conservatorship (GC), or no GC – the Act introduced much more nuance. Capacity became more akin to a bundle of rights, and the Petitioner, the Physician Examiner, the Guardian *Ad Litem* must each opine, and the Court must render a judgment, as to what rights the incapacitated individual retains and what rights the incapacitated individual loses. In addition to this newfound focus on rights, the Act also attempted to make the GC process easier and less costly, the Act sought to make the GC process more uniform in South Carolina’s 46 probate courts.

After January 1, 2019, when the new law took effect, the Guardianship and Conservatorship Sub-Committee of the Elder Law Committee of the SC Bar solicited feedback from judges, attorneys, and other interested parties, to ascertain what was working with the new law and what improvements could be made.

Below are the recommended statutory changes:

- S.C. Code Ann. § 62-5-103 – Clarifies that the \$15,000 threshold triggering the need for a minor or adult conservatorship is annual and not collectively.
- S.C. Code Ann. § 62-5-106 – Provides that the Guardian *Ad Litem* must submit his or her report to the Court at least 72 hours prior to a hearing, not 48, as is current law.
- S.C. Code Ann. § 62-5-108 – Clarifies the process for Emergency Orders vs. Temporary Orders, and how an Emergency Order can convert to a Temporary Order. This is currently being interpreted differently by different courts. S.C. Code Ann. § 62-5-404A – Expands who can serve as a Designated Examiner. Currently, a Designated Examiner must be a physician. This change allows a nurse practitioner, and, at the discretion of the Court, a physician assistant, psychologist, or nurse, to serve as the Examiner. Particularly in rural areas, it has proven difficult and expensive to obtain a physician to complete the necessary forms and serve as Examiner. This change allows more flexibility, and should reduce the costs to members of the public, particularly in uncontested cases. Additionally, the proposed changes provide that examinations via telehealth are permissible.
- S.C. Code Ann. § 62-5-303C – Clarifies the process for having a formal hearing vs. informal hearing, and the presence of the allegedly incapacitated individual at the hearing.
- S.C. Code Ann. § 62-5-303D(B) – Gives the probate court discretion with regard to an Examiner’s Report becoming stale. Currently, Examiner’s Reports must be completed within 90 days of the filing of a Petition. The change gives the Court discretion to accept an Examiner’s Report more than 90 days old.
- S.C. Code Ann. § 62-5-307 – Clarifies the ability of a Ward to submit a request to the Court for a modification or termination of his or her Guardianship and/or Conservatorship.
- S.C. Code Ann. § 62-5-401 – Clarifies that, in the case of a minor conservatorship, the proper venue in which to file is the county in which the minor resides or owns property. The current venue statute is silent as to actions involving a minor conservatorship.
- S.C. Code Ann. 62-5-405(A)(1) – Requires the filing of a Lis Pendens in the context of a Petition for Sale of Real Estate by the Conservator.

- S.C. Code Ann. § 62-5-422(B)(3) – Clarifies that a Lis Pendens is required when selling real property of the Conservatorship.
- S.C. Code Ann. § 62-5-422(B)(16) – Allows a Conservator to file an application to create a Special Needs or other Trust, instead of having to file a Summons and Petition, with a \$150 filing fee and personal service requirements.
- S.C. Code Ann. § 62-5-526 – Clarifies the procedure for filing a creditor’s claim against a Conservatorship, making it mirror the process for filing claims against a probate estate.
- S.C. Code Ann. § 62-5-433 - Clarifies that the Guardian *Ad Litem* referenced in the statute pertaining to the minor or incapacitated adult settlement procedure does not refer to the Guardian *Ad Litem* defined in the probate code, but is instead the Guardian *Ad Litem* referenced in Rule 17, SCRCP.
- S.C. Code Ann. § 62-5-715 - Allows the Court more discretion as to what types of documents it requires in the transfer of a Guardianship or Conservatorship from another state or jurisdiction.
- S.C. Code Ann. § 62-5-716 – Concerns the registering of a Guardianship Order from another state with the South Carolina Probate Court, and acknowledges that in some other jurisdictions, a Guardian also holds the powers of a Conservator.

H. 4234 was introduced in 2023 and encompasses all of these recommended changes. Richland County Probate Judge Amy McCullough is requesting that SCAC support H. 4234.

**Status: H. 4234 is pending in the House Judiciary Committee.**

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

**Support H. 4234 and the recommended changes to the statutory provisions pertaining to the procedures for Guardianship and Conservatorship proceedings.**

### **Coroner Qualifications**

South Carolina is one of the only states in the country with established educational and/or experience-based qualification requirements for those running for the office of coroner. Medicolegal death investigation personnel are proud of these requirements as this profession has become more specialized, technical, research-based, and scientific. The public has also become more aware of the important role of coroners.

SC Code Section 17-5-130 details the requirements to run for this important office. Currently, a candidate is considered qualified to run if they are:

*“enrolled in a recognized forensic science degree or certification program to be completed within one year of being elected to the office of coroner.”*

The medicolegal death investigation profession does not consider someone “enrolled” in the program to be qualified. Also, citizens expect their elected officials to be qualified at the time they take office, not within one year of being elected. Further, there is no process to confirm that an individual is “enrolled” in a program or that they complete the program within one year. There is also no consequence for those who do not follow the law by failing to complete the program within one year of being elected. H. 3865, which was introduced in 2023, provides that paramedics with three years of experience, are qualified to serve as a coroner. Bobbi Jo O’Neal, Charleston County Coroner is requesting that SCAC support an amendment to H. 3865 to delete the provision found in § 17-5-130(A)(2)(e) that qualify a candidate to run if they are “enrolled” in a program.

