

A Guide to the General Assembly of South Carolina

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Introduction

The American legislature is the first branch of government. It is the legislature that decides which policy proposals will be considered, shaped, and turned into law.... More than any other institution of government, the legislature reflects the range and reality of American politics—in the behavior of the politicians who do business there, in the conflicts that are resolved there, in the struggles that occur there to gain the benefits that government can confer, or to avoid the penalties that it can impose. The legislature is a microcosm of all democratic politics. Inevitably it holds a fascination for attentive observers and other democrats.¹

State legislatures are empowered, by their respective constitutions, to carry out several important functions. Principally, these include lawmaking, the raising of revenue, and the appropriating of money. They may also include—and often do—the overseeing of the administration of state government, the electing of board and commission members, including judges, and the approving (advice and consent) of appointments made by the governor. Invariably, however, the preeminent recognized function of the legislature is the making of laws.

Lawmaking, in its detail, is a complicated process. Nonetheless, the essence of making laws involves typically a straightforward, sequential proceeding. This usually consists of the identification of public policy issues, and subsequently, the consideration and debate of these issues. This in turn leads to the making or finalization of public policy measures that take on the form of statutes and regulations.

How do public policy issues originate or come to the attention of legislators? Interestingly enough, legislative policies may be understood, in many cases, to be simply "a response to problems confronting the public sphere."² Usually, these problems affect a number of persons, but this is not necessary. Issues and accompanying legislation need simply be conspicuous enough to legislators to warrant their consideration, however small, and afterwards, their initiation into some form of legislation.

Furthermore, it should be noted that public policy and legislation are also sometimes born out of some uneasiness, conflict or event that a legislator feels compelled to address or "fix." Only occasionally does policy and law emerge to remedy large and complex (and especially expensive) social or economic problems.

Moreover, ideas for legislation are varied and many. Each year, state legislatures put hundreds, even thousands of ideas into legislation, most of which fail to become actual

law. Nevertheless, many do make serious headway. Legislation that succeeds may pertain to a diverse array of subject matter. This may include, for instance, resolutions honoring beekeepers, beauty queens and football players; joint resolutions to permit video gambling and lotteries; bills to create new educational programs and new bureaucracies; and bills to set new speed limits on roads and highways. Again, the ideas and potentialities are endless.

While U. S. or congressional legislation focuses on issues and policies of national interest (i.e., federal income taxes, social security, foreign affairs, defense, immigration and interstate commerce), state legislatures focus on public policy concerns closer to home. These, for example, include some of the following policy areas:

- Education. Public and higher education are essentially a state responsibility. State legislatures establish local school districts and appropriate state monies to assist in the funding of public schools, colleges and universities. Additionally, state legislatures set teacher requirements and qualifications, including certification stipulations. They also enact compulsory attendance requirements, and provisions for curricula, special programs, and student achievement.
- Elections. Conducting elections is a key responsibility of state government and it is the state legislature that passes laws that deal with the qualifications for state and local offices, voter registration, and voter procedures and processes.
- Crime. Though obviously federal laws exist pertaining to crime, most crimes are state offenses and hence subject to state law. Some crimes have application to both state and federal laws. Generally speaking, however, state laws apply to crimes committed within the state unless the offender crosses state jurisdictional boundaries. State laws relating to crime include murder, rape, robbery, aggravated assault, breaking and entering, larceny, and motor vehicle theft.
- Highways and Traffic Regulations. While some overlap in federal and local laws exist, the responsibility for state roads and highways is clearly defined by state law. Further, every state licenses its drivers. It is the state legislature that sets its requirements for obtaining a driver's license. Additionally, every motor vehicle must meet legal registration requirements prescribed by state law. State legislatures also set speed limits and other rules of the road.
- Taxation. State legislatures also raise revenue through a variety of tax levies. These may include a state income tax, a sales tax, corporate taxes, and a host of excise taxes on gasoline, liquor and tobacco.³

The purpose of this brief guide will be to give an explanatory overview of the state legislature, principally its history, organization and functions. In this way, it is hoped that the reader will have a basic understanding of the General Assembly and its significant place in the government of the State of South Carolina. With these aims, the following subject areas will be covered in this guide.

- The History of the General Assembly. This section will present the historical periods of the state legislature leading up to the American Revolution in South Carolina, the antebellum period from 1776 to 1860, and the period following the Civil War until

1895. Also covered will be the era of the Constitution of 1895 until the modern times, beginning with the 1950s, and finally, the contemporary period of the General Assembly from roughly the mid-1950s to the present.

- The Organization of the General Assembly. This discussion will cover the topics of bicameralism (the structures of the Senate and the House of Representatives), membership qualifications and terms of office, legislative sessions, and legislative meeting schedules. Also covered will be Senate and House leadership or key officers, rules, legislative documents and records, and the role and responsibilities of legislative staff.
- The Legislative Process. This narrative will explain the different forms of legislation, the origination of a bill, its introduction and referral, the legislative tasks associated with standing committees, floor debate and action, the dynamics of the conference committee, and the veto process, and the final legislative disposition of acts of law.
- The Appropriations Process. The appropriations process will be explained here in some detail. Also covered will be the preliminary steps leading up to the appropriations process as executed by the governor in his or her recommended budget to the state legislature.

History of the General Assembly

The historical beginnings of the General Assembly were initiated more than 100 years before the Declaration of Independence was signed in Philadelphia, and the adoption of South Carolina's first Constitution of 1776. From the Revolutionary War to the Civil War and its aftermath, and from the state's Constitution of 1895 to today's contemporary state government, the South Carolina General Assembly has experienced change and progress. This section provides a brief history of the state legislature and a look at some of the issues which have shaped this governing body since the mid-1660s.

The Proprietary and Colonial Periods (1663--1775)

The first years of government in South Carolina preceding the Revolutionary War, from 1663 to 1775, are referred to as the "Proprietary and Colonial Periods." England had established colonies in America, and in the late 1660s, King Charles II made a gift of extensive tracts of land in South Carolina to a group of wealthy investors. These investors were known as "proprietors."

Charles II granted the Carolina proprietors extraordinary powers, the most noted of which was the "Bishop of Durham" clause, which gave them powers normally reserved for the monarch. Among these were the rights to make war and peace, create towns and ports, grant "titles of honor," raise and maintain an army, collect taxes and custom duties, impose the death sentence... and issue pardons.⁴

Beginning in 1664, and until the year 1719, the proprietors, together with a number of prominent colonial landowners, elected a "Grand Council" to conduct the affairs of South Carolina. The Council consisted of ten members (exclusively proprietors) who exercised

considerable power and authority as a kind of upper legislative house. A governor, who served as the executive authority of the colony, was appointed by the proprietors as well as a Commons House of Assembly which consisted of 20 members. This arrangement stayed intact from 1691 until the proprietors were overthrown in 1719 due to the general dissatisfaction of the landowners and merchants (non-proprietors) who served in the Commons House.

Figure 1
Historical Chronology of the General Assembly

1663--1775	The Proprietary and Colonial Periods
1660s	King Charles II gives English investors large tracts of land.
1664--1719	The affairs of the colony are conducted by a Grand Council (ten members elected by proprietors and landowners), a governor, and a Commons House of Assembly.
1719	Proprietary rule comes to an end. South Carolina becomes a royal colony of England. A His Majesty's Council, 12 members appointed by the King, is established, and the Commons House is now elected by colonists.
1776--1860	The Revolutionary and Antebellum Periods
1776	The first Constitution of South Carolina is adopted establishing the legislative branch consisting of two houses: the General Assembly and the Legislative Council. The "chief executive" or governor is chosen by the General Assembly.
1778	The second Constitution is adopted giving the legislative branch the two houses the names by which they are known today: the Senate and the House of Representatives.
1790	The third revision of the Constitution is adopted to allow for more equal representation by the "up country" part of South Carolina. The number of Representatives is fixed at 124. The governor is still chosen by the General Assembly.
1860	South Carolina secedes from the Union.
1860 1865	The Civil War years occur.
1865--1894	Post-War General Assembly Period
1865	The state is run by a provisional governor appointed by President Andrew Johnson. A new Constitution is adopted and abolishes slavery but continues to limit the right to vote to white males. The Constitution establishes the offices of governor and lieutenant governor as elected positions.
1868	The federal government abolishes the state's government for refusing to ratify the 14 th Amendment to the U.S. Constitution, and a new state constitutional convention is conducted. The resulting Constitution of 1868 allows all males, including blacks, the right to vote. The new Constitution also allows the governor to veto legislative acts.
1895--1964	The Modern General Assembly Period
1895	The Constitution of 1895 is adopted. The General Assembly retains its two houses: the Senate, composed of 46 members, or one from each county, and the House, composed of 124 members apportioned on the basis of population.
1920	The 19 th Amendment to the U.S. Constitution is adopted and women are granted suffrage.
1940	Because of poll taxes and literary tests, roughly 3,000 blacks, or a mere .08 percent of voting age blacks, are allowed to vote.
1950	The General Assembly creates the State Budget and Control Board.
1951	The poll tax is eliminated.
1950s	The "Barnwell Ring" exerts considerable influence on the General Assembly. Sol Blatt, Edgar Brown and Winchester Smith, all legislators from Barnwell County, occupy key offices in the state legislature.
1962--Present	The Contemporary General Assembly Period
1962	In <i>Baker v. Carr</i> (1962), the Supreme Court rules that legislative apportionment can be reviewed by the federal courts because "gerrymandering" might violate the 14 th Amendment's "equal protection" clause.

1965	Full voting rights are extended to blacks under the Voting Rights Act of 1965.
1967	The first restructuring of the Senate occurs establishing a mixture of single-member districts, and multi-member districts (i.e., districts where more than one senator is elected by the district's voters).
1973	The General Assembly clarifies the procedures for accession to the office of the governor. The time allowed for governor's vetoes is increased from three to five days.
1975	The General Assembly approves the Home Rule Act allowing greater autonomy and flexibility for local governments.
1976	The General Assembly passes legislation initiating judicial reform.
1980	The General Assembly approves legislation allowing the governor the power to succeed himself.
1980	The House is reapportioned to consist of 124 single member districts with each district having about 20,000 persons.
1983	The Senate is reapportioned into 46 single member districts with each district representing about 54,000 persons.
1983	The General Assembly passes legislation establishing the Court of Appeals.
1984	The General Assembly passes the Educational Improvement Act.
1991	The General Assembly passes the Ethics, Government Accountability, and Campaign Reform Act.
1993	The General Assembly passes the Restructuring Act. The governor is given more power over the administration of government.
1998	The General Assembly passes the Educational Accountability Act.
2001	The Senate organizes along party lines.

Sources: Haeberle, S. (1984). The General Assembly and the legislative process. From *Government in the Palmetto State*. Edited by L. F. Carter and D. S. Mann. Columbia, SC: Bureau of Governmental Research and Services (USC). Also: Maybank, B. (1992). The South Carolina Constitution. From *Government in the Palmetto State: toward the 21st century*. Edited by L. F. Carter and D. S. Mann. Columbia, SC: Institute of Public Affairs (USC).

With the overthrow of the proprietors, the King of England intervened in 1719 and established South Carolina as a royal colony. As a royal colony, a new colonial legislature was established consisting of two houses. The upper house was designated His Majesty's Council and consisted of 12 persons, who served unlimited terms, appointed by the King. The Council worked directly with the royal governor and further served as the highest judicial court. The Commons House of Assembly, elected by colonists, was the lower house. The two houses—jointly—were called, like their British counterpart, the "Parliament." The Parliament and the royal governor, when referred to as a singular entity, constituted what was known as the General Assembly.

