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A legislative update from the Municipal Association of SC

119th General Assembly
2011 Session



**Legislative Report of the
119th General Assembly for the first half of the 2011-2012 Session
*Prepared by the Municipal Association of South Carolina***

The first half of the 2011-2012 session of the 119th General Assembly was gaveled to a close on June 2 at 5 p.m. Both the House of Representatives and the Senate returned to Columbia for a special session from June 14 until June 30 to handle budget vetoes, redistricting, and a limited number of other bills, including immigration reform.

This report includes a full list of bills that passed during the 2011 legislative session along with a list of major bills that the Association closely followed and actively worked. The Association tracked more than 500 bills during the 2011 legislative session. All are included in the legislative tracking system, accessible through the Association's website (www.masc.sc). Below are several major bills that passed during the 2011 legislative session that will have an impact on cities and towns.

Point of sale

On the final day of the regular legislative session, the ongoing point of sale debate was laid to rest when the House and Senate agreed to a compromise amendment to the point of sale bill (H3713) affecting only commercial and second home (6 percent) properties. The Association, counties and schools worked closely together to reach this compromise with the real estate industry. On Tuesday, June 14, Governor Nikki Haley signed the bill into law.

For the past several years, real estate interests have attempted to eliminate the point of sale provision from state law. Throughout the debate on this issue, the Association's priority was to mitigate the financial impact of any legislative change on the ability of cities and towns to provide the programs, services and amenities residents and businesses need and expect.

Through the compromise, property tax breaks brought on by the 15 percent reassessment cap will not be passed on to new property owners resulting in no additional tax shifts to those owning properties with slowly appreciating values. The compromise also includes more flexibility for local elected officials in the administration of the millage cap provision and millage rollback calculation.

Highlights of the Point of Sale compromise

No change for owner occupied (4 percent) residential property.

At the point of sale, taxable value of commercial properties and second homes (6 percent properties) will be determined as follows:

The new taxable value is based on a 25 percent exemption off the assessor's fair market value at the point of sale, but this new taxable value may not be less than the fair market value determined by the most recent assessment prior to the sale.

Example on 6 percent property:

- Current owner's taxable value is \$700,000
- Current owner's fair market value is \$850,000 (higher than taxable value because the value has been capped by the 15 percent reassessment cap)
- Property sells for \$1,000,000
- New owner's taxable value is \$850,000

Since a 25 percent exemption off of \$1,000,000 is \$750,000 and the new taxable value cannot be less than the current owner's fair market value, the new owner's fair market value at point of sale is \$850,000 and at the next reassessment can increase no more than 15 percent due to the reassessment cap (or to \$977,500).

Flexibility to "bank" millage increases for future use, if needed

Allows cities, counties and schools flexibility to raise millage in one year by up to the previous three years of increases allowed by law but not previously imposed by council. This will discourage the "use it or lose it" increase Act 388 encourages.

Millage rollback calculation corrections

Corrects the millage rollback formula for cities, counties and schools so that the increase in taxable value for all property sold in a reassessment year is treated the same in the year of reassessment as in all other years.

Recognizes that 100 percent of property taxes billed are not collected.

Clarification on calculating rollback millage increases in multi-county cities

Codifies current practice for calculating millage rates in cities that cross multiple county lines.

Immigration

The House and Senate passed the illegal immigration reform bill (S20) on June 21, and Governor Nikki Haley signed the bill into law on June 27. This new law will increase costs to local governments for enforcement and will increase the potential for lawsuits against local governments. The law requires local law enforcement officers to verify immigration status of individuals who are stopped or detained. The law also allows lawsuits against local governments that intentionally do not enforce the law, and it requires cities and towns to revoke the business license of a business that violates the immigration law. For additional specifics about this new law, visit www.masc.sc (keyword: immigration)

State Budget

Senate and House members received and adopted the budget conference report on June 22. Governor Haley returned 34 line item vetoes to the General Assembly on Tuesday, June 28. Both the House and Senate sustained nine of the governor's 34 vetoes. Governor Haley vetoed the entire capital reserve fund bill, H3701. Both the House and Senate voted to override the veto of H3701.