**Status:** H. 3865 is pending in the Senate Judiciary Committee. H. 3050 provides that a candidate for coroner must be a resident in the county of the office they are seeking at the time of filing rather than one year before filing. H. 3050 is pending before the House Judiciary Committee.

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

**Support legislation to amend the coroner qualifications found in § 17-5-130 by:**

- (1) Deleting the provision in § 17-5-130(A)(2) that allows a candidate to run for coroner if they are “enrolled in a recognized forensic science degree or certification program to be completed within one year of being elected to the office of coroner.”**
- (2) Adding a provision that requires a candidate to submit a sworn affidavit along with supporting documents at the time of filing certifying that they meet the qualifications to serve as a coroner.**

#### **Cremation Permits**

South Carolina coroners are mandated by SC Code Section 17-5-600 to issue a permit authorizing a decedent to be cremated. The process for issuing this permit is lengthy, detailed, and costly to county governments. It is an investigative process that ensures that a decedent is not cremated prior to a full medicolegal death investigation by the jurisdictional coroner. Currently, many county coroners charge a nominal fee for this process which is billed to the funeral home requesting the permit, who then

passes that cost on to the consumer requesting cremation. In 2022, the Charleston County Coroner's office issued 3,064 cremation permits. They currently charge a \$35.00 fee to cover the investigative and administrative time required to complete the permit. It can only be issued by investigative personnel (coroner, deputy coroner, medical examiner, or deputy medical examiner) and not by administrative personnel.

A bill was introduced in 2023 (H. 3017) that would prevent coroners from charging a fee for cremation permits. If a fee is not charged to cover the cost of personnel time, each county government will need to cover this cost. This cost would then be passed on to the taxpayers, as opposed to the consumer who requested the service. Bobbi Jo O'Neal, Charleston County Coroner is requesting that SCAC oppose H. 3017 and any legislation that would prohibit coroners from charging a cremation permit fee.

**Status: H. 3017 is pending in the House Labor, Commerce and Industry Committee.**

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

**Oppose H. 3017 and any legislation that prevents coroners from charging a fee for cremation permits.**

### **Hazard Mitigation Cost-Sharing**

Hazard mitigation involves long-acting actions to reduce risk and damage in future hazard events. On average, federally funded hazard mitigation saves \$4 to \$6 for every \$1 spent (depends on types of mitigation and type of hazard).

The South Carolina Emergency Management Division (SCEMD) is the state administering entity for the Hazard Mitigation Grant Program (HMGP) funds in South Carolina and currently manages \$165 million in federal pre- and post-disaster mitigation funds. It maintains and uses a grants management system that serves as a repository for grant project documentation and supports review and processing of reimbursements in accordance with federal and state regulations and policy.

Local entities in South Carolina use federal mitigation funds to accomplish high-priority projects with the greatest potential return on investment. However, because many local governments struggle to come up with the non-federal share (25%) for mitigation grants, many high-value potential projects are never submitted for funding.

Hazard mitigation saves money in the long run and funding the non-federal match (25%) with state funds will improve South Carolina communities' resilience when hazards like floods, hurricanes, earthquakes, and severe storms occur in the future.

Doug Bryson, Spartanburg County Director of Emergency Services, requests that SCAC support legislation for mitigation cost share with the following language:

When the President of the United States has declared a major disaster to exist in the state and authorized implementation of the Hazard Mitigation Grant Program (HMGP), matching funds to cover up to 25 percent in non-federal share of eligible HMGP-funded projects will be provided from state funds. Once the Federal Emergency Management Agency has awarded an HMGP project and authorized federal funding to the state, reimbursement of non-federal share under this subsection will be administered by the South Carolina Emergency Management Division (SCEMD) concurrent with reimbursement of federal share funds and in accordance with HMGP regulations and policy.

**Status: No legislation was introduced in 2023.**

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

**Support legislation that addresses mitigation cost share with the following provision:**

**When the President of the United States has declared a major disaster to exist in the state and authorized implementation of the Hazard Mitigation Grant Program (HMGP), matching funds to cover up to 25 percent in non-federal share of eligible HMGP-funded projects will be provided from state funds. Once the Federal Emergency Management Agency has awarded an HMGP project and authorized federal funding to the state, reimbursement of non-federal share under this subsection will be administered by the South Carolina Emergency Management Division (SCEMD) concurrent with reimbursement of federal share funds and in accordance with HMGP regulations and policy.**

#### **Increasing Emergency Medical Technicians**

Many counties, especially rural counties, are dealing with a shortage of trained EMTs. Not only are they dealing with the challenge of losing EMTs to other counties or private entities that pay more after they have made the investment to have them trained, the technical schools and regional EMS training offices are producing less EMTs. Charles Stewart, Darlington County Administrator, is requesting that SCAC support legislation to create a study committee composed of the various stakeholders to come up with recommendations of ways to increase the number of EMTs in our state.

**Status: No bills were introduced in 2023.**



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

**Support legislation to create a study committee composed of the various stakeholders to come up with recommendations of ways to increase the number of EMTs in our state.**

**Juveniles in Local Detention Facilities**

Beginning on July 1, 2019, the age of juveniles for criminal justice purposes was raised to include 17-year-olds pursuant to Act 268 of 2016. The Senate Select Committee on Raise the Age studied the implementation of Act 268 of 2016. The Committee produced a report in 2020 with recommendations to the General Assembly and since that time, several bills were introduced to amend the Constitution to provide for separate confinement of juveniles from “under the age of 17” to “under the age of 18.” S. 43 is the latest bill to be introduced that would accomplish this. The jail administrators and detention center facility managers are requesting that SCAC support S. 43.

