SOUTH CAROLINA STATE GOVERNMENT:
ORGANIZATION AND ADMINISTRATION

Report of Research

Prepared for

State Reorganization Commission
Mr. Philip G. Grose, Jr., Director

Prepared by

Larry D. Coats
Researcher
State Reorganization Commission

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EXECUTIVE SUMMARY:
A STUDY OF THE ORGANIZATION AND ADMINISTRATION OF
SOUTH CAROLINA STATE GOVERNMENT

Purposes of the Study

The purposes of this study are: (1) to provide the citizens of this state with a clear, simple and informative overview of State government's organizational makeup and administrative functions; (2) to explain how the governmental system has developed over time and (3) to provide legislators, government administrators and other public officials with a useful reference concerning the various components of state government.

Contents of the Study

The study describes and discusses (1) the structural organization of State Government in South Carolina, and (2) its administrative operations. In the first area of discussion, the three constitutional branches of state government are described. These are the executive, legislative and judicial branches. Each branch is discussed in terms of composition, responsibilities (both formal and informal duties) and how each has evolved historically. Discussion of the relative powers of the respective branches, including comparisons to like branches in other governmental systems, is also included. The second area of discussion addresses the administrative framework within which the organization system operates. This will consist primarily of a discussion of the network of boards and commissions which serve as the governing bodies of State agencies. Topics which are covered include: (1) board selection processes and restrictions; (2) board composition and terms of membership; (3) board powers and general responsibilities; and (4) interrelationships of boards and commissions to the executive and legislative branches of the State. Also discussed are (5) the implications of executive control over these boards and commissions and (6) the limitations and realities of this control.
ORGANIZATION

EXECUTIVE BRANCH: SOUTH CAROLINA STATE GOVERNMENT

Introduction

Establishing the foundation of State government, the constitution of South Carolina calls for three "distinct and separate" branches of government: executive, legislative and judicial. This was first done in the Constitution of 1868. Prior to that time, the branches had existed but were not actually separate governmental entities.

The executive branch is that branch of government which is charged with the "execution" of the law. This execution is basically the operation and enforcement of the law in an effective and efficient manner.

The present executive department consists of nine offices: Governor, Lieutenant Governor, Secretary of State, Adjutant General, Commissioner of Agriculture, Attorney General, Comptroller General, Treasurer and Superintendent of Education. The term of office for each of these executives is four years. The Governor's eligibility for reelection is limited to one additional term of office. All other executive officers may serve an unlimited number of terms. Vacancies which occur in the executive offices are, in most cases, filled through election by the General Assembly. However, if they occur during legislative recess, the Governor has the power of filling the office for the remainder of the term.

\footnote{Article I, Section 8, South Carolina Constitution.}
Governor

The "supreme executive authority" of the State is vested in the Governor. According to the Constitution, he shall "take care that the laws be faithfully executed."² The Governor has the responsibility of reporting to the General Assembly on the condition of the State. This implies that the Governor, as the "supreme executive authority," is ultimately responsible to the legislature for the operation of state government.

In keeping with the checks and balances doctrine, the Governor is given the power of action on any bill or joint resolution which the legislature may pass. If he signs the legislation, it is enacted. On the other hand, a veto of legislation either kills it or sends it back to the legislature where an override of the veto may occur. This veto power is even more significant in the case of an appropriations bill where the Governor has "item veto" power for appropriations. This means that he can veto any given item in the proposed bill and still approve the remainder.

The Governor also has the power to call special sessions of the General Assembly. One example of the Governor's exercise of this power was in September, 1973, when Governor John C. West called the General Assembly into special session to deal with "legislative matters of urgency including the apportionment of the House of Representatives."³ The power of appointment is seen by many as the most effective of the Governor's powers. It implies some control over the operations of the
agencies which the boards and commissions govern. In addition, he also
has the power to create special commissions for matters which are
important, but which do not require legislative action.

\footnote{Article IV, Section 15, \textit{South Carolina Constitution}.}
\footnote{Article IV, Section 1, \textit{South Carolina Constitution}.}
\footnote{Journal of the Senate 1973, \textit{Extraordinary Session}.}
On the other hand, the Governor has no removal power over boards and commissions or agency executive positions. This lack of removal power is perceived by many as a weakness of the office. A notable demonstration of this weakness occurred in 1931, in an incident concerning the removal of the sheriff of Jasper County. The sheriff refused to surrender the keys to his office for two months until the State Supreme Court upheld the Governor's contention that he had failed to enforce the law of the commonwealth. The Governor is the Chairman of the State Budget and Control Board, Commander-In-Chief of the State Militia, and has quasi-judicial powers including the granting of reprieves, commutations and pardons.

Lieutenant Governor

The Lieutenant Governor is a constitutional officer of the State and, like the Governor, is elected by the people. This position might be termed the "Vice Governor" of the State. In the event of a vacancy of the Governor, the Lieutenant Governor assumes the responsibilities of the office.

The primary responsibility of the Lieutenant Governor is to serve as President of the Senate. In this capacity, the Lieutenant Governor is the active presiding officer of the Senate. By virtue of the office, he/she also serves on the Legislative Council, the Legislative Audit Council, and the Legislative Information Council.

