THE ORGANIZATIONAL STRUCTURE
OF
SOUTH CAROLINA STATE GOVERNMENT

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FOREWORD

State government in South Carolina has a unique and highly complex organizational structure. It performs its varied and numerous functions through an array of components consisting of elected officials, departments, agencies, boards, commissions and committees. This dynamic arrangement substantially departs from the traditional centralization of the executive branch of government.

Such a centralized branch, which often takes the form of a cabinet, is the typical executive organizational structure. It provides a hierarchical chain of command which ultimately leads to the chief executive (illustration). Under such a system, a governor exercises control through staff or cabinet members who advise and assist in the daily management of governmental services and activities.

Such is not the case, however, in South Carolina state government. South Carolina is the only state which operates under a "plural executive" governmental structure. Inasmuch as duties and responsibilities are carried out in a decentralized manner, there is no direct chain of command from the Governor to the other members of the executive branch (illustration). In this sense, executive control is "plural" or shared among other elected officials and among more than 145 semi-autonomous boards and commissions.

Each agency is a unit of state government which has a specific statutory mission and which is allocated fiscal resources to accomplish its legal purpose. Policy making, budgeting and the direction of day-to-day activities are carried out under such a de-centralized arrangement.
Although South Carolina may be unique in its executive structure and agency administration, the legislative branch of government is fairly typical of most legislative systems, especially in the southeast. South Carolina is often referred to as a "legislative state" because of the prominent role of its legislature, the General Assembly, in state government.

Among the factors which have contributed to the prominence of the South Carolina legislature is the 1895 Constitution which gives the General Assembly all powers which are not specifically granted elsewhere.¹ The legislature, therefore, has the ability to influence, directly and indirectly, an unusually wide range of official decisions. Moreover, the unrestricted tenure of the 46 members of the Senate and the 124 members of the House of Representatives affords the opportunity to exert long-term influence over the governmental process.

The judicial branch of South Carolina, vested with the responsibility of interpretation of the law, has experienced recent reform which has resulted in a unified judicial system. A judicial system of some type has existed in the state throughout its history. There had been little change until the 1970's when South Carolina voters revised Article V of the Constitution thus allowing for an integrated, flexible judicial system.

This branch operates under a system of courts headed by the Supreme Court, and including the Court of Appeals, Circuit Courts and Family Courts, all of whose members are elected by the General

¹Article III, South Carolina Constitution.
Assembly. The Constitution also grants the General Assembly the power to establish any inferior courts which it deems necessary. South Carolina is one of only six states in which judges are elected by the legislature.

The following chapters are devoted to the responsibilities, function and evolution of the three branches of government and the administrative framework that composes the organizational structure of South Carolina state government.
THE EXECUTIVE BRANCH

Article VI of the South Carolina Constitution provides for the election by the people of the following constitutional officers who make up the executive branch of the state government: Governor, Lieutenant Governor, Secretary of State, Treasurer, Attorney General, Comptroller General, Adjutant General and Superintendent of Education. In 1983 the General Assembly ratified a constitutional amendment approved by the electorate making the Commissioner of Agriculture a constitutional officer.

The term of office for each executive is four years. The Governor is eligible for reelection to only one additional term of office. All other executive officers may serve an unlimited number of terms. Vacancies which occur within executive offices are, in most cases, filled through election by the General Assembly. However, should a vacancy occur during legislative recess, the Governor has the power of filling the office for the remainder of the term.

The executive branch of state government is primarily responsible for the operation and implementation of the law.

GOVERNOR:

According to the Constitution, the "supreme executive authority"\(^1\) of the state is vested in the Governor who serves as the chief executive of South Carolina. In keeping with the checks and balances doctrine, the Governor is given the power of veto on any bill or joint resolution which the legislature may pass. Once the legislation is signed by the Governor, it is enacted. Conversely, a veto of

\(^1\)Article IV, Section 1, South Carolina Constitution.
legislation would send it back to the legislature where it may be sustained or overridden. This veto power is even more significant in the case of an appropriations bill where the Governor has the power of "item veto." This means that the chief executive may veto any given item in the proposed bill and still approve the remainder.

The Constitution directs that the Governor "shall take care that the laws be faithfully executed."² A major responsibility of the Governor is to report to the General Assembly on the condition of the state and to make legislative recommendations. This would imply that the Governor, as the "supreme executive authority," is ultimately responsible for the operations of the state.

However, the Governor's authority over the various agencies of government as well as other members of the executive branch, is limited. Duties and responsibilities of the executive branch are clearly shared among the constitutional officers and the boards or commissions who govern state agencies—thus the "plural executive" form of government.

In the absence of a direct chain of command linking agencies with the Governor, there is some degree of gubernatorial input in that 38 percent of the governing bodies of state agencies are appointed exclusively by the Governor. He also appoints an additional 28 percent of the board or commission members with the advice and consent of some other authority, usually the Senate. Consequently, even though there is no direct control over the

²Article IV, Section 15, South Carolina Constitution.
governance of agencies by the Governor, the selection process for board/commission members affords an indirect control or influence of agency functions (see Administration of State Agencies).

Inasmuch as the Constitution does not specifically define "supreme executive authority," 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, any expansion of the Governor's authority is substantially determined by the General Assembly.

The Governor may on special occasions convene the General Assembly in extra sessions and may adjourn the General Assembly only if either house should remain without a quorum for five days or in case of disagreement between the houses as to the time of adjournment.