**Status:** S. 43 proposes an amendment to Section 3, Article XII of the Constitution of South Carolina to change the age for which the General Assembly shall provide for the separate confinement of juvenile offenders from "under the age of 17" to "under the age of 18." S. 43 is pending in the Senate Judiciary Committee.

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

**Support S. 43 that amends the Constitution to change the age of juvenile offenders from “under the age of 17” to “under the age of 18.”**

**Law Enforcement Officers / Judicial Privacy**

Act No. 56 of 2023 was signed into law by the Governor on May 19, 2023. The legislation goes into effect on July 1, 2024. There is a provision in the Act that requires the South Carolina Criminal Justice Academy and the South Carolina Court Administration to create a form to be used respectively by law enforcement members and members of the judiciary to request the redaction of their personal information from public records. One of the main concerns raised by clerk of courts and registers of deeds is that without knowing exactly what public documents contain the personal information, they

may not redact all of the personal information of a requestor and might be held liable for failing to do so.

Margaret Bailey, Dorchester County Register of Deeds, is requesting that SCAC support legislation to require law enforcement or members of the judiciary requesting their personal information be redacted to specify which documents contain their personal information. Also, the redaction should be limited to online documents only.

**Status: Act No. 56 of 2023 goes into effect on July 1, 2024.**

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

**Support legislation to amend Act 56 of 2023 to require law enforcement and members of the judiciary that are requesting that their personal information be redacted to specify which documents contain their personal information. Also, the redaction should be limited to online documents only.**

**Non-Emergency 911 Calls**

Florence County often receives calls to their 911 dispatchers that are either non-emergency matters or outright false claims of an emergency. For example, someone called in complaining of a health emergency that resulted in an ambulance being dispatched and transporting the person only for them to get the ER and walk away once they got out of the ambulance. It turns out they were simply using 911 to get an ambulance as a means of transportation. In another example, a parent called 911 because they couldn't get their child to get out of bed to go to school. These calls waste county resources and there should be some type of penalty to discourage them. Section 16-17-725 provides that is unlawful for a person to knowingly make false complaint to a law enforcement officer concerning the alleged commission of a crime by another, or for a person to knowingly give false information to a rescue squad or fire department concerning the alleged occurrence of a health emergency or fire. A person who violates this provision is guilty of a misdemeanor and, upon conviction, must be fined not more than \$200 or imprisoned for no more than 30 days. Florence County Administrator Kevin Yokim is requesting that SCAC support legislation similar to § 16-17-225 to make it a criminal offense to knowingly make a non-emergency 911 call.

**Status: No bills were introduced in 2023.**

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

**Support legislation similar to § 16-17-225 to make it a criminal offense to knowingly make a non-emergency 911 call.**

**Probate Court Contempt Orders**

Section 44-17-580 authorizes probate court to order in-patient or out-patient treatment to a person that is determined to be mentally ill and needs involuntary treatment because of their condition.

Section 14-23-320 authorizes probate court to apprehend and imprison a person who fails to comply with an order for mental health treatment. Detention facilities are not designed, equipped, or funded to care for the needs of individuals experiencing mental health crisis, and the contempt power of the probate court to incarcerate is designed to be an incentive for the person with a mental health illness to comply with treatment. Richland County Probate Judge Amy McCullough believes § 44-17-580 needs to be amended to provide a clear procedure to help ensure that a person in need of mental health treatment gets the help they need while under the jurisdiction of the probate court order.

Judge McCullough is requesting that SCAC support legislation to amend § 44-17-580 with the following language:

**SECTION 44-17-580.** Hospitalization of person if court finds mental illness and other conditions.

(A) If, upon completion of the hearing and consideration of the record, the court finds upon clear and convincing evidence that the person is mentally ill, needs involuntary treatment and because of his condition:

(1) lacks sufficient insight or capacity to make responsible decisions with respect to his treatment;  
or

(2) there is a likelihood of serious harm to himself or others, the court shall order in-patient or out-patient treatment at a mental health facility, public or private, designated by the Department of Mental Health and may order out-patient treatment following in-patient treatment. If the court finds that the person is not mentally ill and not in need of involuntary treatment, the court shall dismiss the proceedings.

(B) If the court orders out-patient treatment and the respondent fails to adhere to the prescribed out-patient treatment order or program, the treatment facility shall report the failure to the court and the court upon notice to the respondent and his counsel shall order a supplemental hearing and may further order in-patient treatment in a designated facility as needed. The probate court issuing the order for out-patient treatment shall maintain jurisdiction over the person for the purpose of supplemental proceedings as set forth in this chapter and every order issued pursuant to this subsection must be so

conditioned. An order for in-patient treatment at a mental health facility does not raise a presumption of incompetency and no rights may be denied a person unless specifically ordered by the court.

(C) If the court determines that the respondent is in contempt of their treatment order and as such places the respondent in a local detention center for that contempt, a review hearing on the contempt must be held at least every seven (7) days to address the respondent's willingness to comply with the treatment order. If the court receive notice from the respondent, respondent's counsel, detention center administration, or respondent's family that the respondent is ready to comply with treatment, the court shall hold a hearing within twenty-four (24) hours on the contempt to address the respondent's willingness to comply with the treatment order.

