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A legislative update from the Municipal Association of SC

2012 session
119th General Assembly



Legislative Report

2012 session of the 119th General Assembly

Prepared by the Municipal Association of South Carolina

The second half of the 2011-2012 regular session of the 119th General Assembly was gavelled to a close on June 7 at 5 p.m. Both the House of Representatives and the Senate returned to Columbia in extended session on June 19 and June 26 to handle a limited number of other bills as outlined in the adjournment resolution. Legislators also returned to Columbia on July 17 and July 18 to handle the governor's budget vetoes. Any legislation that did not pass this session must be reintroduced in 2013.

The 2012 legislative session will be remembered as one that included interesting drama coupled with a slight upward swing in the economy. The transition in the lieutenant governor's office and the upheaval that caused close to 250 candidates to be removed from the 2012 election ballot resulted in some interesting diversions during this session. Plus, state officials increased budget revenue estimates in May giving the Senate additional dollars to allocate to programs and services.

This report includes major issues covered by the Municipal Association during the 2012 session. For a full list of bills tracked by the Association and bills that passed affecting cities and towns, visit www.masc.sc (keyword: legislative tracking). Bills that passed during the 2011 legislative session were highlighted in last year's legislative report and can be found at www.masc.sc (keyword: legislative review).

State Budget

State budget (H4813)

With an uptick in the economy, legislators had more revenue available for the FY2013 budget than in recent years. Between the time the House debated the budget in March and the Senate began its work in early May, the Board of Economic Advisors added \$274 million to its state revenue estimate. This addition proved to be key for local governments during the waning days of the General Assembly.

- Local Government Fund – Funding the Local Government Fund at 100 percent of the amount required by law continued to be a major priority for cities and towns this session. In the FY2012 budget, legislators funded the LGF at only 76 percent of the state-mandated level. During the FY2013 budget debate, the House approved the same dollar amount of \$182.6 million as approved for FY2012. Because the LGF funding formula is calculated as a percentage of the state general fund (4.5 percent) and the state general fund grew in FY2012, the House-approved funding level amounted to only 71 percent of full funding – a 5 percent decrease from last year.

Senators increased the Local Government Fund to \$222.6 million, which increased the funding level to 88 percent of the amount required by law. During the final week of the session, the House increased the LGF in its budget to \$192.6 million.

The House and Senate adopted the budget conference report that included an additional \$30 million from FY2012 in one-time money for the Local Government Fund. The final \$30 million additional appropriation was a compromise between the Senate version of \$40 million and the revised House version of \$10 million. The total for the FY2013 Local Government Fund is \$212.6 million.

H4710, the bill allowing the legislature to cut the LGF below the level required by law, did not pass.

- Lobbyist proviso – The Senate and House versions of the budget include Representative Jim Merrill's proviso regarding lobbying activities. The House version of the proviso would have prevented local governments from using any taxpayer dollars for lobbying, while the Senate version prevented counties, municipalities and associations from using only Local Government Fund dollars to compensate employees for lobbying activities. The Senate version of the proviso was adopted in the final budget.

Bills Passed by the General Assembly

The Association tracked more than 700 bills during the 2011-2012 legislative sessions. More than 90 of those bills passed both the House and Senate. Passed bills of particular interest to municipalities are listed below. For a complete list of passed bills, visit www.masc.sc (keyword: legislative tracking)

Brokers tax (S1419) A283, R325

The Association worked closely with the staff of the SC Department of Insurance and state legislators to make changes to the surplus lines brokers' law. The passage of S1419 ensures South Carolina law is not preempted by the federal Dodd-Frank Act which would have taken away the ability of cities and towns to continue to receive a 2 percent municipal business license tax on surplus lines insurance premiums. The state will begin collecting the tax and the Association will continue to disburse the dollars to cities and towns through its Brokers Tax Collection Program. Passage of this bill was a legislative priority for the Association.

Broadband (H3508) A284, R326

The Association fought this bill that essentially eliminates governments' ability to provide high-speed Internet access to residents and businesses. The bill was hotly debated in the Senate with Senator Gerald Malloy taking the lead to express his strong belief that all areas of the state must have access to high-speed broadband to be economically competitive. He insisted that government ought to be able to provide broadband in areas where private companies do not find it profitable to serve.