Secretary of State

Under the Constitution, the Secretary of State has many responsibilities. He is responsible for the keeping, executing and certifying of all official State documents and records. He is also the custodian of all Acts passed by the General Assembly and is the keeper of the Great Seal.
He is, additionally, the administrator of the South Carolina Corporations Act. This Act requires the filing of all domestic charters, amendments of charters, and dissolutions of charters with the office of Secretary of State. As Securities Commissioner, the Secretary of State is responsible for the registration of securities sold in the state. This position also controls the licensing of securities brokers and agents. The registration of labels, trademarks and cattlebrands is also the responsibility of the Secretary of State. The registration of these items helps insure legal commercial activity in the state.

As administrator of the Uniform Commercial Code, the Secretary of State is the registering agent for the mortgages and financing statements which the Code requires. Other responsibilities of the office are:

- Statutory agent for qualified out-of-state corporations;
- Issuance of Notary Public Commission;
- Registration of legislative lobbyists;
- Registration of all rules and regulations under which State agencies operate; and
- Administration of the Charitable Funds Act.

The Secretary of State is also Ex-Officio Chairman of the State Cemetery Board and is the escheat officer to recover property on behalf of the State of South Carolina.
Adjutant General

The head of the military department of the State is the Adjutant General. This office has the responsibility for the command and administration of the South Carolina Army and Air National Guard. The Adjutant General is to make and keep records on all personnel and property of the State Militia and to have custody of and maintain all equipment assigned to the military units of the State. These responsibilities concerning personnel, property, and equipment also apply to the National Guard.
The Adjutant General is a constitutional officer elected by the people. He holds the rank of Major-General and is Ex-Officio Chief-of-Staff.

**Attorney General**

The legal department of the State is headed by the Attorney General. This office is responsible for the representation of the State in all litigation in which it may be involved. Covered under the term "State" in this context, are any departments, boards, commissions, or institutions of the State of South Carolina.

In addition, the Attorney General is responsible for the coordination and control of circuit solicitors. There is one solicitor for each judicial circuit. Each is vested with the duty of providing counsel and advice to the agencies in that circuit.

Finally, the Attorney General has the duty of providing legal advice to State officers, State agencies, and members of the General Assembly.

**Comptroller General**

The supervision of the expenditure of all State funds is the responsibility of the Comptroller General. As the "chief accountant" of the State, this office has many duties.

The Comptroller General assists all counties in their bookkeeping and auditing systems. In addition, he supervises the collection of property taxes and the administration of the Homestead Exemption and Confederate Pension programs.

The responsibility for the processing of bi-weekly payroll vouchers for State agencies and committees is also that of the Comptroller.
General. In addition, he is responsible for the audit and certification of the validity of all disbursements made by the Treasurer and interdepartmental transfers among State agencies.

Finally, the Comptroller General is responsible for maintaining an "account master" for all State funds and is required to retain all documentation pertaining to any and all transactions.

Treasurer

The State Treasurer is responsible for receipts and disbursements of monies from all revenue sources. As the financial manager of the State, the Treasurer is also responsible for the cash management of all State funds. This involves the investment of funds of State Agencies and institutions which are not essential for their present operations.

The Treasurer is responsible for the issuance (and all records and requirements involved with that issuance) of bonds or other obligations of the State or any agency thereof. He is responsible for the scheduling of the maturity of these obligations and the interim and subsequent payments of principal and interest.

The treasurer is also an ex-officio member of the Budget and Control Board.

Superintendent of Education

The Superintendent of Education is the head of the State Department of Education. This office operates under the policies of the State board of Education.
The Superintendent is responsible for the administration of annual appropriations of education in compliance with the laws and directives of the General Assembly. He administers monies received from the federal government and from other sources in compliance with federal and state regulations. In addition, the Superintendent is to provide administrative leadership and supervision for public schools on the state, county, and district levels.

Commissioner of Agriculture

The only office of the executive branch which is not constitutionally sanctioned is the Commissioner of Agriculture. Rather, this office was created by statute and is responsible for the administration of the State Department of Agriculture.

The State Department of Agriculture has many responsibilities. It is responsible for the promotion of agriculture and cattle raising in the state. It is also responsible for consumer protection in the fields of foods and cosmetics, feeds, seeds, enriched staple products, milk and milk products, butterfat content of milk produced by dairy plants, frozen dessert products, weights and measures, petroleum products, shell eggs, paints, anti-freezes and hazardous substances. The Department is additionally responsible for collecting statistics on farming in the state and it cooperates with Clemson University in a variety of agricultural promotion and extension activities.

The Commissioner of Agriculture is elected by the people and is, like all other executive officers, under no direct supervision. However, the Commission on Agriculture has policy-making responsibilities for the department.
Growth and Development of the Executive Branch

As for the number of executive offices and the composition of the branch as a whole, the present offices have not always constituted the executive branch. Over the history of the state, there have been a number of changes in the composition and powers of the executive branch.

The first constitution of the state was written in 1776, when the United States declared independence from England. This constitution established the first executive branch under a democratic system of government in South Carolina. This original branch was composed of seven offices: President, Vice-President, Attorney General, Secretary of the Colony, and three Commissioners of the Treasury. All of these officials were appointed by the General Assembly.

This initial constitution was rewritten in 1778. Among the changes made regarding the executive branch were the changes of the titles of the President and Vice-President. The offices would now be called the Governor and Lieutenant Governor. In 1779, the office of Comptroller of the Revenue was created and added to the executive branch. This structure remained intact for nearly a century.