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

**Support legislation to amend § 44-17-580 with the following language:**

**(A) If, upon completion of the hearing and consideration of the record, the court finds upon clear and convincing evidence that the person is mentally ill, needs involuntary treatment and because of his condition:**

**(1) lacks sufficient insight or capacity to make responsible decisions with respect to his treatment; or**

**(2) there is a likelihood of serious harm to himself or others, the court shall order in-patient or out-patient treatment at a mental health facility, public or private, designated by the Department of Mental Health and may order out-patient treatment following in-patient treatment. If the court finds that the person is not mentally ill and not in need of involuntary treatment, the court shall dismiss the proceedings.**

**(B) If the court orders out-patient treatment and the respondent fails to adhere to the prescribed out-patient treatment order or program, the treatment facility shall report the failure to the court and the court upon notice to the respondent and his counsel shall order a supplemental hearing and may further order in-patient treatment in a designated facility as needed. The probate court issuing the order for out-patient treatment shall maintain jurisdiction over the person for the purpose of supplemental proceedings as set forth in this chapter and every order issued pursuant to this subsection must be so conditioned. An order for in-patient treatment at a mental health facility does not raise a presumption of incompetency and no rights may be denied a person unless specifically ordered by the court.**

**(C) If the court determines that the respondent is in contempt of their treatment order and as such places the respondent in a local detention center for that contempt, a review hearing on the contempt must be held at least every seven (7) days to address the respondent's willingness to comply with the treatment order. If the court receives notice from the respondent, respondent's counsel, detention center administration, or respondent's family that the respondent is ready to comply with treatment, the court shall hold a hearing within twenty-four (24) hours on the contempt to address the respondent's willingness to comply with the treatment order.**

## Seized Animal Cost of Care

H. 3682, as introduced, would do away with the ability of law enforcement to place a lien on animals for the cost of providing care when they were seized because of the arrest of the owner. In place of the lien, the bill would allow the entity providing care to petition a court to order the owner to pay for the cost. Failure of the owner to make the payment for the cost of care ordered would result in forfeiture of the animal or animals to the entity providing the care. However, the owner also has the option to forfeit the animals instead of making the cost of care payments. The Senate Agriculture and Natural Resources Committee amended the bill to provide **that if the animal owner is adjudicated not guilty, the owner would be entitled to reimbursement of the cost of care, interest, and court fees from the entity providing care for the animal. This reimbursement cost could ultimately fall back on the county even if they had no involvement in the arrest of the owner or seizure of the animals. While SCAC staff believes the bill as originally drafted is a concept counties would support, they are concerned that the amendment could be costly to counties.**

**Status:** H. 3682 is currently pending second reading on the Senate contested calendar.

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

**Oppose H. 3682 and similar legislation as long as it's revenue negative to counties.**

# 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

Pursuant to South Carolina Code 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. Horry County asks that SCAC support indexing 911 fees for inflation.

**Status:** No bills were introduced in 2023.

### 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.

**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.**

### **Animal Control – Pit Bulls**

A bill will likely be introduced next year similar to H. 4094, which was introduced in 2021. H. 4094 would have enacted “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 have established a breed determination procedure, where local governments would be asked to determine if a dog is a pit bull. The bill also requires that counties and cities enforce the provisions of the bill, and local governments would have to use funds collected to alter pit bulls at a reduced cost.

**Status: No bills were filed in 2023.**

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

**Oppose legislation that would mandate dog breed registration by local governments.**

### **Reimbursement for Firefighter Training Costs**

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.

SCAC staff asks that the steering committee consider supporting legislation 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. 3463 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 amount of reimbursement decreases by 50%**

**if the firefighter leaves to work for another department after working a year but less than two years for the fire department that paid for the training. H. 3463 is currently pending before a Senate Judiciary subcommittee.**

**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 if the firefighter is hired by the second entity within two years of training completion.**



## 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.*

### Cell Phones in Jails

Contraband, particularly cell phones, has been a serious problem in correctional and jail settings. Smuggled cell phones have enabled inmates to conduct criminal activity in jails and prisons such as ordering murders and coordinating escapes and major drug trafficking rings.

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 County Correctional Facility 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. Horry County requests that SCAC support legislation that would aid in the elimination of cell phone use by inmates.

**Status:** H. 4002 as originally drafted, would have provided that it is unlawful for an inmate under the jurisdiction of the Department of Corrections to possess a telecommunication device

unless authorized by the director. SCAC was successful in getting the bill amended in the House to also make it unlawful in county detention centers. Currently H. 4002, as amended, is pending before the Senate Corrections and Penology Committee. H. 3189 and S. 117 authorize SLED, the Department of Corrections, or a detention facility to apply for an ex parte court order to have a cellular provider suspend services to contraband cell phones that are detected in a prison or detention facility. H. 3189 is pending in the House Judiciary Committee and S. 117 is pending in the Senate Corrections and Penology Committee.

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

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

**Medicaid Benefits for Former Inmates**

Federal law prohibits the use of Medicaid funds for services provided to an “inmate of a public institution,” which includes people who are incarcerated in jails, prisons, detention centers or other correctional facilities. Known as the “Medicaid Inmate Exclusion Policy,” this policy has resulted in states terminating or suspending benefits for people who receive care through Medicaid, even if they are incarcerated for a short period of time. Once incarcerated, the individual’s health care becomes the responsibility of the state and local governments that run the over 1,800 state prisons and 3,000 local jails nationwide. Shifting between two systems of health care causes many people to become disconnected from treatment, disrupting their overall health.

Beaufort County requests that SCAC support legislation to authorize the Department of Corrections and local detention facilities to suspend, rather than terminate, Medicaid benefits for inmates so that these benefits can resume immediately upon release, and to provide that any benefit received by a pretrial detainee prior to conviction cannot be suspended until a guilty verdict is rendered.