During this period, the electorate consisted only of the male population who were freemen, white, and members of the Anglican Church. Further, requirements to vote for the representatives of the Commons House required that one be 21-years old, a resident for one year, and possess sizable acreage or pay "substantial" taxes. For those who desired to serve in the Commons House the requirements were even more considerable. They included ownership of 500 acres and ten slaves, in addition to being free, white and Anglican.

The Revolutionary and Antebellum Periods (1776—1860)

With the coming of the Revolutionary War, South Carolina adopted its first Constitution. The Constitution of 1776 established a legislative branch that consisted of two houses:

the General Assembly and the Legislative Council. The governor was chosen by the legislature which remained the method of gubernatorial selection until 1865.

Following independence from English rule, a second state Constitution was adopted in 1778. In 1790, a third Constitution came about establishing the South Carolina General Assembly which consisted of two houses whose names are familiar to us today, namely, the Senate and the House of Representatives. Each electoral district⁵ selected a senator, with the exception of Charleston County, which elected two senators. The number of House members was set at 124. These representatives were elected from districts based on the value of property in the district as well as population. Voting was still restricted and applied only to white, property holding males. Under these conditions, it was possible for mostly wealthy landowners to hold legislative office thereby making it easier for them to influence public policy and law to favor their interests.⁶

The General Assembly was granted extensive powers other than those associated with the lawmaking function. These powers were established due to the post-Revolutionary sentiment of resentment and distrust towards executive rule. These additional legislative powers included, for example, the election of the governor, judges and all other positions of executive authority at the state level, as well as the election of some positions of local authority.

The early part of the 19th century saw the older South Carolina leadership of the Antebellum Period wane and new leaders began to emerge. Charles Pinckney, Pierce Butler, Edward Rutledge, Thomas Sumter, and Wade Hampton gave way to equally remarkable personages such as Langdon Cheves, William Lowndes and John C. Calhoun. From the War of 1812, until secession in late 1860, the dominating political issue confronting these state leaders, South Carolinians, and the nation as a whole, was slavery. No compromise was possible between the North and the South in the end, though many efforts were made. On December 20, the Ordinance of Secession was unanimously adopted in Charleston, and for the next five years, South Carolina would be engaged in a civil war that would make an indelible mark on its people, its legislature, and its government.⁷

The Post-War General Assembly (1865–1894)

With the conclusion of the war, President Andrew Johnson appointed a provisional governor to the State of South Carolina. South Carolina, like other southern states, was ordered to amend its Constitution to abolish slavery and to change its election procedures. The South Carolina Constitution of 1865, however, failed to meet this order and continued to limit the right to vote to white males. Further, the House continued to be apportioned strictly with regard to the population of white males, and as to the amount of taxes paid. Exacerbating this situation, in 1865, the General Assembly passed legislation which was called the "Black Code." These laws made interracial marriage illegal, restricted travel of "persons of color," regulated the work hours of blacks "from sunrise to sunset," and generally restricted other freedoms of former slaves.

In 1866, South Carolina's General Assembly, the executive office of the governor, and the remainder of state government was abolished by the United States Congress. This action was taken mainly because of South Carolina's failure to adopt the 14th Amendment to the U.S. Constitution. This amendment allowed voting rights to all male citizens of 21 years of age, provided equal protection of the laws to all citizens, and repudiated the civil war debt.

In November of 1867, the United States Army conducted elections to establish a South Carolina constitutional convention that was to meet and write a new constitution during the early months of 1868. One hundred and twenty-four persons were elected to the convention, 76 blacks and 48 whites. The Congress stipulated that the new state constitution was to protect civil liberties, and to establish a more equitable basis for apportionment and taxation, regardless of race or wealth.

The result was the South Carolina Constitution of 1868, which gave all 21-year old, male citizens the right to vote, including blacks. The state Constitution also apportioned the House of Representatives on the basis of population without regard to wealth or property. Additionally, the governor was permitted the power of veto. With these and other federally directed changes to the state Constitution, including the continued occupation of federal troops, this period marked an era of increasing racism and anger among some white South Carolinians.

The Modern General Assembly (1895–1964)

The 1890s were a period of economic hardship for South Carolina. The Civil War had destroyed the economic structure of the South, and the agrarian predominance of the profitable plantations had shifted significantly to small farms. These farms, though plentiful, were generally poor or meager in terms of productivity, and politicians were cashing in on the despair and anger of farmers. One such politician taking advantage of the situation was Benjamin "Pitchfork" Tillman who campaigned hard to organize disgruntled farmers and to win their votes. The outcome was a "white supremacist" movement that led effectively to a constitutional amendment to prohibit blacks from voting.

The state Constitution of 1895 provided for both literacy tests and poll taxes as conditions for voting. Since blacks were mostly poor and uneducated, they were consequently denied being part of the electoral process. The Constitution also established separate schools for blacks and reaffirmed the prohibition on interracial marriage.

The South Carolina General Assembly reverted to an all white institution during the early part of this period, and would remain so until the 1960s. The state legislature remained virtually unchanged retaining its two houses, the Senate and the House of Representatives, the former consisting of 46 members with one member per county for four-year terms, and the latter, 124 members apportioned by population for two-year terms. The County of Charleston was now relegated to one state senator.

The early 20th century saw no substantial change to the South Carolina General Assembly, its structure or functioning. After World War I, due to the increasing influence of the suffragette movement, the passage of the 19th Amendment to the U.S. Constitution came about in August of 1920. Women now, after 143 years of constitutional prohibition, could finally vote.

The state Constitution of 1895 and its affect on legislative rule stayed essentially intact until the present day. However, in the late 1950s and early 1960s, two major changes would occur that would have an enormous impact on the electoral process and the overall scheme of representation in the General Assembly. These were the passage of national voting rights legislation, and the elimination of "gerrymandering."⁸

The Contemporary General Assembly (1965–2007)

While the poll tax was abolished in 1951, it was not until 1965 that blacks had a real opportunity to vote. This was due mainly to the continuation of literacy tests, and generally speaking, other prerequisites and forms of intimidation administered by voting officials. This denial of voting rights was met by increasing civil rights activism and various legal challenges that, in turn, lead Congress to act decisively in 1965. On August 6, 1965, the U.S. Congress passed the Voting Rights Act that extended full voting rights to all minorities, and authorized federal intervention to aid minorities with registering to vote. Prior to this, only an estimated 23 percent of voting-age blacks were registered nationally; by 1969 the number had jumped to 61 percent.⁹

The freedom and right to vote among citizens, without regard to race, was critical in making the General Assembly more representative of all South Carolinians. Still, however, another problem persisted that impacted the electoral process and representation in the state legislature—the issue of legislative apportionment of Senate and House districts.

With considerable bias, the Senate and the House determined—for decades—how seats in the South Carolina General Assembly would be filled. What, in fact, the Senate and House members did was decide the geographic boundaries of their respective electoral districts as suited their political aims or interests. In other words, the precise boundaries of Senatorial or House districts would literally be drawn to be advantageous to incumbents and their political party. Thus, by picking and choosing for themselves who would cast ballots, state legislators could maintain effective control of their legislative seats indefinitely and, if necessary, unseat party rivals. This practice is known as "gerrymandering." It was used as a political tool for Democrats to thwart Republicans, whites to prevail over minority interests, and rural interests to usurp those who represented urban concerns.

The practice of gerrymandering was eventually challenged successfully in the courts by a series of cases in the early 1960s. In *Baker v. Carr* (1962), the United States Supreme Court ruled that federal courts could review the practice of legislative apportionment by South Carolina's Senate and House. More specifically, this decision meant that the

federal courts could determine if gerrymandering violated the equal protection clause of the 14th Amendment to the U.S. Constitution. Subsequently, the principle of "one person, one vote" was established. This resolved that "each member of the General Assembly had to be elected from districts of equal population."¹⁰

Other Supreme Court decisions confirmed and reaffirmed the "one person, one vote" principle. In *Wesberry v. Sanders* (1964), the Supreme Court ruled that congressional districts must be apportioned strictly according to population figures. Likewise, in *Reynolds v. Sims* (1964), the Supreme Court decided that each state legislator had to be elected from districts of equal population. The upshot was that these rulings enabled persons and groups, like the NAACP, to bring suit against South Carolina's Senate and the House to challenge their apportionment of electoral districts.

As the legal environment changed in 1968, South Carolina's Senate reapportioned its districts. The Senate initially created twenty districts with each senator representing approximately 50,000 residents. Some of these districts had as many as five senators, thus the term "multi-member districts." However, this was short-lived, and in 1972, a new apportionment plan of the Senate was adopted. This reapportionment provided for 46 senators, who were elected from sixteen districts, with some districts being composed of up to five counties. This configuration lasted until 1983 when the Senate once again reapportioned, creating a single-member districts' plan. Hence, the Senate now was composed of 46 senatorial districts with one senator representing each district. Finally, in the 1990s, the Senate reapportioned maintaining a single-member districts' arrangement, with 46 senators. In this instance, however, districts were drawn without necessary regard to county boundaries, but rather, with emphasis on population growth.

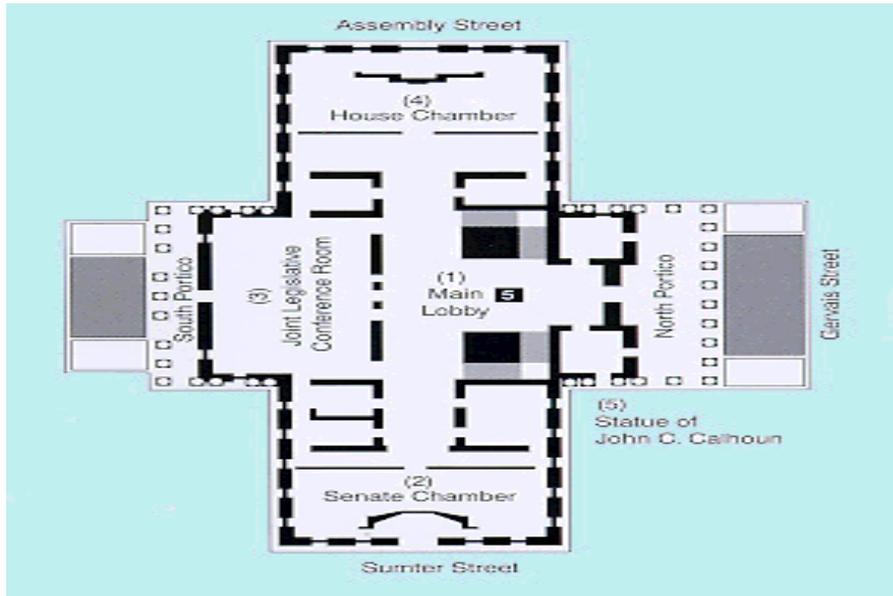
Similarly, in 1971, the state House of Representatives reapportioned. The House reapportionment was to allow for at least one representative per county with a total of 124 members. This reapportionment did not comply, however, with federal requirements that each House district represent roughly equal numbers of people, or in this case 19,000 residents. Thus, the House was forced to reapportion to meet federal compliance requirements.

In 1980, the House reapportioned with each electoral district consisting of approximately 20,000 residents. Again, after the 1990 census, House districts were redrawn with population equivalents of roughly 28,000 per district. In the year 2001, districts were redrawn once more with 28,657 residents per district.