A new constitution in 1865 made no changes in the composition of the executive branch. However, it did make some very significant changes with respect to the manner in which these officials were selected. For the first time in the history of the state, the Governor and Lieutenant Governor were to be elected by the voters of the state. The other members of the branch were either appointed by the Governor or by the House of Representatives.
The Reconstruction, which swept the nation in the late 1860's, also made its presence known in South Carolina. A new constitution in 1868 produced what many have termed an "advanced democracy" in the state. It was patterned after the Constitution of Ohio, which was also influenced by the Reconstruction. This new constitution made the first specific reference to three distinct branches of government in South Carolina. Further, it was the first time that the Governor was to be called the "supreme executive authority" of the State. This constitution added two members to the executive branch: a Superintendent of Education and an Adjutant General. Perhaps the most important element of this new constitution was its stipulation that all members of the executive branch were to be elected by the citizens of the state.

Eleven years later, the State Department of Agriculture was created. However, it was not until 1941 that this agency acquired representation in the executive branch when the position of Commissioner of Agriculture was established and added to the executive branch. There have been no changes in the composition of the executive branch since. It now consists of the following members: Governor, Lieutenant Governor, Secretary of State, Adjutant General, Attorney General, Comptroller General, State Treasurer, State Superintendent of Education, and a Commissioner of Agriculture. The only major change with respect to duties, powers, and responsibilities of the offices is the 1980 constitutional amendment which allows the governor the right to run for a second 4-year term.
State Governmental Organization

South Carolina is one of thirteen states in the U. S. which operates under a non-cabinet form of executive organization. The cabinet form is the typical executive organizational structure in the United States. Under this form, there is a hierarchical chain of command which ultimately leads to a chief executive. He has predominant control over the operations of the executive branch. The other members act under this authority to assist him by serving as advisors to the chief executive as well as performing their administrative tasks. Figure 1.1 presents the typical cabinet form of organization. A good example of such a system is the executive branch of the United States government. The federal executive branch is headed by a President who is assisted by appointed executive officers.

However, this is not the case in South Carolina. As Figure 1.2 illustrates, the State operates under a more or less plural executive organization. All heads of executive branch departments are elected by the voters, and as a result, are responsible only to the voters. There is no direct chain of command from the Governor to the other members of the executive branch. Although the constitution directs that the governor be given "supreme executive authority" and that he "take care that the laws be faithfully executed," it does not give him the specific power to do so.

During its history, the State has had a cabinet form of government on at least two occasions. The first such occasion was during the French-Indian War of 1756, when the Governor was given power over all royal appointees and truly established "supreme executive authority" over
the State. Another occasion was in 1780, when the power of the Governor was expanded nearly to that of a dictator. This was a period almost immediately after the declaration of national independence, a period in which much constitutional and legislative reform was taking place. During this interim period, the Governor was given almost complete control over the state.

Another interesting aspect of the executive branch is that the Governor has only recently been permitted to run for one additional term. There had been some concern that the previous limit to one four-year term might result in the neglect of the long-range welfare of the state by the Governor. Nevertheless, he is still the only executive officer which is limited in the number of terms he may serve.

Although the South Carolina Constitution provides the Governor "supreme executive authority," it does not, in many cases, specify exactly what this authority encompasses. As a result, the Governor's powers are limited to those which the legislature specifically grants. The legislature is constitutionally given all power which is not specifically granted in the constitution. Therefore, the extent of the Governor's power is substantially determined by the General Assembly.

The Governor's actual power is often most evident in his political influence since he is given the power of appointment to over 100 State and local boards and commissions. It has been suggested that an individual appointed by the Governor would maintain an "implied" if not active, allegiance to him.

The Governor is the Chairman of the State Budget and Control Board, which prepares the preliminary budget to be presented to the legislature. This Board is composed of five members: the Governor, the
Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, the State Treasurer and the Comptroller General. South Carolina is one of only three states which deny the Governor the exclusive power to prepare the executive budget. (The other states are Texas and Mississippi.)
Conclusion

The executive branch of State government in South Carolina is primarily responsible for the operation and implementation of the law. This branch is composed of nine offices—Governor, Lieutenant Governor, Secretary of State, Adjutant General, Attorney General, Comptroller General, State Treasurer, State Superintendent of Education and a Commissioner of Agriculture. The structure under which these offices function has, over the state's history, developed into a "plural executive" system as opposed to the traditional "cabinet" structure. The executive system which prevails has proven to be effective and meets the demands of the governmental system as a whole.
Introduction

The legislative power of the State of South Carolina is vested in the General Assembly. This power is subject only to the restrictions and conditions which the State Constitution sets forth. It involves primarily the making of laws and providing for their implementation. Among other things, the legislature levies taxes, appropriates money, creates agencies to carry out the tasks of government, allots functions among agencies and investigates them to ensure that they are doing what the lawmakers intended them to do. The Constitution goes even further to provide that the General Assembly shall possess all powers that are not specifically reserved by the constitution.

The Legislature of South Carolina is bicameral in nature, as are 48 other state legislatures, the exception being Nebraska. This two house system was established early in the history of South Carolina. In 1691, the Royal Parliament was divided into two houses, the lower House of Commons (elected by the people), and the upper Grand Council (appointed by the Lord's Proprietors). This arrangement was an attempt to balance the aristocratic interests against the popular welfare.