**Status: No bills were introduced in 2023.**

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

**Support legislation to authorize the Department of Corrections and local detention facilities to suspend, rather than terminate, Medicaid benefits for inmates so that these benefits can resume immediately upon release, and to provide that any benefit received by a pretrial detainee prior to conviction cannot be suspended until a guilty verdict is rendered.**

**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 legislation. However, the bill failed to pass. Horry County requests that SCAC support legislation that encompasses the compromise language of S. 1017 of 202 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 to this legislation.

**Status: No bills were introduced in 2023.**

**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 to this legislation.**

### 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.*

### Auditor's and Assessor's Endorsements on Deeds

South Carolina Code Section 30-5-80 provides that before any deed to convey real property can be recorded by the register of deeds 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 25 cents for making the entry and endorsing the deed.

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).

Aiken County and the South Carolina Association of Clerks of Court and Registers of Deeds have requested that SCAC support legislation that would repeal §§ 8-21-130, 30-5-80 and strike the second sentence of § 12-39-260(A) to remove the requirements that all deeds must be endorsed by the county auditor before being filed with the register or clerk of court. Additionally, they would like SCAC to support legislation to amend existing statutes as follows:

- (1) 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
- (2) 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.~~

**Status:** H. 3608 and S. 355 would provide all of the necessary amendments to the statutes to allow deeds to be recorded without the endorsement of the county auditor. Both bills would also repeal the statutory provisions that require all deeds to be endorsed by a county auditor before being filed with the register or clerk of court. H. 3608 is pending before the House Judiciary Committee, while S. 355 is pending before the Senate Finance Committee.

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

**Support legislation that would repeal §§ 8-21-130, 30-5-80 and strike the second sentence of § 12-39-260(A) to remove the requirements that all deeds must be endorsed by the county auditor before being filed with the register or clerk of court. Additionally, support legislation to amend existing statutes as follows:**

- (1) (1) 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
- (2) 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.~~

## Deed Standardization

Tim Nanney, Register of Deeds for Greenville County has raised this issue. There is a lot of important information listed on deeds. Because there are no uniform standards as to where this information is placed on the deed, it is often hard to find. Also, the attorney preparing the deed often fails to leave space for the deed stamps. Mr. Nanney requests that SCAC support legislation to establish some uniform standards for deeds as well as a non-compliance fee if the deed does not meet the proposed statutory requirements.

**Status: No bills were introduced in 2023.**

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

**Support legislation that would establish uniform standards for deeds as well as a non-compliance fee if the deed does not meet the proposed statutory requirements.**

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

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 Assistant Administrator Barry Spivey requests the steering committee to support legislation to 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 to pay for the program.

**Status: No bills were introduced in 2023.**

**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 five years and to support legislation that provides a recurring funding source from existing or additional criminal, civil, and regulatory fees and fines to pay for the program.**

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**2023**

**Revenue, Finance  
and Economic Development  
Steering Committee**



**SOUTH CAROLINA  
ASSOCIATION OF COUNTIES**

**December 1, 2023**

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# 2023 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:

Wednesday, September 20, 2023  
Thursday, November 9, 2023

**Jason P. Phillips, Chairman**  
Anderson County

## Steering Committee Members\*

### County Representatives:

Noah O. Alexander, Hampton County Council Chairman  
Marvin Bishop Jr., Cherokee County Interim Administrator  
Johnny Cribb, Berkeley County Supervisor/Chairman  
Willard Dorriety Jr., Florence County Council Chairman  
Kaitlyn E. Guinn, Kershaw County Council Chairwoman  
James E. Haigler, Calhoun County Council Chairman  
Johnny Ravenell, Orangeburg County Council  
Barry Spivey, Horry County Assistant Administrator

### SCAC Board Members:

Daniel Alexander, Barnwell County Council  
C. David Chinnis, Dorchester County Council Vice Chairman  
Roy Costner III, Pickens County Council Vice Chairman  
Tim Harper, Dillon County Administrator  
Charles T. Jennings, McCormick County Council Chairman  
Herman G. "Butch" Kirven Jr., Greenville County Council  
Debra B. Summers, Lexington County Council  
Phillip M. Taylor Sr., Colleton County Council Vice Chairman

### President's Appointees:

Rick Dolan, Lexington County Assessor  
Jesica Mackey, Richland County Council Vice Chairwoman  
James H. Messervy Jr., Dorchester County Auditor  
Gary M. Mixon, Sumter County Administrator  
Dr. Anna Maria Tabernik, Beaufort County Council  
Brad Valentine, Union County Auditor  
Henry Wilson, Pickens County Council  
Kevin V. Yokim, Florence County Administrator

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

# **2023 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

## Assessment Ratio on Vehicles

As many areas throughout the state continue to see unprecedented growth, many counties would like as much flexibility as possible to obtain additional revenue while also gaining more flexibility in their ability to provide tax relief to their residents. In 2017, Jasper County reduced the assessment ratio on aircraft to 4% and this year they exempted 42.75% of fair market value on watercraft. Vehicle taxes are regressive in nature and disproportionately impact low-income residents. Currently, the only way for a county to reduce vehicle owners' out-of-pocket expenses for vehicle tax is to lower the overall county millage. Andy Fulgham, Jasper County Administrator, would like the steering committee to support legislation allowing a county the option, by ordinance, to reduce the assessment ratio for motor vehicles. Counties are permitted to reduce assessment ratios for aircrafts in Section 12-43-360 and for watercraft in Section 12-37-220(B)(38).