The Organization of the General Assembly

The South Carolina General Assembly is a bicameral institution, that is, it is a legislative entity with two chambers or "houses." The "upper" chamber is designated the Senate, and the "lower" chamber is called the House of Representatives. Bicameralism is the institutional arrangement of all states with the exception of Nebraska, which possesses a unicameral legislature, or a one-house legislative body.

Figure 2
Architectural Drawing of Interior of State House



Source: Legislative Printing and Information Technology Resources. S. C. General Assembly. (2008).

The two-house configuration, like that of the United States Congress, is the legislative model that accentuates the principle of "checks and balances." Instead of one legislative body exercising full reign of the lawmaking power, like the British Parliament, a second legislative body can lend greater deliberation to issues and proposed laws and thus "check"—revisit, re-analyze, validate, and perfect—laws before they become effective. This check, it is argued, gives more "balance," or stability, fairness and substance, to legislative initiatives. Hence, with bicameralism, laws are considered and approved with the underlying belief that the application of "two heads are better than one," or similarly metaphoric, a "second opinion" gives greater assurance that the "cure" is both valid and will produce the best results.

The Senate and House differ in the number of members each have and the number of people they represent. The Senate of South Carolina is composed of 46 members and is apportioned per a single-member district plan. As based on the census data, each electoral district of the Senate contains a population of roughly 87,200. In January of 2009, there were 19 Democrats and 27 Republicans serving in the Senate.

The South Carolina House of Representatives is composed of 124 members.¹¹ Representatives are elected from single-member districts and each district contains approximately 28,700 residents. As of the January 2009, there were 71 Republicans, 52 Democrats and one vacancy.

Qualifications, Terms, Elections, and Compensation

The qualifications and terms of office for Senate and House membership differ. Representatives must be at least 21 years old and reside within the district they represent.

The term of office is two years with no limit on successive terms. To become a senator, one must be at least 25 years of age, a qualified voter, and live in one's respective senatorial district. A senator serves a four-year term, and similarly, there is no limitation on the number of terms he or she may serve. For both the Senate and the House, the terms of office begin on the Monday following the general election. Elections are held in even number years on the first Tuesday after the first Monday in November.

Candidates running for the General Assembly may be nominated in one of four ways. They may be nominated by a party primary election, held generally in the month of June before the November election, by a state political party convention, by filing a nomination petition, or by "write-in" ballot. The most popular and accepted method of nomination is the direct primary.^{12 13}

Currently, the compensation paid to state representatives and senators is relatively modest. They each receive \$10,400 per year in annual salary. Legislators are also entitled to \$95 in subsistence and \$35 for per diem (daily allowances). Legislators receive an additional \$500 for postage per year.

It is interesting to note that this level of member compensation is reflective of the General Assembly as being a part-time, "citizen" legislature. Most members earn their living from a business or profession, or in some cases, they are retired. Many legislators are lawyers, while others are business people, typically in the insurance or real estate areas. These professions are considered favorable in that they allow time for their members to conduct the affairs associated with being a state legislator. Only a small percentage of legislators are salaried workers.

Figure 3
South Carolina State Constitution

Article III.
Legislative Department

- SECTION 1.** Legislative power vested in two branches.
- SECTION 1A.** Meeting of General Assembly.
- SECTION 2.** House of Representatives.
- SECTION 3.** Number of members; enumeration of inhabitants.
- SECTION 4.** Assignment of representatives.
- SECTION 5.** When apportionment takes effect.
- SECTION 6.** Senate.
- SECTION 7.** [Proposed amendment has been approved by the qualified electors at the 1998 general election and is pending ratification by the General Assembly] Qualifications of members of Senate and House of Representatives.
- SECTION 8.** Election of representatives.
- SECTION 9.** Sessions of General Assembly.
- SECTION 10.** Terms of office.
- SECTION 11.** Election returns; quorum; absent members.
- SECTION 12.** Officers; rules; punishment and expulsion of members.
- SECTION 13.** Punishment of persons not members.
- SECTION 14.** Members in attendance protected.
- SECTION 15.** Bills for revenue; other bills.
- SECTION 16.** Style of laws.

SECTION 17. One subject.
SECTION 18. Formalities of act.
SECTION 19. Mileage; increase of per diem; compensation during extra session.
SECTION 20. Elections “viva voce.”
SECTION 21. Adjournments.
SECTION 22. Journal; yeas and nays.
SECTION 23. Doors open.
SECTION 24. Holding two offices.
SECTION 25. Vacancies.
SECTION 26. Oath of office.
SECTION 27. Removal of officer.
SECTION 28. Debtor’s exemption from attachment, levy and sale.
SECTION 29. Taxes laid upon actual assessed value.
SECTION 30. Extra compensation not permitted; appropriations for repelling invasion.
SECTION 31. Public lands.
SECTION 32. Salary of deceased officer; pensions.
SECTION 33. [Proposed amendment has been approved by the qualified electors at the 1998 general election and is pending ratification by the General Assembly]. Specified interracial marriages void; age of consent.
SECTION 34. Special laws prohibited.
SECTION 35. Lands owned by aliens.
SECTION 36. General Reserve Fund.

Source: South Carolina Constitution, Article III.

Sessions, Schedules, and Calendars

The General Assembly meets annually, as do 44 of the 50 state legislatures. The remaining seven state legislatures meet biennially. The commonly accepted reason for meeting annually is that it provides for "better representation," and more time to work on legislation. Historically, the annual session meant something quite different. It meant that the legislature could more effectively check executive authority of constitutional officers, and could ultimately contribute to legislative dominance over the executive office of the governor.

The annual session of the General Assembly begins the second Tuesday in January, meeting at the State House in Columbia. It continues to meet until *sine die* adjournment ("final" adjournment) on the first Thursday in June, unless two-thirds of the membership of both houses votes to extend the session. An extension of the session usually is agreed upon and the legislature reconvenes for typically one to two days in late June to consider specific bills, and governor's vetoes. Thus, the session usually lasts 22 weeks or roughly a period of six months.¹⁴

The weekly schedule of the General Assembly begins on Tuesday with the Senate and House convening at 12:00 noon. On Wednesday and Thursday, convening at varying times, the legislature also meets, with Thursday being the day of weekly adjournment. Friday is devoted strictly to local legislation, if any, and this is done without the legislative members actually being present.¹⁵ Occasionally, when extraordinary legislation is being debated, or the appropriations bill is being considered, the Senate or House will meet Mondays and Fridays, and sometimes—though rarely—even on a weekend.

The work of the Senate and House is not confined to the floor or chamber. The Senate and House schedule regular and special committee meetings during the week to consider legislation. Each house has a number of standing committees to which bills are referred. The standing committees allow the legislature to study, debate and, if need be, propose changes to bills in a more focused and deliberative manner. The number of members serving on committees average around 17 persons. Additionally, subcommittees of three to five members are regularly established to consider legislation in even more specialized ways. Committees and subcommittees usually schedule meetings for their members to discuss bills and to hear from sponsors, experts, interest groups, and the general public. The members may ask questions, seek additional information related to the proposed legislation, discuss among themselves the particulars of the legislation, and if they desire, propose amendments. The finance and judiciary standing committees of the Senate and the House meet normally at regular scheduled times on Tuesday. Other committees and subcommittees meet usually on Wednesday or Thursday at the call of the chairperson. Meetings are posted on the Internet,¹⁶ in the State House, and in the Senate and House office buildings on the State House Complex.

As to the schedule of bills and agenda (order of business) for their meetings on the floor, the Senate and the House publish their own individual calendars. A "Daily Calendar" is printed for each legislative day. The Daily Calendar is a list of pending legislation to be considered in a certain order according to the rules of each house. This order essentially takes into consideration the reading status of the bill, and whether or not the legislation is objected to by members. The Daily Calendar can be accessed by the public over the Internet.

Rules of the Senate and House

South Carolina's Senate and House of Representatives each adopt their own rules which govern their organization and operations. Rules serve many purposes but mainly they establish parliamentary procedures. They provide for an order of business, give attention to and consideration of minorities' interests, and offer traditional and accepted ways for the management of formal debate. In short, rules create and maintain orderly and pre-established methods for the conduct of legislative business, most principally, the making of laws. Rules of the Senate and the House are published in the South Carolina's *Legislative Manual*.¹⁷ Additionally, these are supplemented by *Jefferson's Manual of Parliamentary Practice* in the Senate and *Mason's Manual of Legislative Procedure* in the House as to all points of order or procedures not covered specifically by the *Manual*.

Rules cover a variety of topics. These include times of meetings, quorums, attendance, record keeping, floor privileges, motions and their precedence, voting procedures, committee organization and operations, priorities of business, the handling and debate of legislation, reports, amendments, house officers, decorum, ethics and discipline, messages, convening and adjournment. Also covered by the rules are minute subjects such as where reporters are permitted in the chamber, the handling of broadcasts by television and radio within the chamber, the receipt of invitations by legislative members,

the designation of seating areas for visitors, and the prohibition of smoking and eating of food in the chamber.

Senate Rules. The rules of the South Carolina Senate govern the Senate structure and their functions. Of particular importance are party affiliation and the “seniority system,” as specified in the Senate rules. The majority political party, Democrat or Republican, and the period of uninterrupted service as a member of the Senate determines committee assignments, chairmanships, and other position, office, standing or ranking within the Senate. As such, political association and length of continuous service, dictates the degree of “power” and “opportunities” that are afforded to one as a state senator.

The rules of the Senate differ from those of the House in some key respects. One such example is the allowance of a “filibuster.” A filibuster can allow a senator, or group of senators, to carry on a lengthy or extended debate and, therefore, delay or prohibit the passage of legislation. The House rules, in contrast, do not allow for this legislative maneuver. Another example, discussed in greater detail later, is the power or authority permitted the President of the Senate. The President, in essence, mainly presides over the actions on the Senate floor; conversely, the Speaker of the House has extensive committee and chairperson appointment powers.

In all, there are 53 adopted rules that regulate the structure and operations of the Senate of South Carolina. These rules again cover a diversity of subject areas including, the attendance and obligations of a senator, floor procedures and the order of business, privileged motions, committee rules, executive sessions, and the readings of bills.

Lastly, the size of the Senate (46 members) arguably allows for a more personal and intimate operation, than that of the House (124 members). Although the Senate has a complex set of rules, its traditions permit normally a certain deference to members and their actions. It is not unusual for the Senate, for instance, to spend lengthy debate, perhaps days, on legislation that took the House only a few hours to consider and approve. (Again, the filibuster may contribute some to this lengthiness.)

House Rules. The House of Representatives' rules differ mainly because of the absence of a seniority system. The presiding officer of the House, the Speaker, appoints committee members and chairpersons. This allows the dominate political party to control key committees without regard to length of service. Thus, as of the 2007-2008 session, with a majority of Republicans in the House, its committees and chairpersons reflect this fact.

Additionally, with the absence of a filibuster, the House rules place time limits on members speaking on legislation. These constraints also extend to amendments to legislation.

No member shall speak more than twice on the main question of a bill or resolution being considered for any reading and not longer than sixty minutes for the first speech nor longer than thirty minutes for the second speech, unless allowed to do so by the affirmative

vote of a majority of the members present and voting. No member may speak more than twice on an amendment or a motion to reconsider that is debatable, and then no longer than ten minutes each time....¹⁸

Leadership--The Senate and House

Each house of the South Carolina legislature elects its own presiding officers. These presiding officers differ, however, in the exercise of authority and power.