In 1778, following the Declaration of Independence, a government of two freely-elected houses was established. The two houses of the Legislature are the Senate and the House of Representatives. The following discussion will present an overview of the responsibilities of the two houses which make up the General Assembly, along with their historical development.

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5Article III, Section 1, South Carolina Constitution
The Senate and House of Representatives

The Senate is composed of 46 members. These members are elected by the electorate as defined by prescribed geographical county boundaries, one senator for each county. They serve four year terms and there is no limit as to the number of terms they may serve. This length of term is fairly typical in the U. S. with all but twelve states having four year terms.

The House of Representatives consists of 124 members, all of whom are elected by the people for two year terms. Representation in the House is based on population and each member represents 1/124 the of the entire state population. Alabama, Louisiana, Maryland, and Mississippi are the only states in the nation which do not have a two-year term for members of the House of Representatives.

The two houses of the legislature are different in composition and operational characteristics. Each house has its own set of rules and regulations by which it operates. The Senate, though the smaller of the houses, has a greater number of standing committees than does the larger House of Representatives.

Although the composition, terms of office, and geographical and demographical specifications of the houses are different, they serve the same purposes. There are legislative matters which require joint action from both houses, and of course both houses must approve a bill before it can be enacted, but for the most part, each entity pursues the law-making process separately, irrespective of the other. The ability of the legislature to fulfill its purpose is dependent upon its ability to agree on the issues which are important to the welfare of the citizens of the state.
History

The development of this legislative system began in 1776 following the Declaration of Independence by the colonies when the South Carolina General Assembly was formed and elected by the people. This election was based on geographical subdivision of the state, and a Privy Council was appointed from within the General Assembly as the upper house. Two years later in 1778, a new constitution provided that both houses of the legislature be elected by the people.

By the end of the century, the House of Representatives had grown to over 200 members. An amendment to the Constitution of 1790, ratified on December 17, 1808, called for the apportionment of the house of Representatives to be based on white population and taxes paid. This amendment reduced membership from 208 to the present 124 members. There was to be one representative for every 1/62nd of the whole white population and one representative for every 1/62nd of the whole taxes raised by the legislature. The Senate, on the other hand, was composed of one Senator from each election district with the exception of Charleston, which had two Senators.

The Constitution of 1868 established the composition and representation of the post Civil War South Carolina Legislature. At that time, the state was divided into thirty-one counties, each of which was to be represented by one Senator. It also changed representation in the House so that it was based on population alone, regardless of race or taxes paid. During the life of this Constitution five additional counties were created.
At the time of the signing of the Constitution of 1895, there existed 36 counties and corresponding senatorial offices. Since that time, 10 counties have been created, increasing the size of the senate to the present 46 members. Since 1868, the size of the House of Representatives has remained unchanged at 124 members.

**Legislative Process**

The legislative branch is defined as the law-making body of State Government. This law-making authority is the most important authority in the state. The following discussion outlines the process by which that authority is exercised.

Proposed legislation is introduced into either or both of the houses of the legislature in the form of a bill. The Constitution requires three "readings" of a bill on three separate days. After the first reading, which is restricted to title only, the bill is usually referred to a committee, which researches it and makes recommendations to the floor. The second and third readings on the floor often involve debate. The second reading and subsequent debate may result in referral of the bill back to committee. Both debates and committee actions may lead to amendments to the original bill.

When a bill has passed one house, it is sent to the other house and the same procedure of committee action and debate takes place. If the bill is amended by the second house, the amendment must be approved by the originating house. Approval by both houses constitutes ratification. If the bill is not ratified, it can be referred to a
Conference Committee, composed of members of both houses, to resolve whatever differences exist. If the problem is not resolved, the bill is tabled. If it is resolved, the bill is then forwarded to the Governor for signing and enactment.\textsuperscript{6} This process is illustrated in Figure 2.1.

The Committee System

Perhaps the strongest determinant in the legislative process is the action taken by the committees. The first reading of a bill involves simply a referral to a standing committee. The committee is charged with researching the contents of the bill with respect to its contribution to the citizens of the state. The committee then makes recommendations to the legislature based on its assessment of the bill. Therefore, the committee members have significant impact on a bill by the time it is formally presented to the legislature.

\textsuperscript{6}Definitions of legislative terms are provided in the Appendix.
FIGURE 2.1

LEGISLATIVE PROCESS

House → Origination → Senate

First Reading

→ Committee Action

Second & Third Readings

→ Floor Debates

Floor Action

→ Conference Committee

House Final Approval

→ Conference Committee

Senate Final Approval

Ratified

→ Governor
Committees, often referred to as the backbone of the legislative process, are designed to do the background work of studying problems requiring legislative solutions. Committees are composed of members of the respective houses or, in some cases, joint representation from both houses. These members are usually appointed by the leaders of the houses; (i.e., the Lieutenant Governor in the Senate and the Speaker of the House of Representatives). Criteria for membership are not usually formalized; however, most appointments are made with respect to the background, expertise, and interest of the legislators. For example, a member of the Senate who has a background in finance and banking would probably be appointed to the Senate Banking and Insurance Committee.

This specialization within the committees builds a high level of confidence in their recommendations. As a result, most recommendations by committees are accepted on the floor. The standing committees in the House and Senate are listed in Table 2.1.