**Status:** No legislation was introduced in 2023.

### Steering Committee's Recommended Policy Position:

**Oppose legislation allowing counties, by ordinance, to reduce the assessment ratio for motor vehicles.**

## Capital Project Sales Tax Flexibility

Joe Passiment, Beaufort County Council Chairman, requests that the steering committee support legislation to provide flexibility to counties in the imposition of a Capital Project Sales Tax. Specifically, Chairman Passiment would ask for support to extend the reimposition time of this tax to beyond seven years.

**Status:** S. 116 would extend the length of a reimposed tax from seven to eleven years. The bill was referred to the Senate Finance Committee.

### Steering Committee's Recommended Policy Position:

**Support legislation to extend the imposition time of the Capital Project Sales Tax for up to twelve years.**

## Class Action Lawsuits

Section 12-60-80 of the S.C. Code lacks clarity as to whether or not taxpayers in South Carolina are able to file class action lawsuits against taxing authorities for the refund of taxes. Bradley Farrar, Aiken County Attorney, requests the steering committee support legislation affirming that class action lawsuits against taxing authorities in the state are prohibited.

**Status: No legislation was introduced in 2023.**

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

**Support legislation affirming that class action lawsuits against taxing authorities in the state are prohibited**

## Farm Structures Tax Exemption Relief

Act 236 of 2022 included a provision adding “all farm buildings and agricultural structures owned by a producer in this State used to house livestock, poultry, crops, farm equipment, or farm supplies” to the list of exemptions from property taxes provided for in § 12-37-220(B)(14). Jim Moore, Saluda County Council Chairman, requests this steering committee support legislation that would help alleviate the financial burden that this provision in Act 236 of 2022 placed on counties.

**Status: No legislation was introduced in 2023.**

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

**Support legislation that would help alleviate the financial burden that the farm exemption in Act 236 of 2022 placed on counties.**

## Legal Residence for Foreign Nationals

Florence County asks the committee to support legislation to require a foreign national to have a permanent residence card to qualify for the 4% assessment ratio. Current law is not clear as it relates to foreign nationals applying for legal residence which leads to increased confusion and litigation.

**Status: No legislation was introduced in 2023.**

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

**Support legislation to clarify who qualifies for the 4 % assessment ratio when it comes to foreign nationals and legal residency.**

**License Plates**

Roy Costner, Pickens County Council Vice Chairman, requests that the steering committee support legislation to require the Department of Motor Vehicles (DMV) to put the name of the county where a vehicle is registered on license plates.

**Status: No legislation was introduced in 2023.**

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

**Support legislation to require the DMV to put the name of the county where a vehicle is registered on license plates.**

**Municipal Transfers**

Under § 6-1-330, local governments must use revenue derived from service or user fees to pay costs related to the provision of the services for which the fee was paid. The South Carolina Supreme Court in *Azar v. City of Columbia* stated that there must be some nexus between the underlying purpose of the expenditure and the City's provision of water and sewer services. In this case, the City of Columbia used revenue generated in their water and sewer Enterprise Fund for economic development expenses. The Justices concluded their analysis by stating that the "statutes do not allow these revenues to be treated as a slush fund."

It appears as though some municipalities are continuing to use surplus revenues generated by their utilities for non-related purposes under the guise that the money is surplus revenue and therefore falls under § 6-21-440. Section 6-21-440 allows a local government to use "surplus revenues" for unrelated purposes at the local government's discretion after the utility system's operating and maintenance expenses and bond principal and interest expenses have been paid.

SCAC anticipates legislation being introduced to require surplus revenues of public utilities to be used for purposes related to the public utility and prohibit municipalities from using surplus revenues to supplement their general fund.

**Status: No legislation was introduced in 2023.**

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

**Support legislation to prohibit a municipality from using surplus revenues of any utility owned by the municipality to supplement the municipality's general fund.**

**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, Kevin Yokim, Florence County Administrator, requests the steering committee support legislation allowing for online publications to meet the requirement for public notice.

**Status: No legislation was introduced in 2023.**

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

**Support legislation allowing for online publications to meet the requirement for public notice.**

**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.**

**Masters in Equity Judicial Retirement**

SCAC staff anticipates the Masters in Equity requesting legislation allowing them to participate in the Judges and Solicitors Retirement System (JSRS). As a result, counties with Masters in Equity would be contributing sponsors of the plan and would share the cost and financial risk with the state. With the current unfunded accrued liability of JSRS over \$240 million and the funded ratio of the System having decreased significantly, there would be a significant fiscal impact on counties if such legislation were to be enacted.

**Status: No legislation was introduced in 2023.**

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

**Oppose legislation allowing Masters in Equity to participate in the Judges and Solicitors Retirement System (JSRS) due to the significant fiscal impact this would have on counties.**

**Short Term Rentals**

Section 6-1-500, 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. Staff anticipates several bills being filed in 2024 to address short-term rentals and counties' ability to collect local accommodations tax revenue from these properties.

**Status:** As introduced, H. 3253 would prohibit counties from enacting or enforcing an ordinance, resolution, or regulation that prohibits the rental of a residential dwelling to a short-term guest. An amendment was proposed at a House 3M subcommittee meeting that would require the remittance of local accommodations taxes to counties. While the amendment would likely still contain some restrictions on a county's ability to regulate short-term rentals, SCAC is involved in talks with affected entities and will continue to keep counties' best interests in mind during negotiations.