The leadership function in the Senate is diverse, and is defined mainly by the Senate's rules as well as law. First, the main presiding officer of the Senate is the lieutenant governor who operates pursuant to the state Constitution and statute. The lieutenant governor is elected by the people for a four-year term and is required to meet the same qualifications as the governor. Most importantly, the lieutenant governor is the immediate successor to the governor should the governor die, resign, or for other reasons fail to complete his or her term of office.

The lieutenant governor serves as President of the Senate and, in this capacity, presides over the actions or debate on the Senate floor. The lieutenant governor assigns bills to committee, manages the sequential flow of floor activities, rules on points of order, and casts a vote if, and only if, there is a tie vote.

The President *Pro Tempore* of the Senate, determined by party affiliation and greatest seniority, is responsible, under Senate rules, for the processing or movement of legislation through the Senate. The President *Pro Tempore* also acts as presiding officer of the Senate in the absence of the lieutenant governor.

The remaining Senate leadership otherwise follows again the rules of party membership and seniority. With a majority of Republicans, as of August 2008, senior members of this party alliance chair all standing committees. The most powerful committee chairmanships include the Senate Finance Committee and the Senate Judiciary Committee. Chairmen of standing committees determine which legislation will be considered and when. This power is obviously of great significance since these determinations affect the passage of legislation.

In the House of Representatives, the presiding officer is the Speaker of the House. A Speaker is elected every two years, during an organizational session, by the members of the House. The Speaker is always a member of the majority political party in the House and usually serves for several terms.

Figure 4
Senate and House Leadership
Definitions

President—By constitutional enactment, the lieutenant governor is the presiding officer in the Senate and is referred to while presiding as "Mr. President."

President Pro Tempore—The person elected by the Senate to have the same powers as the President in the latter's absence.

Speaker—Presiding officer and chief administrative officer of the House of Representatives, elected by the body.

Speaker Pro Tempore—Substitute presiding officer, taking the Chair on request of the Speaker in his absence. Elected by the body.

Presiding Officer—Person designated to preside at a legislative session.

Majority Leader—A member of the majority party designated to be leader.

Minority Leader—A member of the minority party designated to be leader.

Office of the Clerk. (2008, September). *South Carolina's legislative process*. Columbia, SC: S. C. House of Representatives.

The Speaker of the House is a powerful position. Much of this power derives from the power of appointment and bill assignment. The Speaker appoints all committee members and their chairpersons. The Speaker can therefore reward political allies with committee assignments and chairs, and alternatively, punish foes. As such, there is a considerable incentive to some members to act as to benefit the Speaker and the Speaker's interests.

The Speaker, as presiding officer, decides which legislation goes to what committee, and determines who will serve on conference committees. The Speaker presides over floor debate, rules on points of orders, and generally manages the flow of legislative work. These are, of course, noteworthy powers in their own right.

Finally, while most leadership positions reside with the presiding officers and committee chairmen, party leadership is clearly a significant and influential factor. The parties' leaders are designated as Majority Leader, who represents the majority party in the house, and the Minority Leader, who conversely carries on leadership for the minority party's interests. These leaders, as one might infer, mainly coordinate and manage their respective party's preferences and actions on pending legislation.

Legislative Staff

Legislative staffs carry out various operational and administrative tasks for the Senate and House. Both houses elect clerks—aptly termed the Senate Clerk and the House Clerk—who are the chief administrative officers of their chambers. The clerks principally manage and oversee daily administrative operations of their individual houses. Other personnel elected by each house include a Sergeant-at-Arms, a Reading Clerk, and a Chaplain.

Each house also hires various research staff and administrative personnel that are essential to the functioning of the state legislature. This includes the Office of Senate

Research and the Office of House Research. These research offices carry on research activities, draft bills, and generally assist legislators with their information and data needs. Additionally, standing committees have research and administrative personnel. This usually consists of a research director, and a secretary to the committee chairperson. However, finance and judiciary committees have several research staff persons, and two or more administrative assistants, to assist them with their legislative workloads.

Additionally, research and bill drafting services for the General Assembly are provided by the Legislative Council. The Council, which is composed of five *ex officio* members, elects a Code Commissioner who supervises the work of the Council's attorneys and other personnel. The Council is also responsible for properly indexing, assembling and updating the South Carolina Code of Laws and the processing of state regulations in the State Register.

Further, the Legislative Audit Council regularly provides to the General Assembly "performance audits" on state agencies and their programs. These audits measure the efficiency of agency operations and the effectiveness of an agency in achieving its objectives and goals. Where improvements can be made to the agency, the Audit Council makes appropriate recommendations.

Finally, two agencies provide technological services to the General Assembly to support the members' work. Legislative Information Systems provides administrative and data processing services to all offices of the legislature. Additionally, the Legislative Printing and Information Technology Resources unit provides services for office automation and various computer support applications as well as printed legislative materials to the General Assembly. This unit also provides an array of legislative on-line and printed resources to the public.

The Legislative Process

As stated earlier, the chief function of the General Assembly is to make laws. Lawmaking is a highly complex process consisting of a series of detailed and intricate steps whereby proposed legislation is drafted and put into bill or resolution form, filed, and depending on numerous factors, either makes its way into law through deliberation and approval, or fails to do so.¹⁹

At the risk of oversimplification, the process of how a bill becomes a law, though complicated, can be outlined in a generalized manner. Such an outline provides a rudimentary, yet essential understanding of the legislative process.

In the following narrative, an overview of the forms of legislation, including both bill form and varying resolution formats is presented. This includes a review of how legislation originates and is drafted as well as how bills are introduced and then referred to committee. Finally, committee deliberation, floor debate, conference committee consideration, and actions taken by the governor relating to legislation are explained.

Forms of Legislation

Proposed legislation may take one of four forms in the legislative process. These forms are a bill, a joint resolution, a concurrent resolution, or a resolution. Of these forms, only a bill can become permanent law, and hence, an Act. The term "Act" is the name applied to a bill that has received approval by both the Senate and the House, has been ratified, or signed by the clerks and presiding officers of both houses, and has been approved by the governor, or passed over the governor's veto.

A "bill" is the most used form of proposed legislation. It is the term that is applied to legislation that is introduced in either the Senate or the House, or both, and is again meant to be of a permanent nature. A bill must be read and adopted three different times in each house, before it becomes an Act.

Bills can deal with a wide range of issues. Examples would include a bill that raises the speed limit on South Carolina interstate highways from 65 miles per hour to 70. Another might be a legislative proposal that increases the mandatory sentence or punishment for conviction of petty theft from one to two years in prison without possibility for probation or parole. Still another could be a measure to permit liquor sales on Sundays, or to require seatbelt use on buses and vans, or to fund patient beds for the poor and elderly, or to outlaw the teaching of theories of evolution in public schools without also teaching creationism, and so on.

Another type of legislative measure is the "resolution." It can take several forms: joint, concurrent, or a "stand alone" format representing one chamber's views. A "joint resolution" is similar to a bill but differs by not being a permanent measure. It has the same force as an Act but is a temporary measure lasting only as long as specified in the joint resolution itself or until the purpose of the measure is accomplished. Like a bill, it requires three readings in each house, but after its passage, is not referred to as an Act. Joint resolutions are, for instance, the legislative forms used to propose constitutional referendums. Recent examples of subjects that utilized the joint resolution format include proposed constitutional changes to allow for a state lottery, to lower property tax assessments, and to provide that ten affirmative votes by a jury of the court (instead of twelve affirmative votes of a jury) is sufficient for invoking the death penalty.

Figure 5
Bill Format

S. ____	← Bill Number
Introduced by Senators _____	← Sponsor(s) of Bill
Read the first time January __, 2007.	← Date Introduced and Referred to Committee
A BILL	
TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56-5-616 SO AS TO PROVIDE THAT THE INTERSTATE HIGHWAY SYSTEM CONSISTS OF SEGMENTS OF HIGHWAY OFFICIALLY DESIGNATED IN THE NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS; TO AMEND SECTION 56-5-1520, AS AMENDED, RELATING TO SPEED LIMITS, SO AS TO PROVIDE THAT THE MAXIMUM SPEED LIMIT ON AN INTERSTATE HIGHWAY IS SEVENTY MILES AN HOUR; TO AMEND SECTION 56-5-1540, AS AMENDED, REALTING TO THE ALTERATION OF SPEED LIMITSBY LOCAL AUTHORITIES, SO AS TO PROVIDE THE MAXIMUM	

SPEED LIMIT IN AN URBAN DISTRICT IS SEVENTY MILES AN HOUR; AND TO REPEAL SECTION 56-5-1510, RELATING TO THE STATE'S FIFTY-FIVE MILE AN HOUR SPEED MAXIMUM LIMIT AND FEDERAL LAWS THAT PERMIT THE STATE TO SET SPEED LIMITS GREATER THAN FIFTY-FIVE MILES AN HOUR.

Be it enacted by the General Assembly of the State of South Carolina:



SECTION 1. The 1976 Code is amended by adding:

"Section 56-5-616. The interstate highway system consists of the segments of highways in South Carolina in the officially designated national system of interstate and defense highways."

SECTION 2. Section 56-5-1520 of the 1976 Code, as last amended by Act 497 of 1994, is further amended to read:

"Section 56-5-1520. ~~(a) General rule. No~~ (A) A person shall not drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. ~~In every event Speed must be so controlled as may be necessary to avoid colliding with any a person, vehicle, or other conveyance on or entering the highway in compliance with legal requirements and the duty of all persons a person to use care.~~

(b) ~~Maximum speed limits.~~ (B) Except when a special hazard exists that requires lower speed for compliance with ~~paragraph (a) of this section~~ subsection (A), the limits specified in this section or established as hereinafter authorized are maximum lawful speeds, and ~~no~~ a person shall not drive a vehicle on a highway at a speed in excess of these maximum limits:

(1) ~~thirty miles an hour in any urban district;~~ seventy miles an hour on the interstate highway system and other freeways where official signs giving notice of this speed limit are posted.

SECTION 3. Section 56-5-1540(a) (2) of the 1976 Code is amended to read:

"(2) increases the limit within an urban district but not to more than ~~fifty five~~ seventy miles an hour, ~~except that speed limits above fifty five miles an hour are required when stipulated by Section 56-5-1510; or"~~

SECTION 4. This act takes effect upon approval of the Governor.



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Another form of legislation is the "concurrent resolution." A concurrent resolution is a measure that is passed by both the Senate and the House that reflects the mutual sense, sentiment or opinion of the General Assembly. It is not a law, nor does it possess the force of law. Additionally, it does not include an appropriation. A concurrent resolution also requires only one reading in each house for adoption. Since it records the sense of the legislature alone, the governor's signature is therefore not needed. Examples of a concurrent resolution might include an expression of sympathy for a deceased person, a stated position on a matter before Congress, a declaration of support for a military campaign, a statement of honor or congratulations to someone, or a stated position on some, or virtually any, significant public policy issue.

Finally, a "resolution" is another measure that is adopted by a single reading. But in this case, a resolution affects only one house (the Senate or House of Representatives) and, as such, expresses the sense of only that particular body. Resolutions, like concurrent resolutions, express the specific house's feelings or opinions on subject matter and they do not have the force of law.

Figure 6 Bills, Resolutions, and Acts

Names and Explanations of Legislative Measures

A **Resolution** affects only the action of the legislative body (Senate or House) and the members of the body in which it is introduced.

It requires only one reading and adoption, and is not submitted to the other legislative body.