Treatment for sewage spills (H3617) A109, R116

This law requires a sewage system or its treatment works that has had two or more sewage spills in a year to complete a comprehensive review of its operations.

Bath salts (H3793) A140, R158

The Association worked with local law enforcement to support passage of a bill to ban drug compounds known as "bath salts." The new law adds bath salts to the schedule of controlled substances making it illegal to possess these drugs.

Airport zoning (H3918) A270, R293

Throughout the two-year session, the Association worked with a variety of stakeholders interested in updating state code regarding the authority of the South Carolina Division of Aeronautics. The changes impacting municipalities involve regulating land use in the vicinity of public airports and removing imminent or foreseeable hazards to aviation safety.

Cases in municipal court (H4463) A169, R193

Several bills this year addressed municipal court cases. This bill clarifies when criminal cases may be transferred to municipal court and clarifies when the defendant may object to the transfer of the case.

TIF funding (S1167) A267, R275

Two bills were considered that involved changes in the administration of a Tax Increment Financing district. The Senate considered S1002 that would have required surplus funds in a TIF project to be sent back to the taxing entity. Although the bill died in the Senate, the Association worked to protect current TIF agreements and ensure future TIFs could allow taxing entities through mutual agreements to spend surplus funds on additional redevelopment projects. S1167 clarifies a school district or county may participate in a TIF at less than 100 percent. An amendment was added to the bill to allow Lexington County to ask voters to approve a capital projects penny sales tax.

Retirement reform (H4967) A278, R323

Debate continued throughout the session on legislation to reform the state's retirement system with a compromise reached during the extended session. Legislators made changes that affect employers, employees and new hires. A full summary of the final bill is at www.masc.sc (keyword: retirement).

Subdivided lots (H3934) A179, R207

The law allows an extension of three years on the multi-lot discount for developers with at least 10 building lots for tax years 2012, 2013 and 2014. It also states a percentage owner of residential property may only claim his percentage of ownership as residential for property tax purposes.

Blue Alert program (H4636) A124, R134

The Blue Alert program rapidly disseminates information about a suspect who allegedly kills, seriously injures or abducts a law enforcement officer.

Alcohol permits (H5098) A266, R312

The law allows a city to call a temporary alcohol permit referendum for the same date as the county general election, as long as a copy of the ordinance has been filed with the election commissions 60 days prior to that general election. The city may conduct the referendum or contract with the county.

Important Issues

The following bills of particular interest to municipalities did not pass this session.

Rehabilitation of abandoned and dilapidated buildings (H4628, S1117)

During the Association's 2011 Regional Advocacy Meetings, local officials identified abandoned and dilapidated buildings as a major challenge to local economic development. Members made this issue a top legislative priority for the Association. Representative Garry Smith and Senator Brad Hutto introduced the Rehabilitation of Abandoned and Dilapidated Buildings bill that would have allowed cities to offer private sector developers and nonprofit organizations the opportunity to partner with cities to help rid communities of dilapidated, abandoned and unsafe buildings. The Association worked with a wide variety of organizations to research and promote this bill. While many legislators in the House and the Senate supported the bill, it did not have enough votes to pass in an election year.

Pennies for projects (H5141)

The Association continued to push for a change in state law to give municipalities the same opportunity as counties to let residents vote on a sales tax to fund specific infrastructure projects. This would apply only to municipalities in counties where a capital projects sales tax was not already levied. The Association worked with legislators and partner organizations to give cities this increased flexibility to meet local needs. A bill was referred to the House Ways and Means Committee, but committee members took no action on it.

FOIA changes (H3235)

State legislators considered changing the reporting requirements under the current Freedom of Information Act. The bill would have removed the FOIA exemption for legislators, prohibited public bodies from charging for administrative time to gather records and capped the charge for copies at the prevailing market rate. Additionally, the bill would have allowed public bodies to take up to 45 days to comply with requests for records more than 24 months old. This bill passed the House, but it stalled on the Senate floor.

Tax reform legislation (H4998, H4993)

The Republican Caucus introduced a package of bills in the second half of the session aimed at tax reform. Two of these bills would have been particularly harmful to local governments. One would have reduced the property tax assessment ratio from 10.5 percent to 6 percent over a four-year period for industrial property and business personal property. The other bill would have reduced the property tax assessment ratio from 6 percent to 5 percent over an eight-year period for business and second home property. The total fiscal impact of both bills on local governments would have been \$1 billion annually. Both bills died in the House Ways and Means committee.