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

**Support legislation requiring the remittance of local accommodations taxes on short term rentals to counties.**



# Carryover Issues

## 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. 635 was introduced in 2023 and would change the registration period of motor vehicles from biennial to annual. The bill would also require all counties to be compliant with the latest version of CIDRS-2. S. 635 was referred to the Senate Transportation 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).**

## 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 %, respectively, to 6 % and the assessment ratio on second homes and commercial property from 6 to 5%.

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 2023.

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

**Oppose any legislation that would reduce the assessment ratio on commercial property from 6% to 5%.**

**County and University Economic Development Ventures**

Roy Costner, Pickens County Council Vice 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: No legislation was introduced in 2023.**

**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 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 2023.**

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

**Support legislation allowing counties the same authority as municipalities in imposing both insurance premium taxes in the unincorporated areas of the county. Also, support legislation allowing counties to impose 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 advertising requirements to be met prior to the sale. Horry County would like to see the section amended to give the official responsible for 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 for judicial sales the option of conducting sales online.

**Status: S. 620 and H. 3821 would allow counties to conduct delinquent tax sales online. H. 3821 would require counties that elect to conduct their sales online to provide public access to the sale by computer terminals at a public location and would also limit the fee that may be charged to the purchaser at the sale of property over and above the winning bid amount to \$250. S. 620 was referred to the Senate Finance Committee and H. 3821 was referred to the House Judiciary Committee.**

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

**Support legislation to allow counties to conduct delinquent tax sales online, and support legislation to allow the official responsible for judicial sales the option to conduct sales online.**

**Homestead Exemption Increase**

The \$50,000 threshold for the 4 % special assessment ratio provided by the homestead exemption has been in place for years. Each year there are bills filed to increase the threshold, but no bills have passed as of yet. The County Assessors of South Carolina (CASC) requests SCAC support legislation increasing this threshold as long as the outcome is revenue neutral for counties.

**Status: H. 3127 and H. 3423 would increase the exemption to \$100,000 and H. 3927 would increase the exemption to \$75,000. All three bills were referred to the House Ways and Means Committee. All bills provide that any revenues lost to counties must be reimbursed from the Trust Fund for Tax Relief.**

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

**Support increasing the current \$50,000 threshold as long as the outcome is revenue neutral for counties.**

**Homestead Exemption Qualification**

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% special assessment ratio and be receiving the 4 percent special assessment ratio.

**Status: No legislation was introduced in 2023.**

**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 % special assessment ratio and be receiving the 4 % 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: No legislation was introduced in 2023.**

**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. Jim Moore, Saluda County Council Chairman, 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 2023.**

**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.**

**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 in 2023.**

### **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% sales and use tax for transportation projects. The tax will end after 25 years. The county has spent \$125 million 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 \$500 million 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: Proviso 113.8 allows a county that has Capital Project Sales Tax 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.**

**S. 290 would define “mass transit system” in the Local Transportation Tax statute as “any service, project, or accompanying infrastructure to establish, enhance, operate, plan, administer, maintain, replace, or improve access to public transit service that is regular, continuing shared-ride or shared-use surface transportation services that are made available**

by a public entity and are open to the general public or open to a segment of the general public.” The bill was referred to the Senate Finance Committee.

S. 562 and H. 4059 would add “buses, subways, light rail, commuter rail, trolleys, and ferries: aviation: railways: maritime: transportation infrastructure” to the list of projects that may be funded by transportation sales tax programs. The bills were referred to the Senate Finance Committee and House Ways and Means Committee, respectively.

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

**Support legislation to amend the Code to allow for the imposition of local school taxes enacted by the General Assembly, a Local Transportation Tax, and any other penny tax enacted pursuant to Section 4-10, or a combination of any of the above.**

**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.

Horry County Council member Cam Crawford 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.

**Status: No legislation was introduced in 2023.**

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

**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.**



## 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, county attorney for 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.

**Status: No legislation was introduced in 2023.**

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

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

## 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% of a circuit judge’s salary. In counties with a population range of 50,000 to 150,000, a magistrate is paid 45% of a circuit judge’s salary. In counties with a population less than 50,000, a magistrate is paid 35 % of a circuit judge’s salary.

Legislation has previously been introduced to provide that all magistrates be paid a base salary of 55% 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 the 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:** The 2023 budget adopted by the General Assembly included a supplement for magistrates. Full-time magistrates received a \$10,000 increase in their base salary. Part-time magistrates received a \$2,500 increase in their base salary. These salaries will remain decoupled from the circuit court judge salaries.

**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 Flexibility**

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. Kershaw County requests this steering committee to support any legislation that provides aid to county fire departments.

**Status:** S. 781 and H. 4294 would allow counties to suspend the millage cap limitation for the purposes of supporting a fire protection district. S. 781 was referred to the Senate Finance Committee and H. 4294 was referred to the House Ways and Means Committee.

H. 3413 would allow counties to suspend the millage cap limitation to purchase equipment and make expenditures to improve publicly funded law enforcement, fire rescue, and emergency medical response, and to comply with statutory requirements, including Sections 23-1-260 and 23-23-85. Expenditures include salary and benefit increases for individuals tasked with providing public safety. H. 3413 was referred to the House Ways and Means Committee.

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

**Support legislation to allow counties to exceed the millage cap for fire protection, law enforcement (including detention facilities), and/or emergency medical services purposes.**

## 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 2023.**

### Steering Committee's Recommended Policy Position:

**Support legislation to require mobile homes to be titled similarly to vehicles and support a requirement that the Department of Motor Vehicles annually notify each county of all mobile homes in the county.**

## Municipal Capital Projects Sales Tax

The Municipal Association of South Carolina (MASC) 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 2023.**

**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 2023.**

**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.**

**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:** S. 208 would allow county governments to impose an additional driver’s license and motor vehicle licensing and registration fee of \$250 for a person who is issued a license and surrenders a license issued by another state. The county must pass a referendum in order to impose the fee. The county board of registration and elections must conduct the referendum and publish the questions from the referendum two weeks prior to the referendum. S. 208 is pending second reading on the Senate contested calendar.