A **Concurrent Resolution** affects the action of the entire General Assembly and the members thereof; does not carry an appropriation; does not have the force of law, as an Act or Joint Resolution does, but records the sense of the Senate and House concurrently.

It requires only one reading and one adoption or concurrence by each body.

A **Joint Resolution** has the same force of law as an Act, but is a *temporary* measure, dying when its subject matter is completed. It requires the same treatment as a Bill does in its passage through both Senate and House, but its title after passage is not changed to that of an Act; and when used to propose an amendment to the Constitution it does not require the approval of the Governor.

A **Bill** is the term applied to a measure introduced in either body (Senate or House) and is designed to become a permanent law (or an "Act").

It must be read and adopted three times on three separate days in each body. Once the required readings have occurred, the title is changed to that of an Act.

An **Act** is the term applied to a Bill that has passed both the Senate and House, been ratified by the presiding officer of each body and signed by the Governor or passed over his veto. It is a *permanent* measure, having the force of law until repealed.

Source: Clerk of the House. (2008, September). *South Carolina legislative manual*. Columbia, SC: The S.C. House of Representatives.

Bill Origination, Drafting, Introduction and Referral

Bills begin first as ideas and only then are transformed into bill form. These ideas can relate to anything within the reasonable stretch of reason or imagination. They may apply, for instance, to topics in education, health, transportation and highways, corrections, civil and criminal law, human services, conservation or environmental policy, natural resources, parks and recreation, and/or taxation. The topics, sub-topics, and sub-sub-topics are limitless.

Anyone can come up with an idea for proposed legislation. Frequently, ideas come from constituents who reside in a member's electoral district. Sometimes ideas are generated by special interest groups, or their lobbyists. Special interest groups include, among others, business, medical, labor, farm, hazardous waste, gaming, civil rights, consumers, state employees, and trade associations. Often legislative researchers and staff present ideas for bills. Legislators, of course, themselves conceive and put into bill form their ideas, especially those that reflect their political interests or policy preferences. Lastly, the governor generates his or her ideas or policies, which are introduced into bill form, and which are invariably initiatives or programs that are of a high profile. (The governor

must rely upon a legislator, however, to introduce a bill since the governor is not a member of the legislature.)

Bills and resolutions, whatever the subject matter, can only be introduced by a member of the General Assembly. Bills are drafted at the request of a legislator or sponsor, usually by an attorney or a staff person who works for the General Assembly. The attorneys employed by the Legislative Council draft many of the bills and resolutions that are introduced in the state legislature. Senate Research, located in the Senate Clerk's Office, also drafts a considerable number of bills for Senate membership.

Once a bill or resolution is put into proper form (which includes the names of the legislative sponsor or sponsors), it is then formally introduced by placing it in the "legislative hopper" (a wooden box) on the clerk's desk in either the Senate or the House, or again, both.²⁰ Then, with the exception of prefiled bills,²¹ when the Senate and/or House convenes for its daily session, the reading clerk reads the bill title in the order they are placed in the hopper, and the presiding officer refers the bill to its proper committee. This constitutes the bill's "first reading," with two readings more required before it passes that particular body and is sent to the other, where again, three readings are necessary.

In some cases, a member may request unanimous consent to have a bill placed on the house calendar, for a second reading, without reference to committee. This is done occasionally for one of two reasons. First, a bill or resolution may pertain to a subject that is straightforward or simple, does not require study, and is not controversial. Because of its simplicity, and the likelihood that it will not require any serious debate, this is usually granted. Second, some bills are of great significance, and have been perhaps studied and previously debated to the extent that reference to committee is redundant or not needed, and, most importantly, a unanimous feeling exists among members that the proposed legislation requires speedy or immediate consideration. Bills are placed on the house's calendar "without reference" (i.e., without reference to a standing committee) in these instances also.

On rare instances, and generally on those occasions when the subject matter is of great importance, a member will request to be heard (to speak on the floor to the entire body or membership) on a bill being referred to committee. This is normally the sponsor of the bill and the purpose for being heard is to explain the bill and to affirm or accentuate its significance to the membership at-large.

Standing Committees and Their Importance in the Deliberative Process

The South Carolina General Assembly uses a committee system—like Congress and the 49 other state legislatures in the U.S.—in its deliberative process. For purposes of discussion here, however, five critical reasons for using committees will be noted.

First, the committee system allows for focused study and analysis of proposed legislation. Careful examination of a bill, including fiscal, economic, or statistical analysis, if

applicable, is important to permit committee members a complete and thorough understanding of a bill's provisions, and the provisions' collective impact.

Second, and of a related nature, the committee system allows for legislators with expertise and knowledge of a bill's subject matter to assist other legislators, who are unfamiliar with the topical issues connected with the bill, to grasp the meaning and implications of the bill and its content. For instance, a committee member, who is also an accountant and expert in taxation requirements, might explain to his or her colleagues the details and impact of a change in the law pertaining to income tax filing status. Or, a legislator, whose occupation is farming, for example, can testify about the benefits of farm subsidies and the raising of tobacco. Therefore, legislative expertise is key to the comprehension and viability of proposed legislation.

Third, committees allow also for a "division of labor and specialization," and thus permit greater efficiencies by parceling the numerous bills that are introduced each session into smaller, more deliberative groups. Small groups, like those in the committee structure or system, foster and permit better use of time, more productivity, and more meaningful outcomes in the long run. Legislators can focus their energies on a narrower range of topics and acquire specialized knowledge.

Fourth, committees invite citizen participation. Committee meetings are open to the public and this, in turn, allows those interested in proposed legislation "to get actively involved" in committee proceedings. Committees invite the public to be heard on bills during committee meetings and hearings. This benefits all, particularly committee members since they get an opportunity to ask questions publicly during these occasions. This exchange with the public further gives committee members a good chance to hear, for the record, the thoughts and opinions of the people the bill will most likely affect.

Fifth, and perhaps most important, the committee system and process allows for the "kernels to be separated from the chaff." With the committee system, generally speaking, only those bills that are of the most significance manage to pass the rigors of committee review and deliberation. Bills that do not "pass the grade," are not of public interest or priority, are too costly, are not germane, or are ill-conceived, do not get reported to the floor. As a consequence, these failed bills do not divert attention from more pressing bills which make it to second reading.

Standing Committees and the Consideration of Proposed Legislation

The "standing committee" is one of four legislative committee structures. The remaining three are termed "interim," "select," and "joint" committees.²² The standing committee is, however, considered the "workhorse" of committee structures. This is because it is the main committee to which bills and resolutions are referred.

South Carolina's Senate and the House of Representatives have established, by rules, their own separate standing committees. Specifically, the South Carolina Senate has 15 standing committees. Membership is determined again by party and seniority with each

member selecting, on the first meeting day of the session, four to six committees on which to serve. Membership of the Senate standing committees ranges from five to 23 members, with a 17-member figure being the norm. The standing committees of the Senate are:

- Agriculture and Natural Resources (17)
- Banking and Insurance (17)
- Corrections and Penology (17)
- Education (17)
- Ethics (10)
- Finance (23)
- Fish, Game, and Forestry (17)
- General (17)
- Interstate Cooperation (5)
- Invitations (11)
- Judiciary (23)
- Labor, Commerce and Industry (17)
- Medical Affairs (17)
- Rules (17)
- Transportation (17)

In the House of Representatives, there are 11 standing committees. The Speaker of the House appoints the committee members and the chairpersons during an organizational session which occurs sometime in December of each even year, before the session itself begins early in January. Representatives serve on one to two committees, and the committee membership ranges from 25 to five. The following standing committees are in the House:

- Agriculture, Natural Resources, and Environmental Affairs (18)
- Education and Public Works (18)
- Legislative Ethics (6)
- Interstate Cooperation (5)
- Invitations and Memorial Resolutions (5)
- Judiciary (25)
- Labor, Commerce, and Industry (18)
- Medical, Military, Public and Municipal Affairs (18)
- Rules (15)
- Ways and Means (25)
- Operations and Management (7)

These are the designated standing committees of South Carolina's Senate and House of Representatives. A committee proceeds ordinarily in the following manner as to the consideration of proposed legislation, regardless of the body or chamber.

After a bill or resolution is reported to committee, the chairperson decides how it will be handled. Most committees are divided into subcommittees, consisting of three to five

members. It is these permanent subcommittees where, in most cases, bills are referred (though not necessarily). This referral to subcommittee is made by the committee chairperson, sometimes with consultation of other committee members.

For purposes of illustration, the Senate Finance Committee has established five regular subcommittees: one dealing with taxation, one with educational funding, another with health and human service funding, one with agricultural and correctional fiscal matters, and one dealing with transportation funding. When a bill is referred to committee, the Chairperson of the Senate Finance Committee usually decides which subcommittee, based on the subject of the bill, is to review the bill. If the Chairperson determines the bill needs special study, however, he or she may assign the bill to a special subcommittee and appoint its membership as he feels appropriate.

Continuing this example, the Chairperson may also make no referral. The Chairperson instead, for various reasons, most significant of which is timeliness, may bring the bill before full committee for consideration. Still in other cases, the Chairperson may not refer the bill either to subcommittee or special subcommittee, nor consider the bill in full committee, but rather lets the bill reside in a kind of "suspended animation," where it dies (fails to pass).

Once a bill is placed in full committee, or a subcommittee,²³ the process starts with staff review and analysis of the legislation. This consists of the research staff of the committee preparing a summary and explanation of the bill, and if necessary, attaching a certified fiscal or expenditure impact to the bill.²⁴ Further research of the bill is completed, as necessary, and all relevant research information and data is then attached to the bill summary. At some point in this process, the staff also contacts interested parties affected by the bill and gets input from them and makes this known to appropriate committee membership.

Next, the committee staff meets with the chairperson, either of the full committee if the bill is placed there, or with the subcommittee, if the referral is here, and they—staff and chairperson—review the bill together. When the chairperson has a "comfortable" understanding of the bill, and the other research connected with the bill, the chairperson normally gives approval to move ahead. With this done, the bill is scheduled to be considered in a meeting or hearing setting, and interested parties and the public at-large are notified.

In the committee meeting, or in a like manner, the subcommittee meeting, the bill is typically scrutinized in the following way. The bill is reviewed, discussed, and the public is invited to speak. At some point, after an understanding of the bill is achieved, and the public has been sufficiently heard, the committee members move to debate the merits of, or problems with, the bill. If there are problems, members customarily then offer amendments to change the content of the bill. Once an amendment(s) is proposed to the bill by a member(s), the amendment is discussed and eventually voted on. If approved, the amendment is attached to the bill, and after all amendments are decided on, the amended bill is then approved and becomes the final version of the committee's review

and consideration, i.e., the committee's report. The bill is then returned to the chamber where it is placed on the calendar for second reading.

Thus, in those cases where the bill is acted on, and the committee completes its deliberation on it, one of the following occurs:

- The bill is reported as amended, with a recommendation that it pass [*Reported to floor*];
- The bill is reported without being amended, with a recommendation that it pass [*Reported to floor*];
- A bill is reported without recommendation (rare) [*Reported to floor*];
- The bill is reported with a majority recommendation to pass and a minority recommendation that it fail [*Reported to floor*];
- The bill is tabled or continued (fails to pass) [*"Dies" in committee*]; or,
- The bill is carried over indefinitely (fails to pass) [*"Dies" in committee*].

In conclusion, the committee is a crucial part of the deliberative process in the South Carolina General Assembly. It is here that members give clarity and detail to a bill or resolution and make recommendations to the full chamber. The chamber, as such, benefits from this extensive examination of the proposed legislation and is, accordingly, better equipped to deal with it in an expeditious and effective manner.