The budget includes a 10 percent cut to the current year distribution of the Local Government Fund. This equals an \$8.9 million loss to cities and towns for FY 2011-2012.

Several provisos in the budget affect cities and towns.

Methamphetamine labs – This proviso establishes a study committee through SLED and local governments to review problems associated with cleaning up meth labs and appropriates \$1 million of non-recurring funds to assist in the cleanup.

Rural Infrastructure Authority – This proviso transfers \$13 million from the Rural Infrastructure Bank fund to the authority to fund local government revolving loans for improving local infrastructure.

Transparency – This proviso requires grants to non-profits be included in local government budgets as a line item and requires recipients of the grants to send an annual report to the local government detailing how the grant money was spent.

Crime Victims' Fund – This proviso provides guidelines on how the Crime Victims' Funds may be expended.

Alcohol Permits

In the 2010 session, legislators passed a bill that mistakenly removed the ability of cities and towns to apply for beer and wine permits for special events. In January, legislators passed a resolution, effective until June 30, 2011, giving cities and towns temporary relief from the unintended consequences of the 2010 legislation. H3178 was also introduced to fix the mistake permanently. The House amended another bill, H3295, with language that does provide a permanent fix to the issue. The governor signed H3295 into law on June 17.

2011-2012 Legislative Agenda

The main goal of the Association's advocacy efforts is to ensure cities and towns have the resources and flexibility to meet the expectations of their residents and businesses. The three legislative principles of promoting economic growth, enhancing a positive quality of life and encouraging local accountability and fiscal responsibility continue to guide the Association's advocacy efforts.

This year's agenda was developed as a two-year blueprint for the 2011-2012 session and outlines four specific solutions to local challenges that are tied directly to the theme of increased flexibility and local control of local issues.

Millage issues – Allow local governments the flexibility to raise millage in one year up to the previous three years of increases allowed but not implemented to discourage the “use it or lose it” increases current law encouraged. The millage bank provision was included in the point of sale compromise bill.

Enhanced codes enforcement tools – Increase tools and opportunities for cities and towns to eliminate blight and encourage economic development. A draft bill to allow for enhanced codes enforcement tools has a primary sponsor and is currently in legislative council for final drafting. Additional sponsors will be secured over the summer and fall to get the bill introduced in January.

Enclave annexation – Update the state's annexation laws to allow cities and towns by ordinance to annex property that is completely surrounded by the municipality to ensure efficient and effective service delivery.

Municipal capital project sales tax – Allow municipal residents, in counties where county councils have opted not to pursue the capital project sales tax, to vote to fund specific municipal projects with a penny sales tax.

During the summer and fall, the Association will work on issues that are still pending on the legislative agenda and bills still pending in the legislature. See all of the bills that are pending for next session in the Association's legislative tracking system.

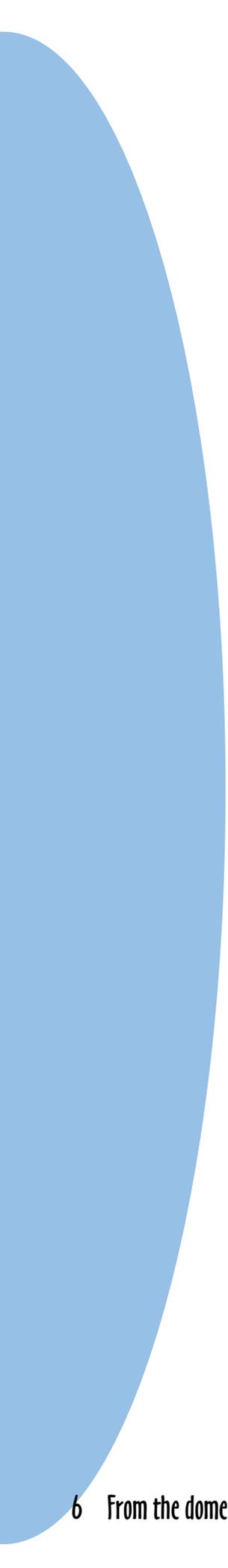
2011 Passed bills tracked by the Municipal Association of SC

This chart shows bills that passed during the 2011 legislative session and what each bill means for cities and towns.