**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.**

**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.

Bradley Farrar, Aiken County Attorney, and Johnathan Bryan, Sumter County Attorney, request 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 2023.

**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; and

(4) Oppose legislation requiring the clerk of court or register of deeds to require an affidavit from a delinquent taxpayer 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 2023-2024, the earnings limitation does not apply to retired members of the South Carolina Retirement System (SCRS) or the Police Officers Retirement System (PORS) who return to covered employment to participate in the state's public health preparedness and response to the COVID-19 virus.

Proviso 117.128 was adopted in the budget and provides that any Class I law enforcement officers who retired under the PORS 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 PORS.

S. 188 would reduce the amount of time that a retired member of the PORS is required to have been retired from 30 days to 15 days, remove the \$10,000 earnings limitation cap and

remove the requirement that upon reaching the cap, the retiree's retirement allowance be discontinued for the remainder of the calendar year. The bill was referred to the Senate Finance Committee.

S. 239 would increase the amount of time that a retired member of the PORS is required to have been retired from 30 days to 90 days, remove the \$10,000 earnings limitation cap and remove the requirement that upon reaching the cap, the retiree's retirement allowance be discontinued for the remainder of the calendar year. The bill was referred to the Senate Finance Committee.

S. 420 would remove the \$10,000 earnings cap limitation provided for in the SCRS or the PORS and replace it with a limit equal to the annual retirement earnings test set by the Social Security Administration, the amount of which for 2020 was \$18,240. The bill was referred to the Senate Finance Committee.

H. 3195 removes the earnings limitation for a member who is a retired employee of the Department of Corrections who returns to covered employment with the department and works in a critical needs area. The bill was referred to the House Ways and Means Committee.

**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 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 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% (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. 622 was introduced in 2023 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.**

#### **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 four 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%. 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% weight to the average claims experience of all medium groups combined and 50% 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 to 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 has been given a 1.50 load factor, the maximum factor allowed. This is the highest load factor in the state. Last year Bamberg County had to budget \$1,012,632 for health premiums, an increase of \$351,803 over projections. Health premiums now represent 13% 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 2023.**

**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 be 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 2023.**

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

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

**Titling of Boats and Motors**

Under current law, all motorized boats and watercraft and all outboard motors five horsepower and greater and required to be titled separately. A few years ago, 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.

**Status: As introduced, S. 33 provided for the separate titling of boats and motors, but that provision was removed by a Senate Fish, Game and Forestry subcommittee. S. 33 has passed the Senate and is in the House Labor, Commerce, and Industry Committee.**

**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.**

**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 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. 87 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. 87 was referred to the Senate Judiciary Committee.**

**S. 85 is a comprehensive reform of the TCA. The bill was referred to 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.**

#### **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 simplest 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. Bradley Farrar, Aiken County Attorney, requests this steering committee support legislation clarifying that the Revenue Procedures Act governs disputes with local government taxing and fee-imposing authorities for such things as road maintenance or other fees or uniform service charges.

**Status: No legislation was introduced in 2023.**

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

- (1) Support legislation to protect county user fees and the important revenue they produce.**
- (2) Support legislation clarifying that since the Supreme Court determined that user fees are taxes, any dispute involving these fees should be governed by the S.C. Revenue Procedures Act.**
- (3) Support legislation preventing a court or an administrative law judge from staying or preventing the department or an officer of the state or political subdivision charged with a duty in the collection of taxes, from acting to collect a tax, whether or not the tax is legally due.**





**SOUTH CAROLINA  
ASSOCIATION OF COUNTIES**

# **Advocate. Educate. Collaborate.**

## **SCAC has a strong resume**

As members of the SC Association of Counties, all 46 counties, elected officials and employees have access to SCAC's programs and services. Here are some of our offerings designed to build connections, share information, and help counties to better serve their citizens.

## **ADVOCATE for county government**

- Monitor legislation moving through the SC General Assembly
- Publish weekly updates during the session via the *Friday Report*
- Send Legislative Alerts when bills require immediate action
- Provide Legislative session wrap-ups and the annual *Acts that Affect Counties* publication
- Work through the county attorney to resolve legal issues that affect county government operations

## **COLLABORATE to assist counties**

- SC Counties Workers' Compensation and Property & Liability Trusts
- Setoff Debt Program
- Competitive purchasing discounts
- Online Career Center



**SCAC works for YOU**

## **EDUCATE and build knowledge**

- Host conferences including:
  - Annual Conference in August
  - Fall Advocacy Meeting in October
  - Legislative Conference in December
  - Counties Connect: A Legislative Action Day in late winter
- Present the Institute of Government for County Officials – a certificate program with classes offered several times a year
- Offer the Local Government Attorneys' Institute—an annual source for CLE credits
- Provide Orientation for Newly Elected Council Members—held in even-numbered years
- Produce training for planning and zoning officials
- Conduct research and offer technical assistance
  - *Property Tax Report*—published annually
  - *Wage and Salary Report*—published every other year
  - Technical research bulletins and surveys
  - Online forum discussions for county officials
- Host our Annual Awards program showcasing counties' successes
- Communicate regularly through:
  - The monthly *County COMPASS* email newsletter;
  - Our quarterly *County Focus* magazine;
  - Social media channels; and
  - The SC Counties events app



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