Floor Debate and Action (Second and Third Readings)

Bills are treated similarly on the floor in both South Carolina's Senate and the House. They both require second and third readings for approval. Both legislative bodies schedule, debate, and amend bills as needed and as suits the body's deliberative leanings. There are, of course, some differences as the rules of each chamber dictate. Notably, the Senate allows a filibuster, and extensive powers are granted to the House Speaker regarding, for example, the power to make committee assignments, to refer bills to committees, and to rule on points of order. On the whole, however, these differences and others, while important, do not distinguish the two legislative bodies radically from one another in the main activities of floor action—namely, that of debate and voting.

Bills are reported to the floor by committee and placed on the calendar (a schedule of daily business for the chamber) for second reading. This occurs when the reading clerk reads the bill number and title, and the presiding officer announces that the bill is placed on the calendar for second reading.²⁵ At this moment in the process, several actions may take place which will affect the bill's status.

One action that may occur is a member, or members, will ask that their names be added to the calendar as "desiring to be present" when a bill is to be discussed or debated for second reading. This means that a member "objects" to second reading and, as a result, the bill is placed on the calendar but under the status of being "contested." When a bill is contested, it will typically not come up for second reading and debate until the bills that are uncontested are considered. This can sometimes result in a considerable delay and

may result in a bill ultimately failing to pass. The Senate requires only one member to object to a bill for it to be placed on the contested calendar. The House rules require five members to object to a second reading.

Another action, which may take place once a bill is placed on the calendar, is a member may ask for "immediate consideration" for second reading. This is a unanimous consent request and is used for bills that normally are simple and require little or no discussion, and few, if any, amendments. If no member objects, the bill is given second reading. Also, when this occurs and second reading is granted, the member usually requests third reading occur automatically on the next legislative day.

Occasionally, when a bill is placed on the calendar for second reading, and the bill is of special significance, a member will request that the bill be put on "special order." Special order is a position on the Senate or House calendars that places the bill ahead of all other bills for second and third readings. The appropriations bill is an example of a bill that would receive this special status.

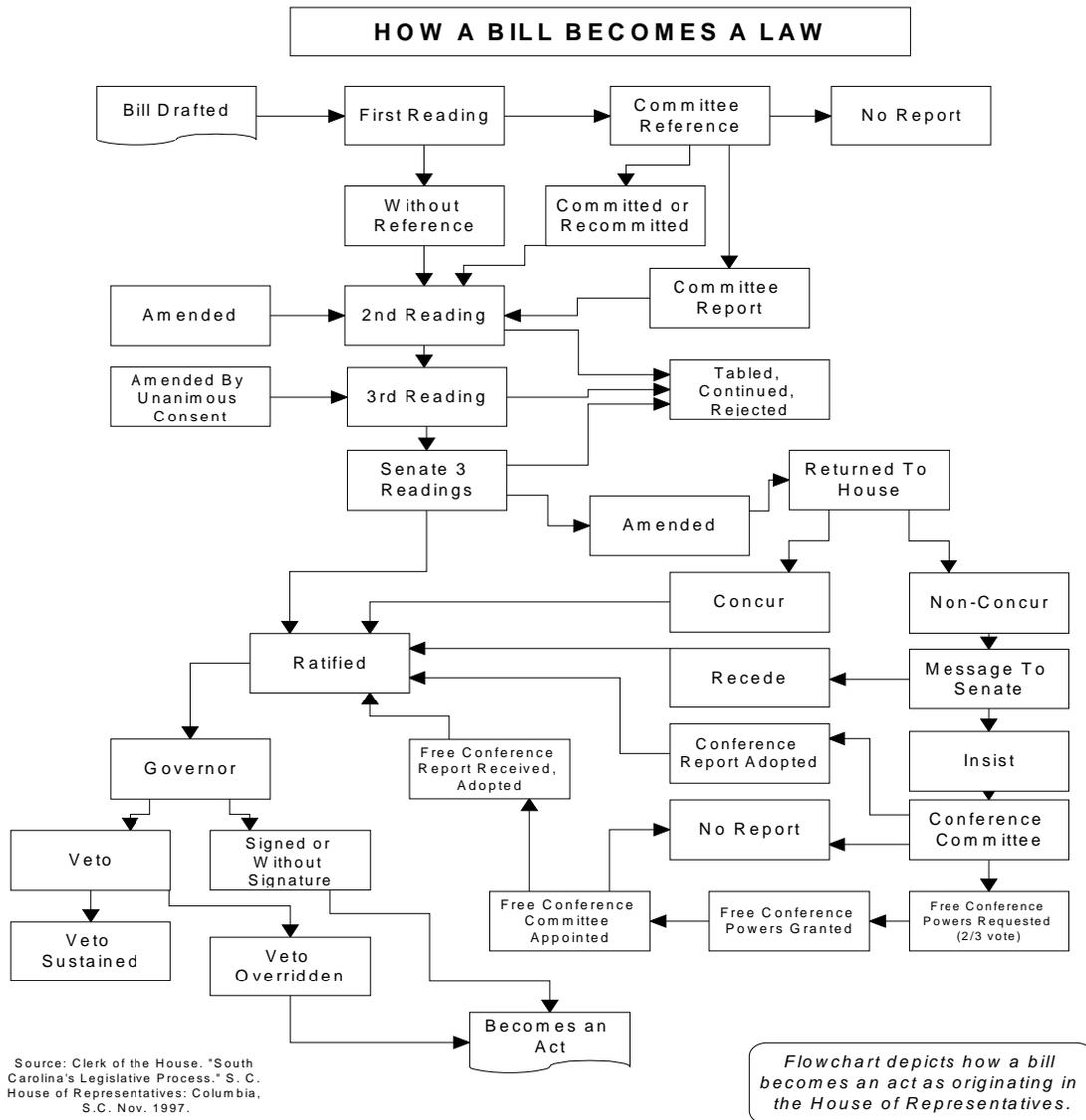
Once a bill is scheduled for second reading, the time for debate and consideration of amendments is at hand. Most common at this juncture, the sponsor will ask to be recognized and he or she will give an explanation of the bill. Other members may also be recognized to speak generally for or against the bill. Next, amendments will be considered, if there are any. If no amendments are recommended then a member will ask for approval or second reading. This will be decided by voice vote, "yeas and nays," or by recorded vote.²⁶

If amendments are being proposed, the amendments will be read—one at a time—by the reading clerk and, if necessary, the sponsor of the amendment will explain the amendment. After this, those for or against the amendment will speak and debate the issues associated with it. Once this is completed, the amendment will be voted on, and either approved or disapproved (tabled). This will continue usually until all amendments are considered, or some other motion or action is proposed by a member, such as, adjournment.

Once second reading is approved or completed, the bill is scheduled for third reading. No amendments can be offered during third reading unless it is requested and approved during second reading, or by unanimous consent. When third reading occurs, the bill is signed by the House or Senate clerk and sent to the opposite chamber for consideration.

If the bill has not been previously considered by the other house, it is introduced and the process begins anew, i.e., the process repeats itself—three readings, etc. If, on the other hand, the bill originated in the house it is sent to, and no amendments have been added by the opposite house, then it is adopted and enrolled for ratification. If it has been amended by the opposite house, then the receiving house must either adopt or not adopt the new amendments. If the receiving house fails to adopt the new amendments of the other house, a conference committee is appointed.

Figure 7



Conference Committee Action

A conference committee is a special committee appointed to work out the differences between the Senate and the House versions of a bill. When, as is often the case, a bill has received three readings in each house, and both houses cannot agree with the content of the bill, a conference committee is appointed consisting of six members to resolve any disagreements. Three members of the Senate are appointed by the President *Pro Tempore*, and three members of the House are appointed by the Speaker. Once these conferees are appointed, they decide when to meet.

At the first meeting of the conference committee a chairperson is elected and discussion begins on the bill.²⁷ The conference committee can remove terminology from the provisions of the bill, but the Senate and House rules dictate that the committee can not add new language. This can sometimes make it difficult to reach compromise. Usually, several meetings of the conference committee take place before an agreement is reached. If an agreement or compromise cannot be reached, this is reported back by the conferees to their respective houses. At this point, the conferees request "free conference powers." Free conference powers enable the conferees to add new language to the bill and thus—in most cases—achieve an agreement. Free conference powers can only be granted by each house voting separately and approving the powers by a two-thirds vote.

Once the conference committee is agreed on the bill, a conference committee report is made to the Senate and the House of Representatives. The two chambers then vote for approval and the bill, if approved, is enrolled for ratification.

Governor's Action

After ratification the bill is sent to the governor. The governor has five days, excluding Sundays, to do one of three things. The governor can sign the bill and it then becomes law—an "Act." The governor can simply do nothing with the bill during the five-day period in which case it becomes law without his signature. Or lastly, the governor can veto (disapprove) the bill and return it, with his or her veto message, to the General Assembly.

If the governor vetoes the bill, then the bill must receive two-thirds vote by each house to become law. This action by the two chambers is called "overriding" the governor's veto. If one or both of the two chambers fail to get two-thirds vote, the bill is disapproved or fails and this is called "sustaining" the governor's veto.

Once a bill becomes law, the Act is sent to the South Carolina Secretary of State's Office where it is permanently filed and recorded.

The Appropriations Process

The budget and appropriation processes are very important in the conduct of legislative business, and equally, the administration of state government. They can be described as the formation of financial plans—fiscal authorizations—for the expenditure of funds to provide resources for the day-to-day operations of state programs and services. They also may provide monies for capital needs such as roads and bridges, and governmental buildings like schools and hospitals. In other words, they are financial development processes which coordinate the spending of state revenues over a twelve-month period in accordance with public policy decisions made by the legislature to deal with the needs of South Carolinians.

The formulation of state fiscal policy is a lengthy and detailed decision-making process. The determination and allocation of monies for state government involves the energies

and efforts of the governor, the General Assembly, specialized staff, agency heads, special interest groups, the beneficiaries of state services, and the public at-large. The developmental sequence and timing of the budgeting and appropriation processes are similarly complicated operations. The 108 governmental entities comprising state government each prepare a budget—a request—to meet their particular financial requirements. These requests go through an involved review and approval process, over essentially a 365-day time period, until they synthesize, evolve and become the final spending plan or the state’s General Appropriations Act. (Note: See "Budget/Appropriations Process" flowchart on page 33, Figure 9.)

Incrementalism

For purposes of discussion, the budget and appropriation processes can be viewed as sequential steps through which the budget passes, i.e., from the budgetary requests of agencies, to the governor’s recommended budget, to legislative appropriations, and enactment of the final appropriations bill.

The actual fiscal or programmatic changes that occur from year to year are important outcomes of these processes. For all their complexity, the state's budget and the appropriations act are traditionally built on the preceding year’s “appropriation's base.” This “incremental” approach allows narrow, marginal discretion for the spending of state funds. This discretion or emphasis is focused on “new money” alone, that is, on those funds that result from revenue growth over the previous year. Thus, public policy is made in incremental or successive steps, resting on decisions made in prior years.²⁸

Agency funding within their appropriation's base is not usually reexamined, but is “automatically” funded. New agency programs, or increases to existing programs, are those funding areas given analytical attention and, as a consequence, compete for new funding dollars above the base.