Tort claims (S772)

The Association fought a bill which would have removed the cap on economic damages imposed by the Tort Claims Act. This could have exposed municipalities to potential unlimited liability and increased insurance costs. An amendment passed in Senate subcommittee would have increased the current caps of \$300,000 and \$600,000 by the annual rise in the consumer price index. This bill died in full Senate Judiciary committee.

Texting while driving (H4451)

Legislators introduced a number of bills this session intended to stop texting while driving. The House passed a bill to ban texting while driving. A Senate subcommittee amended the bill to prohibit anyone under 18 from using a cell phone without a hands-free device. The amendment also would have prohibited anyone from using a cell phone while driving in a school zone or work zone. The bill died awaiting a vote by the full Senate.

Flow control (H4721)

The Association opposed legislation that would have prevented a county from passing an ordinance that restricts the disposal of waste only to facilities designated by the county. This bill would have diminished the decision-making authority of local government regarding local waste disposal. The bill passed the House but didn't get a vote in the Senate.

Important Issues

Payment for relocation of water and sewer lines (H4487)

The Association worked with a large coalition of stakeholders throughout this session on a bill to require the S.C. Department of Transportation to pay all costs related to relocating water and sewer lines that are maintained and operated by a public water or sewer system located within the right-of-way of a state transportation improvement project. Stakeholders involved included the Rural Water Authority, the SC Association of Counties, interested utility providers and special purpose districts. While the House passed the bill, it stalled in a Senate subcommittee. A budget proviso did pass that establishes a study committee to include municipal representatives that will meet and make recommendations by January 1, 2013.

Fireworks regulation (S1066, S1163)

The Association closely followed several bills that would have affected local control of fireworks. While S1066 would have given local governments the ability to regulate the time and place of the discharge of fireworks, the bill was amended in a Senate subcommittee to only include regulation of the time of discharge. S1163 would have preempted local control of fireworks. Neither bill passed the Senate.

Gaming bills (S1065, H4675)

The threat of online gaming resulted in proposed legislation that would ban the games. The bills introduced in both the House and Senate would have clarified that existing regulations on bingo and raffles do not allow any devices prohibited under the state's current video gambling ban. One bill passed the House but neither became law.

Abandoned buildings tax credits (H4802)

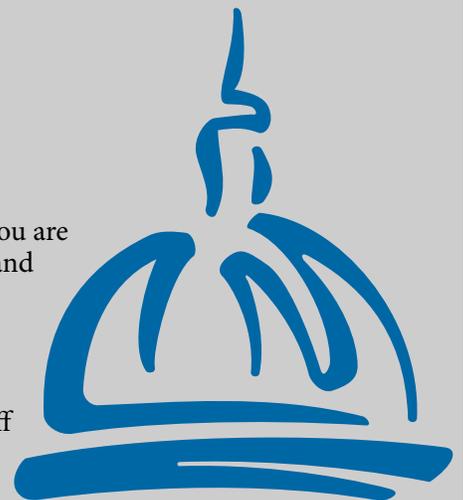
The Association supported legislation that would allow a taxpayer making investments of at least \$400,000 in rehabilitation of an abandoned commercial or business building to receive specified income tax credits or credits against the property tax liability. The bill passed the House but stalled in the Senate.

Municipal Association Legislative Tracking System

The Municipal Association of SC legislative tracking system allows for detailed searching and up-to-the-minute tracking of daily legislative activity. Whether you are interested in just a general overview of weekly activity or the specific language and history of a bill, searching is as easy as 1-2-3.

The Association's tracking system is accessed through the Association's website and *From the Dome to Your Home*, the Association's weekly legislative report distributed every Friday morning during the legislative session. Association staff tracks the bills by keyword, bill number and monitoring level. Tracking system users can search for bills introduced in a specific timeframe and by topic.

The tracking system also includes lists of legislators' contact information and district number, committee assignments, and Association staff contacts for each bill. Local officials can provide direct feedback to the Association's advocacy staff using the "comment" button on each bill page.





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Advocacy Strategy Map