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### TABLE 2.1

**LEGISLATIVE STANDING COMMITTEES**

<table>
<thead>
<tr>
<th>SENATE</th>
<th>HOUSE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture &amp; Natural Resources</td>
<td>Agriculture &amp; Natural Resources</td>
</tr>
<tr>
<td>Banking and Insurance</td>
<td>Education &amp; Public Works</td>
</tr>
<tr>
<td>Corrections and Penology</td>
<td>Interstate Cooperation</td>
</tr>
<tr>
<td>Education</td>
<td>Invitations</td>
</tr>
<tr>
<td>Ethics</td>
<td>Judiciary</td>
</tr>
<tr>
<td>Finance</td>
<td>Labor, Commerce &amp; Industry</td>
</tr>
<tr>
<td>Fish, Game &amp; Forestry</td>
<td>Legislative Ethics Committee</td>
</tr>
<tr>
<td>General Committee</td>
<td>Med., Milt., Public &amp; Municiple.</td>
</tr>
<tr>
<td>Affairs</td>
<td>Operations &amp; Management of the House Rules</td>
</tr>
<tr>
<td>Interstate Cooperation</td>
<td>Ways and Means</td>
</tr>
<tr>
<td>Invitations</td>
<td></td>
</tr>
<tr>
<td>Labor, Commerce &amp; Industry</td>
<td></td>
</tr>
<tr>
<td>Medical Affairs</td>
<td></td>
</tr>
<tr>
<td>General Committee</td>
<td></td>
</tr>
<tr>
<td>Rules</td>
<td></td>
</tr>
<tr>
<td>Transportation</td>
<td></td>
</tr>
<tr>
<td>Judiciary</td>
<td></td>
</tr>
</tbody>
</table>
Conclusion

The legislative branch of the State of South Carolina is typical of most state legislative systems. It is bicameral in nature and has been so for nearly the entire history of the state.

The legislature in South Carolina, however, has more authority than do most state legislatures as a result of the minimal restrictions which are placed on it by the state constitution. As a result, the legislature is by far the most powerful and influential branch of South Carolina state government.
Introduction

As discussed in previous chapters, the legislative and executive branches of state government are responsible for the creation and implementation of the law. The constitution also provides for a process of adjudication and interpretation of the law by a judicial branch of State government. The judicial branch is composed of a system of courts. At the head of this court system is the Supreme Court; below it in the hierarchy are circuit courts, family courts, and inferior courts.

The Constitution of 1895, as amended, expressly creates a supreme court and a circuit court. It was not until 1976, however, (under judicial reform) that the system of uniform statewide family courts was established. The constitution also implies the creation of the magisterial and probate courts which constitute an integral part of the judicial system in the form of "inferior" courts. The legislature has the constitutional power to establish any such courts inferior to the circuit courts as it deems necessary.

Supreme Court

The Supreme Court is the highest tribunal in the state. It consists of a Chief Justice and four Associate Justices. The jurisdiction of the court is mainly appellate, but it also has some constitutional original jurisdiction. In addition, the supreme court is the administrative entity for the judicial branch, providing administrative support and organization to the other courts. A revision of the constitution, implemented in 1973, specified that the Chief Justice shall serve as the administrative head of the judicial system. This change provided, however, little actual control over the other courts.
The administrative responsibilities assumed by the supreme court include the monitoring of the caseload activity of the statewide court system, and the assignment and scheduling of circuit and family court judges. Other responsibilities include overseeing a judicial education program for magistrates, and the supervision of support personnel for all courts.

Supreme court justices are elected by the General Assembly for 10-year terms. There are no specific geographic selection criteria. Terms are staggered in a manner such that one seat will expire every other year.

Circuit Courts and Family Courts

The next level of the judicial system consists of the circuit courts and family courts. The distinction between these courts lies in their areas of jurisdiction.

The Circuit Court is superior in jurisdiction to all inferior courts in the areas of criminal and civil matters. It is known as the "Court of General Sessions" when exercising civil jurisdiction and the "Court of Common Pleas" when exercising criminal jurisdiction. The circuit court is the State's general trial court. Its jurisdiction is unlimited on both the criminal and civil sides except for certain minor offenses over which exclusive jurisdiction is vested in magistrates. In addition to trial jurisdiction, it has appellate jurisdiction over lower tribunals.

The state is divided into 16 separate geographically-designated circuits. Each circuit is required to have one resident judge. There are presently 31 judges, twenty-five of whom are elected by the General Assembly from the 16 judicial circuits. The remaining six are elected by the General Assembly from the state at large. Terms of office for the circuit court judges are six years.

This system of circuits was first adopted in South Carolina in 1768. It was patterned after a similar court structure in the state of Virginia and was designed to provide for a more decentralized judicial system within the
state. This arrangement allows for judicial responsibilities to be handled on the local level as well as the statewide level.

Family courts, on the other hand, were designed to have jurisdiction over two specific case areas: juvenile matters, which includes jurisdiction over delinquent, neglected and abandoned children; and cases of domestic relation, such as cases of divorce, separation, annulment, adoption, custody and change of name. This court took over much of the burden that, prior to 1976, had been borne by the circuit courts, county courts (which no longer exist), magisterial courts and local municipal courts.