By incremental budgeting is meant the system whereby budget reviews examine only those items for which increases over the prior year are requested. Unless a new program is proposed, there is no examination of basic program structure or performance.²⁹

Fiscal Restrictions and Obligations

In addition to the incremental nature of the process, the state's budget and the appropriations act must respond to certain constraints and limitations. First, the state Constitution and state law direct that the General Assembly provide for a state budget and appropriations whereby annual expenditures of state government may not exceed annual state revenue. In other words, the state must have a “balanced budget.”

Furthermore, there are constitutional and statutory requirements related to the General Reserve Fund and the Capital Reserve Fund. The General Reserve Fund is a special “rainy-day” set-aside fund to offset any budgetary shortfall that may occur. Its reserves

are accumulated on a yearly basis and must equal three percent of the General Fund revenue of the previous fiscal year. The Capital Reserve Fund is another reserve fund set-aside to offset any mid-year budget revenue shortfalls. The Capital Reserve must equal two percent of the General Fund revenue of the previous fiscal year. If no shortfall occurs, or no year-end deficit is projected by March 1, the Capital Reserve Fund may be appropriated in separate legislation for purposes of retiring debt on bonds, capital improvements, or other non-recurring projects.

Effective July 1, 1998, state law provides for a “Trust Fund for Tax Relief.” This trust fund is basically money set aside and separate from the General Fund, that reimburses local governments for lost revenue due to the residential property tax exemption, the homestead exemption, manufacturer’s depreciation, and the business inventory exemption.

Several other legal limitations or obligations exist that impact the state's budgetary and appropriation processes. Among these are the following:

- Debt Service (the principal and interest on general obligations of the state);
- Aid to Subdivisions (aid to local governments in an amount not less than 4.5 percent of the previous year’s budget);
- Limitations on FTE’s (a limitation on the number of state employees relative to the total resident population);
- Limitations on tax increases and new taxes;
- The Educational Finance Act (the minimum educational funding formula requirements);
- The Educational Improvement Act (special funding to improve educational performance);
- Higher Education Performance Funding;
- Medicaid (medical assistance to eligible needy persons).

Finally, “annualizations” limit the discretion of budget-makers. Annualizations are defined as recurring items currently funded with non-recurring dollars or capital items with multi-year funding requirements. Annualizations also can be items resulting in the loss of revenue, or items partially funded in one fiscal year which must be fully funded the next fiscal year.

Revenue Sources

Revenues are crucial to the understanding of the state's budget and appropriation processes. The budget and appropriations act, after all, are fundamentally financial plans for the expenditure of state revenues.

State appropriations consist currently of total revenues in the billions of dollars. These revenues are divided into three basic categories or sources:

- The General Fund (taxes, fees and fines);

- Federal Funds (grants and other financial aid from the federal government);
- "Other Funds" (special fees, fines, levies, etc. that go directly to state agencies).

The General Fund is the state’s primary fund source. New revenue growth to the General Fund is where the majority of budgetary decision making is concentrated. Hence, an explanation of its revenue sources may be helpful in comprehending the state’s budget and appropriation processes:

The General Fund is a composite of revenue sources derived from taxation, fees and all institutional and departmental revenues or collections, including income from the sale of commodities and services or other activities which provide funds for the fiscal operation of state government. The revenues making up the General Fund are subdivided into two classifications: 1) Regular Sources and 2) Miscellaneous Sources.

1). Regular Sources are revenues collected on an established basis from year to year. These include the state individual income tax, the sales and use tax, the corporate income tax and an ‘all other’ segment comprised of 25 additional taxes and other revenue sources.

2). Miscellaneous Sources are revenues that are periodic and less predictable than regular sources. This classification may, for example, include ‘windfall revenues,’ line-item transfers, special fees and/or fines, indirect cost recoveries, and debt service reimbursements.³⁰

Figure 8
The State General Fund Sources

Regular Sources	<i>Business License Tax</i>	<i>Motor Transport Fees</i>
Retail Sales Tax	<i>Coin-operated Device Tax</i>	<i>Motor Vehicle Licenses</i>
Individual Income Tax	<i>Corporation License Tax</i>	<i>Petroleum Inspection Tax</i>
Corporate Income Tax	<i>Departmental Revenue</i>	<i>Private Car Lines Tax</i>
All Other Sources	<i>Documentary Tax</i>	<i>Public Service Authority</i>
<i>Admissions Tax</i>	<i>Earned on Investments</i>	<i>Retailer’s License Tax</i>
<i>Aircraft Tax</i>	<i>Electric Power Tax</i>	<i>Saving and Loan Assn. Tax</i>
All Other Sources, Cont.	<i>Estate Tax</i>	<i>Workers’ Comp. Insur. Tax</i>
<i>Alcoholic Liquor</i>	<i>Fertilizer Inspection Tax</i>	
<i>Bank Tax</i>	<i>Insurance Tax</i>	
<i>Beer and Wine Tax</i>	<i>Soft Drinks Tax</i>	

The individual income tax represents the largest percentage (approximately 43 percent) of the state’s General Fund. South Carolina’s individual income tax follows federal income tax laws and allows basically for the same adjustments, deductions and exemptions. For tax years beginning after 2006, the income tax rates begin at three percent of taxable income and graduate to seven percent on taxable income above \$13,150.

The state sales tax represents typically around 36 percent of the total General Fund. The sales tax rate is five percent but counties and municipalities can add additional local option sales taxes.³¹

The Budget Document and General Appropriations Act

The state's budget document, referred to in recent years as the "executive budget," while in preparation, and later the "general appropriations bill," when the legislature considers it, is formatted in a line-item or accounting-type presentation. The budget and appropriations bill format consists of a statement of items, classified by objects, to be acquired (purchased) over the coming fiscal year and the dollar amounts (costs) associated with each item. The budget document also includes a statement of revenues or funds, debts, employee positions, and "provisos" (textual provisions) of both a temporary and permanent nature.

As such, the state's budget/appropriations document is mainly a control document containing input data and information—resource and dollar itemizations—that authorizes and directs the expenditure of state, federal and other funds. Its control orientation precludes any program output or performance budgeting usage. It presents itemized information and allocations, by program name, on personal services, employer contributions, and operating expenses. The appropriations document also identifies any "new" employee positions, and enumerates "special items."

Ordinarily, the state's budget document and appropriations bill, later an "Act," contains three main parts. "Part 1A" is the agency-by-agency line-item authorizations, spoken of by budget practitioners simply as the "dollar section." The next section of the budget, or "Part 1B," consists of temporary law or provisos which regulate certain expenditures that are authorized or appropriated in Part 1A. These temporary provisos may also relate to matters that are under the operations of state government and, while germane to Part 1A, have little direct bearing on the actual regulation of expenditures. "Part II" of appropriations bill, if included, consists of permanent provisions which change the statutory law of South Carolina.³²

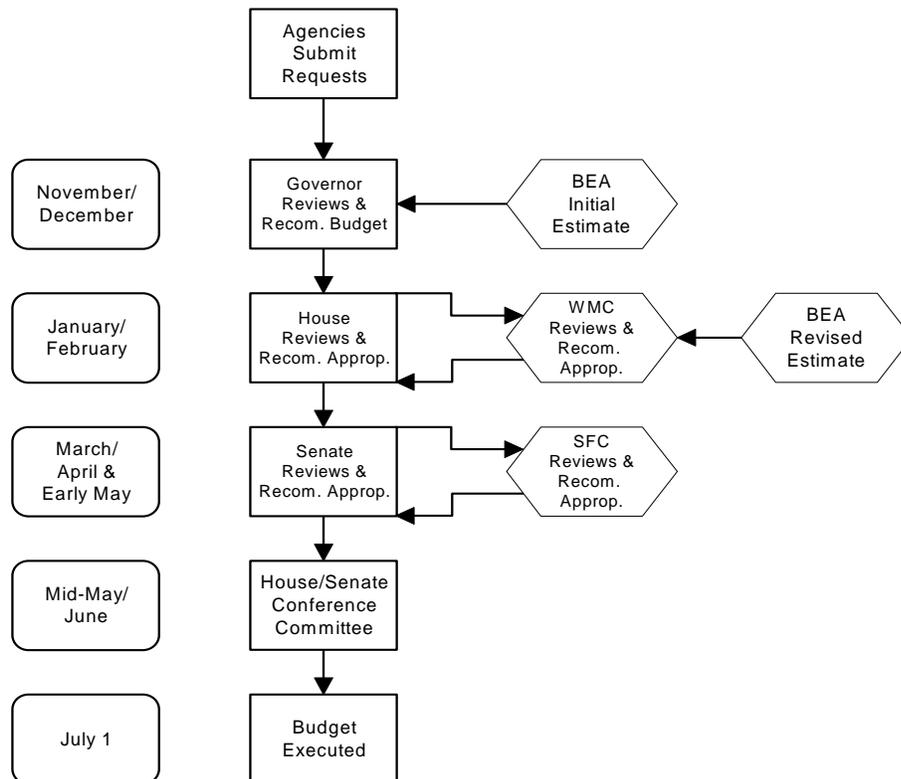
The Executive Budget

Until FY 1994-95, initial budget recommendations to the legislature were prepared and submitted by the Budget and Control Board. Now the governor submits an "executive budget" to the General Assembly within five days after the beginning of each legislative regular session. Most states use an executive budget. It is a source of power for the governor and came late to South Carolina.

With the assistance of the State Budget Office, the governor begins the budget process by sending a letter or statement to all state agencies requesting information and data on any "new" monies they may require for the upcoming fiscal year. This "budget submission request" usually occurs in September.

The agencies complete this budget request form and process indicating any requested increase above their base appropriation. These agency requests for additional funds are either for existing-level program maintenance, expansion of existing programs, or new program initiatives. They may also be for one-time or multi-year capital expenses, or for some special or temporary project need.

Figure 9
The Budget/Appropriations Process



Once the governor has received these requests he or she, with the assistance of staff, reviews them and decides whether or not to include them in his or her executive budget recommendation to the legislature.

After the governor has prepared budget recommendations, they are submitted to the House of Representatives in bill form. Also accompanying the governor’s budget bill is a “budget message.” Usually, this message takes the form of a “detailed” summary of the governor’s funding priorities and an agency-by-agency synopsis of new funding levels.

The Appropriations Bill

When the governor’s budget is introduced in the House, it follows the legislative process as a bill—requiring three readings in both houses of the legislature. However, it should be

noted that as the “appropriations bill,” it is given special attention and review because of its importance in the funding of state government programs and services.

The Speaker of the House refers the appropriation bill to the Ways and Means Committee within days of the beginning of the legislative session and the committee starts its formal review process. This review is structured and managed through a set of budget subcommittees of the Ways and Means Committee. Each subcommittee consists of an average of four to five committee members whose work focuses on broad topical or functional areas of the appropriation bill, such as, education, health and human services, transportation, natural resources, corrections, and taxes and revenue. Each subcommittee examines the issues of their topical area and analyzes, with the assistance of committee staff, the agency budget requests that are found in their area.

Each subcommittee typically invites agency heads and other informed agency officials to appear before the subcommittee to explain their budget requests and to answer any questions the subcommittee members may have about agency programs and operations. When this is concluded, the subcommittee deliberates on the data and information it has collected and heard. The subcommittee then formulates and proposes a “subcommittee budget recommendation” covering its functional area of review.