2011 Additional bills closely followed and actively worked by the Municipal Association of SC

This chart shows the current status of major bills the Association closely followed and actively worked this session.

This report was updated after the adjournment of the extra session of the General Assembly on June 30, 2011. Check the Association's legislative tracking system for up-to-date information on specific bills.



2011 passed bills tracked by the Municipal Association

This information was correct as of June 30. Subsequent action can be found in the Association's legislative tracking system at www.masc.sc on the legislative services page.

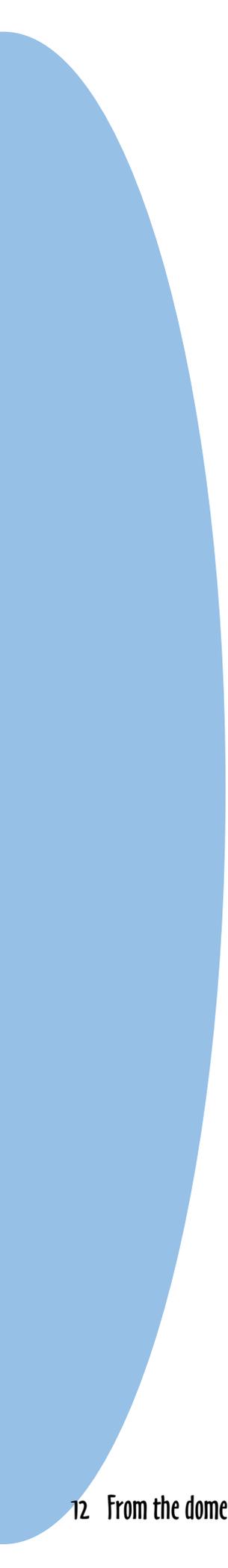
Bill number	Act and Ratification number	Short Title/Description	What does this do?
BUDGET AND FINANCE			
H3806	R31	Property tax credits for homeowners in Lexington School Districts one and four	Provides a property tax credit for tax year 2011 for owner-occupied residential property in Lexington county school districts one and four as the sole remedy for refunding overpayments of property tax for tax years 2007 and 2008 as a result of a supreme court case
H3438	A22, R42	Excludes contents of cars, trailers, mobile homes or boats from liens	Excludes from repair and storage liens the contents of a towed, stored or repaired motor vehicle, trailer, mobile home, or watercraft
H3700	R106	2011-2012 State Appropriations Bill	Makes appropriations and provides revenues to meet the ordinary expenses of state government for the fiscal year beginning July 1, 2011
H3701	R107	Appropriates money from the Capital Reserve Fund	Appropriates money from the Capital Reserve Fund for fiscal year 2010-2011
H3713	A57, R91	Point of sale	Amended to provide an exemption to 6 percent properties and provide flexibility to cities and towns (see page 3)
ELECTIONS			
H3003	A27, R54	Requires a photo ID to vote in an election	Requires a qualified elector to have photographic identification to vote in an election
H3991	R108	House redistricting bill	Establishes election districts for the members of the House of Representatives that are elected beginning with the 2012 general election
S404	A43, R58	SC Uniformed and Overseas Citizens Absentee Voters Act	Allows a voter to make a statement on a federal write-in absentee ballot that he is unable to vote by regular absentee ballot or in person due to the requirements of military service, living in an isolated area or extremely remote area of the world
S815	R105	Senate redistricting bill	Establishes election districts for the members of the Senate that are elected beginning with the 2012 general election
PUBLIC SAFETY			
H3287	A21, R41	Disposal of abandoned watercraft	Allows an abandoned watercraft to be removed and disposed of by any government agency that has jurisdiction over the area where the abandoned watercraft is located. This bill also allows a watercraft abandoned for at least 90 days to be claimed by any person or entity as <u>abandoned property</u>
H3431	A54, R88	Enacts John's Law	Requires the Department of Transportation to publish its list of railroad crossings
H3562	A24, R44	Enacts Chandler's Law	Develops regulations for operating all-terrain vehicles including requirements for minimum age operation, safety course completion, safety equipment and passenger riding
H3660	A68, R102	Increases penalties for stealing nonferrous metals	Revises penalties for stealing nonferrous metals and copper and revises restrictions for purchasing copper
H3668	A13, R30	Repeals the law related to certain drivers license suspensions	Repeals the section of state law related to the driver's license suspension of a person convicted of a controlled substance violation