Family court judges are elected by the General Assembly for four-year terms. Their jurisdiction is based on circuit court geographic boundaries. There are currently 46 family court judges; one for each county. The circuit courts and family courts, which are at basically the same level, within the hierarchy, are very important to the operation of the judicial branch. Cases from either court may be appealed only to the supreme court.

**Inferior Courts**

The Constitution provides that the legislature is given the authority to establish any inferior courts which it deems necessary. The probate and magistrates courts are implied inferior courts in the constitution. In addition, the legislature has established municipal courts.

Probate courts have jurisdiction over the administration of decedents' estates and the guardianship of minors and incompetents. Probate judges are popularly elected within the boundaries of each of the 46 counties of the state.

The magisterial courts are provided for in the Constitution, but their characteristics are left to the discretion of the General Assembly. With the judicial reform in 1976, the Magistrates' courts were included in the "unified judicial system." Since that time, the Governor has been given the power of
appointment with the advice and consent of the Senate to magisterial positions.

As is the case with probate and magisterial courts, appeal from municipal courts is to the circuit court. The judicial reform included municipal courts and provided that they operate under the ordinances of municipal councils. It also provided that appointment to these judgeships should be by the respective councils, not to exceed four years.

Conclusion

The judicial branch of South Carolina is vested with the responsibility of adjudication and interpretation of the law. This branch operates under a system of courts composed of a supreme court, circuit courts, family courts, and inferior courts. A judicial system of some type has existed in the state throughout its history. There had been little change in the system until the 1976 judicial reform. Since that time, all of the courts have operated under a "unified judicial system," which means that all judgeships of comparable nature are given comparable jurisdiction and operate according to the same criteria. (For example, all circuit court judges are chosen by and operate under the same criteria.)
ADMINISTRATION

Introduction

The government of South Carolina has become, particularly over the past decade, a massive and complex organization. The system currently employs over 58,000 employees and operates on a general appropriations budget in excess of $1.6 billion.

In order for any governmental entity, especially one of this size, to provide its services in an efficient and effective manner, a sophisticated system of management is required. The State of South Carolina accomplished this function through the delegation of authority among the numerous divisional components which make up State government. Structurally, it may be described as an intricate conglomerate of over 100 agencies. This network is the focus of the following discussion.

Definitions

To fully understand the administration and organization of State government, certain terms must be defined. First, the term "agency" should be clarified. For purposes of this text, an agency may be defined as an entity which meets the following criteria:

(1) It must have been created constitutionally or by statute;

(2) The members of the Board/Commission, or Chief Executive Officer must have been:
   a. elected by the people or
   b. appointed by the Governor or
   c. elected or appointed by the Legislature or
   d. serve ex-officio;

(3) It must receive appropriated funds;

(4) It must utilize a support staff; and

(5) It must be deemed to have a long-lived purpose.
"Agency" is the term used in government organizations to describe what may be called a "responsibility center." A responsibility center is a unit of an organization which has a specific purpose and which is allocated the resources to fulfill that purpose. Each agency has basically three areas of responsibility around which it operates. These include functional, financial, and social-political responsibilities. Functional responsibilities are those responsibilities of the agency as prescribed by law. Agencies are created by law for specific purposes and are legally responsible for an ongoing duty to fulfill those purposes. Financial responsibilities involve the efficient and effective use of allocated resources; agencies have the financial responsibility of utilizing their allocated resources toward accomplishing their purposes. Finally, there exist the socio-political responsibilities of agencies. These are the responsibilities of the State to provide services which contribute to the overall welfare of the state.

In an attempt to meet these responsibilities, most government agencies in South Carolina operate under a pyramidal or hierarchical form of organization. This type of organizational structure is based on four principles. The first principle deals with the division of labor; that is, the assignment of human resources to specialized tasks. The second principle is that of hierarchy. This principle is supported by the contention that authority and responsibility should flow in a direct line vertically from the highest level of an organization to the lowest. These two principles imply the third, that of span of control. This means simply that in a given environment, there is a limited number of subordinates a superior can supervise. Finally, the fourth principle of the pyramidal structure is that of line and staff organization. "Line" units are those which directly provide services to the citizens. On the other hand,
The Realities of Administration

Although the Constitution of South Carolina calls for the Governor to be given "supreme executive authority," implying that the Governor exercises absolute control over the State workforce, this is far from being the case. The development of government in South Carolina over the history of the State has led to a decentralized administrative configuration. Government agencies in South Carolina are not controlled through a direct chain of command leading from the Governor's office. Rather, State agencies are governed and administered independently by elected or appointed individuals or groups. In many cases, these individuals or groups are representatives of the people served by the agency.

The majority of state agencies are governed by boards and commissions (see below); in fact, some 102 such boards and commissions control the operations of 80% of the agencies in State government. The remainder of the agencies are administered by an elected or appointed individual. A typical example of this structure is the State Treasurer's Office. The State Treasurer is elected by the people and is the administrator of the agency which is the "State Bank," the Treasurer's Office. However, there are only 17 agencies in South Carolina which are governed in this fashion.

Boards and Commissions

Boards and Commissions are created by law. The General Assembly determines the nature of the organization and the appointment power delegation thereof. Responsibilities of boards and commissions include, but are not limited to:

1. Employing the Director of the agency:
2. Establishing policy under the authority granted by the State; and
3. Providing overall direction of agency activities.
In somewhat different terms, the board or commission adopts policies, approves programs, approves budgets and assumes the responsibility for the agency carrying out its mandate under law.