Once all the subcommittees have finished their budgetary reviews, and their recommendations are prepared, the full Ways and Means Committee meets and begins to put together a committee bill. The committee first establishes a budget base. This is the determination of “available revenue” for appropriation based on the revenue estimate of the Board of Economic Advisors, with appropriate departmental revenue and other permissible adjustments, and the funding of statewide constitutional and statutory obligations or requirements. Once this base is established, the subcommittees report their funding recommendations to the full committee. When all subcommittees have completed their budget reports, the committee determines whether or not the budget or appropriations proposed, namely the base and the “collective recommendations” of the subcommittees, are in balance. The appropriations bill is then finalized, approved by the Ways and Means Committee, and reported to the House floor where it is placed on special order for debate.

After a week respite, the appropriations bill, as reported by committee, is considered for second reading. This is a process where the bill is approved section by section, and amendments are considered, until second reading is achieved. This is generally completed in three to five days debate. Third reading is then given and the House version of the appropriations bill is sent to the Senate.

The Senate of South Carolina, upon receipt of the bill, refers it to the Senate Finance Committee. Here, the appropriations bill is studied within a budget subcommittee structure and the process described above for the Ways and Means Committee is closely replicated. After three to four weeks, the Senate Finance Committee reports its version of the appropriations bill to the full Senate. It is thereupon debated and amended and given eventually third reading and returned to the House. A conference committee is next

established to work out any differences between the versions passed by the House and Senate.

The conference committee for the appropriations bill—consisting of six members, three representatives and three senators—debates the significant as well as the subtle differences between the House and Senate versions. This debate goes on for some two weeks or oftentimes up to *sine die* (final) adjournment. Eventually, compromises are achieved, with or without free conference powers (legislative approval of both Houses for conferees to amend the bill with content different from either pending version), and the General Assembly approves an appropriations bill and sends it to the governor.

The governor has the constitutional authority to veto “distinct items or sections” of the appropriations (i.e., line-item veto power). The governor can hence veto certain items of the appropriations bill and the remainder of the bill becomes law. In those instances where the governor does use his line-item veto, this veto can be sustained or overridden by two-thirds vote in each house of the General Assembly.

Consequently, the appropriation process takes place over a six-month period, from early- to mid-January to as late as early June or up to *sine die*. On July 1, the General Appropriation Act is implemented or “executed” and state government is funded to complete its various activities and services for the next twelve months (or “new” fiscal year).

Legislative Oversight

The South Carolina General Assembly, as has been discussed, is mainly involved in the process of lawmaking, raising revenue, and making appropriations. One other function that is of importance is the state legislature's oversight function.

The General Assembly is responsible for setting governmental policies and programs, as well as providing funding for them. As such, the state legislature takes serious its responsibility to ensure that state implemented policies and programs meet their various statutory purposes and requirements. The legislature also, as an institution aimed at good fiscal stewardship, has a duty to ensure that state programs are administered in efficient and effective ways. To make certain that government is indeed meeting their lawful aims in costly and effective ways, the General Assembly has established some regular oversight systems and processes. These include the review and approval of agency regulations, the initiation and review of performance audits, and the establishment of special study and oversight committees.

The review and approval of agency administrative regulations by the General Assembly entails a specific, yet multifaceted process. While the process is somewhat complex, it can be broken down into a few basic steps for purposes of understanding. The first key step in the process is the publication of state agency regulations and filing of these regulations with the Legislative Council. Once filed with Council, the regulations begin their legislative review.

With this, the regulations are then introduced in bill form in both the Senate and the House. At this point, the regulations have a 120-day period to receive legislative approval or disapproval. The regulations, in bill form, follow the normal legislative process of a bill. If, however, the bill fails to receive approval through pro-active action of the legislature, or the legislature otherwise takes no action in the required 120 days, the regulations automatically receive approval. If the legislature tables or kills the bill, the regulations are nullified. In any case, the General Assembly has an opportunity to review, and to approve or disapprove, agency rules and procedures—i.e., regulations—that govern and prescribe the implementation of governmental policies and programs. This is a vital oversight function, one which the legislature carefully gives attention to during the legislative year.

Another oversight function of the state legislature is the origination and consideration of performance audits conducted by the Legislative Audit Council. The Audit Council was created by the legislature in 1974. Its main function is to perform performance audits to determine program or agency efficiency and effectiveness. Audits are initiated if requested by the Speaker of the House, the President *Pro Tempore*, or by five legislators, and are subsequently approved by two of the three Audit Council members.

Since its creation, the Audit Council has audited many agencies and/or some of their program areas. The Council makes findings as to the efficiency or cost effectiveness of agency operations, and where problems may exist, the Council makes recommendations for improvements. Occasionally, the audits reveal more sensitive areas of concern such as financial abuses and the mishandling of public monies.

The last area of legislative oversight which receives some attention and usage by the General Assembly is the special or *ad hoc* committee. The full legislature, the Senate, or the House, periodically establishes a special committee to study some issue area of important public policy. Presently, for example, a special study committee has been created by statute to examine local government finance. Its aim is to identify problems associated with local revenue-raising, and to propose solutions.

Conclusion

The South Carolina General Assembly has a long and rich history. Beginning with its British institutional structure and processes, and later, its independence as a state legislature in 1776, the General Assembly has carried out its legislative function through both peaceful and turbulent times. Today, South Carolina's legislature has emerged into the 21st century with full representation of its entire people and with a solid foundation and commitment to improve education and the welfare of its citizenry. With this footing, the General Assembly endeavors to make laws and public policy that will maintain and enhance the future well-being of South Carolinians for generations to come.

As a bicameral institution, the General Assembly is organized into a Senate and House of Representatives. This two-house configuration lends itself to a time honored tradition of

"check and balances," and thoughtful, careful deliberation. This system, with its leaders, rules, and organizational components, likewise ensures that the lawmaking process is both rational and effective.

Thus, the legislative process—the making of laws, the raising of revenues, and the appropriating of monies—has indeed been successful despite some arduous times. The General Assembly's history, organization, and processes embody a heritage and resolution to democratic principles—equality, justice and freedom. Such noble principles are imperative to the achievement and prosperity of any government, of any people, of any society.

A Guide to the General Assembly of South Carolina

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ENDNOTES

¹ Keefe, W. and Ogul, M. (1997). *The American legislative process: Congress and the states*. Upper Saddle River, NJ: Prentice Hall, p. xi.

² Ibid. p. 22.

³ Neal, T. (1996). *Lawmaking and the legislative process: committees, connections, and compromises*. Phoenix, AZ: Oryx Press-National Conference of State Legislatures, pp.18-19.

⁴ Edgar, W. (1998). *South Carolina: a history*. Columbia, SC: University of South Carolina Press, p. 39.

⁵ A geographical area (whose boundaries are defined by statute) from which a legislator is elected and, as such, provides representation in the General Assembly.

⁶ Wallace, D. (1961). *South Carolina: a short history 1520-1948*. Columbia, SC: University of South Carolina Press, p. 256.

⁷ Maybank, B. (1992). The South Carolina Constitution. From *Government in the Palmetto State: toward the 21st century*. Edited by L. F. Carter and D. S. Mann. Columbia, SC: Institute of Public Affairs (USC), p. 5-7.

⁸ District boundary lines arranged to obtain partisan or factional advantages.

⁹ Americans United for Affirmative Action. (1997). See the Civil Rights Library at <http://www.auaa.org>.

¹⁰ Op. Cit. Haeberle, p. 86.

¹¹ According to Keefe and Ogul (1997), pp. 59-66, the size of legislative membership varies among the states. New Hampshire, for example, has 400 members in its lower house, the largest of the state legislatures, which is seventeen times the size of its upper house or Senate. In comparison, the lower house of Alaska has 40 members, Delaware has 41, and Nevada has 42. Slightly greater than a third of the lower chambers in the states' legislatures have 100 to 125 members. As for senate chambers, Minnesota has the greatest number with 67 members. Contrasting this, Alaska has 20. The common range for senate size is between 30 and 39 members.

¹² Op. Cit. Keefe and Ogul, p. 101.

¹³ The direct primary appears to be favored because it eliminates the manipulation by party "bosses" and "special interests" that may take place during party conventions.

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- ¹⁴ The S.C. Constitution authorizes the governor to convene the General Assembly on special or extraordinary occasions (Article IV, Section 19).
- ¹⁵ Rules provide (or by prior motion) that local legislation be considered and acted upon on Fridays, for convenience of legislators.
- ¹⁶ The Internet address to access information on the General Assembly is: <http://www.scstatehouse.net>.
- ¹⁷ The 2008 *Legislative Manual* can be accessed electronically at <http://www.scstatehouse.net/man08/manual08.html>.
- ¹⁸ Rule 5.19 of the Rules of the South Carolina House of Representatives.
- ¹⁹ Legislative proposals sometimes succeed and become law, other times they do not. This failure to become law is the end of most legislation by virtue of neglect, objections by members, a shortage of time for deliberation, and the failure simply to achieve a majority vote.
- ²⁰ An identical bill introduced in both the Senate and the House of Representatives is called a "companion bill."
- ²¹ Prefiled bills are bills filed by legislative members prior to the formal opening of the legislative year. On the first day of the session, all prefiled bills are read and are referred to committee. The prefiling of bills is permitted only on specific days and in odd-numbered years.
- ²² Other legislative committee types include interim, select, and joint committees. Interim committees are special purpose committees that study specific issues or bills during session breaks (generally July through December). Select committees are special committees formed during the session to consider subjects or bills of an extraordinary kind, especially those that are better suited for study outside the regular standing committee structures. Both interim and select committees may include members who are not legislators. Joint committees are committees composed of Senate and House members and also appointees by the governor. The South Carolina General Assembly has abolished nearly all of its key joint committees with the exception of the Joint Bond Review Committee.
- ²³ A bill will normally be handled analogously in both subcommittee and full committee. If, however, a bill goes to subcommittee first, the emphasis on analysis later in full committee is usually less intense.
- ⁶⁴ Fiscal impacts are prepared and certified for bills, as appropriate, by the Board of Economic Advisors of the Budget and Control Board. Expenditure impacts are prepared by the Division of Budget and Analyses of the Budget and Control Board.
- ²⁴ The rules of the Senate and the House require that a bill placed on the calendar for second reading remain on the calendar until the next meeting of the body, at least one day, before receiving second reading. This rule can of course be suspended by unanimous consent.
- ²⁵ Recorded votes are tabulated electronically in the House because of its size. The Senate calls each senator's name aloud and his/her vote is then recorded.
- ²⁶ The Senate and the House must agree that the content of a bill be identical before it can receive final approval, ratification, and be sent to the governor. This, of course, is the purpose of the conference committee.
- ²⁷ The General Assembly has attempted to implement a number of program and performance-based budget review initiatives. "Accountability Reports" are currently mandated to be completed by state agencies. These reports contain various performance data and information which may or may not be taken into consideration during the state's budget review process.
- ²⁸ Schultze, C. (1968). *The politics and economics of public spending*. Washington, DC: The Brookings Institution, pp. 60-61.
- ²⁹ If supplemental funds are available, a "Part III" may be added to appropriate these funds vis-à-vis separate legislation. Also, if the funds from the Capital Reserve were available for appropriation, then these funds would be allocated by separate legislation.
- ³⁰ The State Budget Office. (Columbia, SC: Budget and Control Board, 2008).
- ³¹ See tax rates by zip code at http://www.sctax.org/NR/rdonlyres/46E93567-317B-4169-882B-D53B7A31EF77/0/ST439_071008.pdf.
- ³² If supplemental funds are available, a "Part III" may be added to appropriate these funds vis-à-vis separate legislation. Also, if the funds from the Capital Reserve were available for appropriation, then these funds would be allocated by separate legislation.