Bill number	Act and Ratification number	Short Title/Description	What does this do?
S30	R104	Allows only law enforcement agencies to seek arrest warrants	Prevents entities other than law enforcement agencies from seeking arrest warrants except in cases of fraudulent checks. If the check is presented to the magistrate at the time the warrant is sought, a warrant may be issued by the magistrate
S336	A65, R97	Specific requirements for uniform traffic citations	Requires a copy of the traffic citation be handed directly to the offender by the law enforcement officer issuing the ticket. This bill also requires law enforcement to stop the owner or operator of the vehicle to issue the traffic citation
S523	A16, R34	Includes certain fire and public safety districts in the special purpose district definition	Includes certain fire and public safety districts in the definition of special purpose districts
S693	A37, R65	Orders and appeals from the state fire marshal	Increases the amount of time from 24 hours to 14 days that an occupant or owner may appeal the decision of the deputy or resident fire marshal. This bill also requires the fire marshal's decision to be filed within ten days of receiving notice of the appeal
IMMIGRATION			
S20	R103	Requires law enforcement to check immigration status of arrested, detained or stopped individuals	Requires a law enforcement officer who has reasonable suspicion that a person stopped, detained or arrested by law enforcement is an illegal immigrant to verify immigration status. This bill also allows lawsuits against local governments that are not enforcing the law and allows action to be brought against businesses that violate the law by revocation of a business license
UTILITIES			
S766	A44, R67	Allows SC Electric Cooperatives to use unclaimed property as equity in energy efficiency programs	Allows the SC Electric Cooperatives to use the state's unclaimed property as equity in energy efficiency programs and renewable energy initiatives
H3584	A56, R90	Limits liability of a third party provider of electricity and natural gas	Limits the liability of a third party provider of electricity and natural gas when that provider contracts with a third party
BUILDING CODES			
H3586	A25, R45	Deletes certain exemptions under the pier construction law	Deletes from the exemptions of construction seaward of the baseline certain piers and associated structures, both public and private, existing on September 21, 1989. This bill keeps language that allows local governing bodies to approve public fishing piers under planning and zoning ordinances
S431	A26, R49	Insurance covering a construction professional	Requires a liability insurance policy issued by an insurer and covering a construction professional in SC to be broadly construed in favor of coverage. This bill also provides that the work of a construction professional resulting in property damage constitutes an occurrence as commonly defined in liability insurance and is not the intended or expected consequence of the work of the construction professional

Bill number	Act and Ratification number	Short Title/Description	What does this do?
ALCOHOL PERMITS			
H3278	R1	Resolution that suspends current alcoholic beverage permit law until June 30	Allows that until June 30, 2011, there are no limitations on types of applicants or organizations that may apply for special 15-day beer and wine permits. This allows cities and towns to apply for temporary permits
H3178	A66, R100	Removes references to nonprofit organizations related to special permits to sell beer and wine	Removes specific references to nonprofit organizations in the law that allows special permits for the sale of beer and wine. This bill corrects a law passed in 2010 that unintentionally excludes municipalities from applying for beer and wine licenses
H3295	A67, R101	Alcohol permits for homeowner's associations	Allows a homeowner's association, chartered as a nonprofit organization whose membership is limited to property owners and governed by a board of directors, to apply for a license to sell alcoholic liquors by the drink
HEALTH INSURANCE			
S586	A31, R50	Allows certain entities to join the state health plan	Allows certain entities into the state health plan
GENERAL GOVERNANCE			
H3625	A11, R29	Prohibits serving and being employed by a local board or commission	Prohibits a person from serving on both the governing body of a state or local political subdivision board or commission and as an employee of the same board or commission
H3183	A40, R74	Requires payment of all outstanding penalties in order to continue lobbying	Requires payment of all outstanding penalties before a lobbyist can resume lobbying activities. It also amends the definition of family members to include brother-in-law and sister-in-law for the purposes of the Ethics Act. It replaces immediate family with family member to make clear that the prohibition on using public office for financial gain also includes certain family members who may not live with the public official
H3375	A52, R86	SC Fairness in Civil Justice Act of 2011	Outlines limits on the award of punitive damages. This bill also enacts the Private Attorney Retention Sunshine Act to govern the retention of private attorney(s) by the Attorney General or a solicitor
H3587	A41, R75	Exempts maintenance dredging by counties and municipalities for certain canals	Adds an exemption for maintenance dredging by counties or municipalities of certain canals if the dredging is authorized by the US Army Corps of Engineers
H4195	resolution adopted by both House and Senate	General Assembly adjournment resolution	Adjourns the General Assembly no later than 5 p.m. on Thursday, June 2, to reconvene at noon on Tuesday, June 14, to consider reapportionment and budget vetoes and adjourn no later than 5 p.m. on Friday, July 1
S211	R57	I-95 Corridor Authority Act	Creates the authority to carry out economic development and educational improvement activities which, in the opinion of the authority, will improve the economic conditions in its member counties