The selection of the board and commission members can take many forms. Some of these are:

1. Election by the General Assembly;
2. Appointment by the Governor;
3. Appointment by the Governor with the advice and consent of the Senate;
4. Appointment by the Governor with the advice and consent or recommendation of the General Assembly, legislative delegation or special interest groups as specified by law.

In general, board and commission members are selected as representatives either of judicial circuits or congressional districts. For example, the State College Board of Trustees is composed of 16 members, one for each judicial circuit. On the other hand, the State Board of Dentistry consists of six members chosen on the basis of congressional districts.

In addition, some laws require that board or commission members be selected from the population at large. Other laws require that certain members be chosen based on special interest or qualifications. Finally, some memberships are ex-officio: that is, they are automatic for certain individuals by virtue of their holding another state office. An ex-officio member is allowed to participate on the board or commission without violating State laws regarding the holding of dual offices.

Who Has Control?

For the most part, South Carolina government operates as a network of agencies that are individually governed by elected or appointed individuals, boards, or commissions. Though there is no direct chain of command linking the agencies with the executive branch, the allegiance owed by agency officials to the individual or individuals responsible for giving them their jobs dictates the formation of tacit lines of authority. At least in theory, the individual
or group who holds the power to make the most appointments also wields
the greatest influence. An examination of this appointment power and its
implied control is the basis for the following discussion.

There are 138 entities in South Carolina which meet the previously
stated criteria of an agency. Of this number, 131 are governed by boards
and commissions and 17 by individuals. Taking into account the fact that
some boards and commissions govern more than one state agency there are a
total of 130 sources of administrative control in South Carolina.

Thirty-eight percent of the governing bodies of State agencies are
appointed exclusively by the Governor. He also appoints an additional 28
percent of the governing positions with the advice and consent of some
other authority. (The majority of these appointments are with the advice
and consent of the Senate.) This results in a total of 85 governing
bodies over which the Governor has some, and in many cases substantial,
control in the form of appointment power. Table 3.1 shows the various
methods of selection and the number of governing positions selected by
each method.

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Methods of Selection & & \\
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Appointed-Governor & 49 & \\
Appointed-Governor (Advice and Consent of Senate) & 32 & \\
Appointed-Governor (Advice and Consent of General Assembly) & 1 & \\
Appointed-Governor (Advice and Consent of Legislative Delegation) & 3 & \\
Appointed-Legislative Delegations & 2 & \\
Elected by General Assembly & 17 & \\
Elected by Voters & 11 & \\
Ex-Officio & 12 & \\
Other & 3 & \\
Total & 130 & \\
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Furthermore, there are many additional boards and commissions which do not constitute agencies (such as local and advisory boards) over which the Governor has appointment power.

If indeed control can be measured by the extent of appointment power an individual possesses, then theoretically the Governor exercises greater control than any other entity. However, although it is true that great power attaches to the office of the Governor, the degree of control actually exercised by the individual holding that office is somewhat more restricted than the preceding discussion might indicate.

Term-Structure Restrictions

The limitations on an individual Governor's appointment power are more apparent when considered within the scope of his four-year term of office. Some of the positions he appoints are specified as conterminous with his term, which means that the appointment is bounded by the term of the Governor. With respect to these appointments, the Governor exercises, at least theoretically, complete control. Beyond this specification, however, the Governor's appointment power is limited by the relationship of his own term to the terms for which appointments are made. The terms for appointments to boards and commissions commonly range from four to six years in length. This range accounts for a major portion of gubernatorial appointments to boards and commissions in South Carolina. An examination of the term-structure relationship between these offices and that of a specific Governor will illustrate the limitations on gubernatorial appointment powers.
For purposes of illustration, consider a hypothetical Governor who assumes office in 1982. This Governor is elected for a four-year term. His appointment power and the political influence which it represents takes many forms. For example, he has complete appointment power to these boards and commissions whose terms coincide with his own. An illustration of this relationship is presented in Figure 4.1. The appointment is by the Governor shortly after his term of office begins and expires at the end of his four-year term. In this situation, there is no term-structure restriction on the Governor's power.
FIGURE 4.1
Term-structure Limits
of Gubernatorial Appointment Powers

Term A


GOVERNOR - 1982 TERM

APPOINTMENT

However, consider what happens when the Governor makes a four-year appointment during the second year of his term. His influence over that position is then of political significance to him for only the remaining three years of his own term, but it carries over into the first year of his successor's term. Such an appointment is illustrated in Figure 4.2.

FIGURE 4.2
Term-Structure Limits
of Gubernatorial Appointment Power

Term B


GOVERNOR - 1982 TERM

APPOINTMENT

GOVERNOR - 1986 TERM
There is also the situation in which a Governor may make a four-year appointment to a board or commission during the final year of his term. This is a very good example of the effect of term-structure restrictions on the gubernatorial power of appointment. This Governor will only have influence over that position for the remaining year of his term; by the same token, his successor will have little, if any, control over it until the final year of his office. Allowing a Governor to appoint board and commission members late in his term limits his own control over the position as well as the control of his successor. This situation is represented in Figure 4.3.