Bill number	Act and Ratification number	Short Title/Description	What does this do?
S358	A15, R33	Increases the number of research and development license plates issued to businesses	Allows research and development license plates to be issued to vehicles owned by that research and development business and by a fleet owner under contract with the research and development business. This bill also increases the maximum number of license plates that may be issued
S705	A48, R66	Underground Facility Damage Prevention Act	Creates the Underground Facility Damage Prevention Act that preempts local ordinances dealing with permits to locate underground utilities, marking the facility and types of paint used to mark the facility. The bill also develops an association to operate an excavation and demolition notification center that includes a representative from the SC Association of Municipal Power Systems

Notes



2011 Additional Bills Closely Followed and Actively Worked by the Municipal Association of SC

This information was correct as of June 30. Subsequent action can be found in the Association's legislative tracking system at www.masc.sc on the legislative services page.

Bill number	Short Title	Description	Current Action
POINT OF SALE			
S647	Point of sale	Eliminates point of sale assessments	On the Senate contested calendar; H3713 was used as the bill to pass point of sale
S229	Property Owner Protection Act of 2011	Caps increases in value of sold property at 15 percent at point of sale and again at reassessment	The Senate Finance Property Tax subcommittee did not take action on this bill
BUSINESS LICENSE			
H3472	Revises the appeals process for business license fees	Outlines a process for a taxpayer to object to a business license tax assessment that includes appeals to the Administrative Law Court. This bill also outlines the Revenue Procedures Act as a tool in resolving disputes concerning business license tax assessments	Introduced on 01/27/11 and referred to House Ways and Means committee
H3058	Requires business license taxes to be based on size of the business	Requires the imposition of a business license tax must be based on the size of the business in terms of number of employees and not on its gross income	Introduced on 01/27/11 and referred to the House Ways and Means committee
S437	Exempts towing companies from business license taxes	Exempts towing companies operating within the corporate limits of a municipality from business license taxes unless the towing company maintains a place of business within the corporate limits of the municipality	Introduced on 01/26/11 and referred to the Senate Judiciary committee
S756	Assessment and collection of business license taxes on a calendar year basis	Requires local governing bodies to assess and collect business license fees annually on a calendar year basis	Introduced on 03/30/11 and referred to the Senate Finance committee
CUTS TO THE LOCAL GOVERNMENT FUND			
H3516	Suspends restrictions on amending or repealing provisions in the State Aid to Subdivisions Act	Allows the General Assembly to reduce the funding to the Local Government Fund by suspending restrictions on amending or repealing provisions in the State Aid to Subdivisions Act for fiscal year 2011-2012	House passed on 02/25/11; on the Senate contested calendar
TELECOMMUNICATIONS			
H3508	Makes changes to the law relating to government-owned telecommunications service providers	Clarifies that governments providing telecommunications services must comply with the 2002 Telecommunications Act and expands the definition to include broadband	House passed on 02/18/11; passed by a Senate Judiciary subcommittee on 05/11/11
PUBLIC SAFETY			
S225	Prevents texting while driving	Prevents a driver from using a wireless electronic communication device to compose, send, or read a text-based communication	Senate Judiciary committee passed on 03/01/11; on the Senate calendar
H3443	Allows photographic evidence to be used during traffic stops	Allows citations for speeding or traffic control device violations to be based on a combination of photographic and radar evidence	Introduced on 01/25/11 and referred to House Judiciary committee

Bill number	Short Title	Description	Current Action
H3259	Golf cart operation outside a gated community	Requires the two-mile limit within which a golf cart owner may operate his golf cart to be measured from the community's primary entrance when the owner lives in a gated community	House passed on 04/06/11; on the Senate calendar for third reading
LAND USE ZONING			
H3918	Moves the Division of Aeronautics to the Department of Transportation	Moves the Division of Aeronautics from the Department of Commerce to the Department of Transportation and gives the Division of Aeronautics the authority over local decisions including opening and closing airports and local zoning decisions around the airports	Recommitted to the House Judiciary Special Laws subcommittee on 05/17/11
RECYCLING PERMITS			
S461	Funding for the administration of a model recycling program	Requires holder of on-premises consumption alcohol permits to recycle each beverage container in accordance with the model recycling program through SC DHEC. The bill was amended to remove accommodations tax funding as the funding source and replaced it with funding from the Governor's Task Force on Litter	Senate passed on 06/02/11; referred to the House Agriculture, Natural Resources and Environmental Affairs committee
TRANSPARENCY			
S435	Requires local governments to file periodic expenditure reports	Requires local governmental entities, agencies, organizations or individuals that receive, collect or spend public funds derived from state or local tax revenue to file periodic expenditure reports with the state or local governmental entity or agency that provided, collected or spent the public funds. The bill was amended to clarify that this legislation only applies to grant funds and not money paid for services or products	Passed by the Senate on 04/05/11; adjourned debate by the House on 06/01/11
ANNEXATION			
H3247	Makes changes to current annexation laws	Requires a "plan of services" before approval of all annexation proposals. Requires a new annexation be consistent with the county and the annexing municipality's comprehensive land use plans. Relative to the 75 percent annexation method, gives standing to other individuals or entities to bring suit to challenge a proposed or completed annexation. Requires public notice of a public hearing before acting on an annexation petition. Defines further urban area and contiguous	House prefiled on 12/14/10 and referred to the House Judiciary committee
H4090	Services by a special purpose district after annexation	Provides a municipality may not displace the services of a special purpose district through municipal annexation	Introduced on 04/13/11 and referred to the House Medical, Military, Public and Municipal Affairs
H4098	Utility services as a condition of annexation	Prevents a municipality from requiring annexation as a condition of providing utility services	Introduced on 04/13/11 and referred to the House Judiciary committee

Bill number	Short Title	Description	Current Action
S313	Makes changes to current annexation laws	Requires a "plan of services" before approval of all annexation proposals. Requires a new annexation be consistent with the county and the annexing municipality's comprehensive land use plans. Relative to the 75 percent annexation method, gives standing to other individuals or entities to bring suit to challenge a proposed or completed annexation. Requires public notice of a public hearing before acting on an annexation petition. Defines further urban area and contiguous	Prefiled on 12/15/10 and referred to the Senate Judiciary committee
UTILITIES			
H3617	Requirements for sewage systems and treatment works after repeated spills	Requires oral notification to DHEC of any significant spill within 24 hours and written submission must be done within 5 days. It also requires a utility that has had two or more spills per 100 miles of its aggregate collection system miles during a 12 month period to complete a comprehensive review its operations	House passed on 04/28/11; on the Senate calendar for third reading
H4117	Requires a special water board to establish water rates	Requires that each entity, including political subdivisions, in a county providing water service to at least 7,000 customers which is part of a joint regional water association and gets its water from a regional producing center to have a special water board to establish water rates for the entity based on certain factors	House Labor, Commerce and Industry Public Utility subcommittee passed out unfavorably on 05/18/11; no action taken by the full House Labor, Commerce and Industry committee
H4256	Water rates imposed by a municipality	Prohibits a municipality that purchases a water company subject to regulation by the Public Service Commission in the county where it is located from charging more for water services provided to customers of the water company than was permitted to be charged to those customers at the time of purchase of the company	House Medical, Military, Public and Municipal Affairs Local Government and Corrections subcommittee adjourned debate on this bill on 06/01/11



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