FIGURE 4.3
Term-structure Limits of Gubernatorial Appointment Powers

Term C

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GOVERNOR - 1982 TERM

GOVERNOR - 1986 TERM

APPOINTMENT
The expansion of this concept of term-structure restrictions to include appointments which are for terms longer than that of the Governor (i.e., six years) exemplifies even more clearly, the limitations on his actual appointment power. For example, consider an appointment which is made at the beginning of that same Governor's term in 1982. His implied control will extend beyond his term through the first half of his successor's term of office.

Term D in Figure 4.4 illustrates this point.

FIGURE 4.4
Term-Structure Limits of Gubernatorial Appointment Powers

Term D


GOVERNOR-1982 TERM GOVERNOR-1986 TERM

APPOINTMENT
The point of time at which a Governor makes an appointment of this length determines the extent to which he or his successor may control that position. If an appointment is made by the 1982 Governor during the first half of his term, that office will also be influenced by his successor. However, his successor's influence will be limited because it will take effect during the latter part of his term. (Term E in Figure 4.5 presents this structure).

FIGURE 4.5
Term-Structure Limits of Gubernatorial Appointment Powers

Term E


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Finally, there is the situation in which the Governor's predecessor may have made a six-year appointment during the last two years of his office. In this case, as Term F in Figure 4.6 illustrates, the Governor in 1982 will have no control over that position. Likewise, if he makes a similar appointment during the final half of his term, his successor will have no control over that position.

FIGURE 4.6
Term-structure Limits
of Cabenatorial Appointment Powers
Term F


GOVERNOR - 1978 TERM     GOVERNOR - 1982 TERM     GOVERNOR - 1986 TERM

APPOINTMENT

APPOINTMENT
In summary, the appointment power of an individual Governor is not nearly as extensive as it might at first appear. Figure 4.7 provides a summary of common relationships between the Governor's term and the terms of his appointees.

FIGURE 4.7
Term-structure Limits of Gubernatorial Appointment Powers
Summary Figure


GOVERNOR - 1982 TERM

APPOINTMENT A

APPOINTMENT B

APPOINTMENT C

APPOINTMENT D

APPOINTMENT E

APPOINTMENT F
Conditional Restrictions

In addition to the term-structure restrictions on the appointive powers of the Governor, there are conditional restrictions on this power as well. Conditional restrictions require action by some other party in conjunction with that of the Governor in the appointment process.

The most common of such restrictions is that which require the advice and consent of the Senate for certain appointments. This requirement applies to appointments to the governing bodies of 32 state agencies, or 25% of the total number.

There are 21 boards and commissions which may be appointed by the Governor only after the nomination of candidates by affected parties. For example, three of the South Carolina Auctioneer Commission members are appointed by the Governor from nominations submitted by the South Carolina Auctioneers Association.

Thirteen boards and commissions may be appointed by the Governor with the stipulation that they meet some specified criteria. For instance, the Governor is empowered to appoint the member of the South Carolina Board of Accountancy, but only according to the following specifications:

- 5 shall be licensed certified public accounts;
- 2 shall be public accountants eligible for licensing; and
- 2 shall be public members not engaged in the practice of public accountancy.

Therefore, the Governor is specifically limited in his appointment power by the selection criteria set forth.

Other conditional restrictions on the Governor's appointment power include requirements for the advice and consent of the General Assembly and of legislative delegations. These restrictions exist only minimally on the state level. However, they are more common when dealing with local governmental appointments.
Conditional restrictions, taken in conjunction with term-structure limitations, substantially curtail gubernatorial control over state agencies.

Conclusion

South Carolina State Government is administered through a network of agencies which are predominantly governed by boards and commissions. It is often assumed that control of these agencies rests with the office responsible for selecting their boards and commissions. Though a preliminary examination would seem to indicate that the Governor's appointment powers (and therefore his span of control) are far-reaching; in fact, his authority in this area is substantially curtailed by term-structure considerations and by "conditional" restrictions such as requirements for legislative approval of his appointments. As a result, there is no single, dominant source of administrative control in South Carolina State Government.
APPENDIX

LEGISLATIVE TERMS

AMENDMENT Any alteration made or proposed to be made in a Bill or clause thereof, by adding changing, substituting or omitting.

BILL Draft of proposed law presented to the Legislature for consideration.

COMMITTEE A body of Members appointed by the Speaker to consider and make recommendations concerning disposition of Bills, Resolutions, and other related matters.

COMMITTEE, CONFERENCE - Committee composed of three Members of both houses, appointed by the presiding officers, to resolve differences between the two houses on an amended Bill. The committee reports recommendations or amendments back to the respective houses for further action.

DEBATE Discussion of a matter according to parliamentary rules.

FLOOR That portion of the assembly chamber reserved for Members and officers of the assembly and other persons granted the privilege of the floor.

RATIFY To approve and make valid. After a Bill has received three readings in each house, ratification is set by the Senate sending a message inviting the House to attend the Senate Chamber at a certain time. The House then stands in recess while the Speaker and Clerk, preceded by the Sergeant-at-Arms, proceed to the Senate Chamber, where the Bills are signed by the presiding officers and Clerks of the respective houses.

REFERRAL The sending or referring of a Bill to committee.

(Source: South Carolina's Legislative Process)
SELECTED BIBLIOGRAPHY


Wickwar, W. Hardy, 300 Years of Development Administration in South Carolina, (USC Bureau of Governmental Research, 1970).