The fiscal powers of the Governor's office are limited in that South Carolina does not have an executive budget--one prepared solely by officials directly responsible to the Governor. The Governor is, however, Chairman of the State Budget and Control Board which prepares the preliminary budget to be presented to the legislature (see "Agency Administration"). Finally, the Governor serves as commander-in-chief of the state's militia.

LIEUTENANT GOVERNOR:

The Lieutenant Governor is a constitutional officer of the state, elected by the people, and meeting the same qualifications for office as the Governor. This position might be termed the "vice Governor" of the state. In the event the Governor should fail to complete the term of office, the Lieutenant Governor assumes the responsibilities of the chief executive.
The primary responsibility of the Lieutenant Governor is that of presiding officer of the Senate.

SECRETARY OF STATE:

Under the Constitution, the Secretary of State has many responsibilities including duties as the "keeper" of all official state documents and records. The Secretary of State is also custodian of all Acts passed by the General Assembly.

As administrator of the South Carolina Corporations Act, the Secretary of State monitors the filing and dissolution of all domestic charters. 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. Additionally, the Secretary of State is the registering agent for legislative lobbyists, issuance of notary public commissions, filing of all rules and regulations under which state agencies operate and administration of the Charitable Funds Act.

STATE 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 administers all investments of the state and furnishes firms with state credit ratings.

The Treasurer is responsible for the issuance of bonds or other obligations of the state or any agency thereof. Additionally, the Treasurer is an ex officio member of the Budget and Control Board.
ATTORNEY GENERAL:

The Attorney General is the head of the legal department of the state and, as such, supervises all litigation in which the state or any of its departments, boards, commissions or institutions are parties.

In addition, the Attorney General is responsible for the coordination and supervision of prosecutions in criminal matters handled by the 16 solicitors (see "Judicial Branch"). There is one full-time solicitor for each circuit, elected by the electors of the circuit. Although each is vested with the duty of counsel and advice to the agencies within the circuit, the Attorney General is charged with overall supervision of the solicitor's performance.

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

COMPTROLLER GENERAL:

As the "chief accountant" of the state, the Comptroller General supervises the expenditure of all state funds. A member of the Budget and Control Board, the Comptroller monitors the collection of property taxes and serves as administrator of the Homestead Exemption and Confederate Pension programs. The Comptroller General assists all counties in their bookkeeping and auditing systems.

The responsibility for processing bi-weekly payroll vouchers for state agencies and committees is also delegated to the Comptroller General. All disbursements made by the Treasurer as well as inter-departmental transfers among state agencies are verified and audited by the Comptroller General.
ADJUTANT GENERAL:

The head of the military department of the state is the Adjutant General. With the rank of Major General, the Adjutant General is responsible for the command and administration of the South Carolina Army and Air National Guard. This office maintains records of all personnel, property and equipment of the state militia. South Carolina is the only state in which the Adjutant General is elected by the people.

SUPERINTENDENT OF EDUCATION:

As head of the State Department of Education, the Superintendent of Education is responsible for the administration of annual appropriations for education in compliance with the laws and directives of the General Assembly. The Superintendent also administers funds received from the Federal Government and from other sources in accordance with federal and state regulations.

A constitutional officer elected by the people, the Superintendent of Education carries out the policies of the State Board of Education and prepares the education budget for the Board's approval. In addition, the Superintendent provides administrative leadership and supervision for all public schools, including special services, vocational education and area trade schools.

COMMISSIONER OF AGRICULTURE:

The Commissioner of Agriculture heads the Department of Agriculture and is responsible for promoting, marketing, and supervising the sale of agricultural products throughout the state. In addition to overseeing the operation of farmers markets in Columbia, Florence,
and Greenville, the Commissioner's duties include enforcement of laws dealing with weights and measures, quality of fresh and prepared foods, and the sale of gasoline.

The Department of Agriculture is responsible for enforcing more than 30 statutes relating to agriculture. In cooperation with Clemson University, the Department coordinates promotion and extension activities as well as conducts research and testing of seeds, fertilizers and herbicides.

The Commissioner of Agriculture is elected by the people, and, as a result of the ratification by the General Assembly in 1983 of an amendment passed by the electorate, is now a constitutional officer.
AGENCY ADMINISTRATION:

A complex network of agencies comprises the executive branch of state government in South Carolina. The absence of central management within the network, coupled with the limited authority of the Governor, contributes to the unique structure of the executive branch of government. Accordingly, the degree of agency autonomy which at present exists within the executive branch is unparalleled when compared to the organizational structure of other states.

As a result, executive control is not only shared among the Governor and other elected officials, but also among the over 1500 citizens who serve on state boards and commissions.

The Agency:

State government in South Carolina is administered by a network of "agencies". For discussion purposes, an agency may be defined as any entity which meets the following criteria:

(1) Must have been created constitutionally or by statute;
(2) The members of the board/commission, or chief executive officer were:
   a. elected by the people
   b. appointed by the governor or
   c. elected or appointed by the General Assembly or
   d. serve as ex-officio members
(3) Receive appropriated funds;
(4) Utilize a support staff; and
(5) Be deemed to have a long-lived purpose.
Approximately 140 governmental entities meet these criteria, thereby comprising the administrative authority of state government in South Carolina. The size of agencies varies tremendously. For example, the Department of Highways and Public Transportation has a total work force exceeding 6,500 employees while 51 agencies employ less than 25 staff members.

In a broader sense, agencies may be defined in terms of the services they perform as well as to whom these services are directed. Some agencies, such as the Commission for the Blind, have a well-defined constituency with a singular need whereas the Department of Social Services represents an "umbrella" organization meeting the many needs of a broader constituency. Regulatory agencies, such as the Board of Dentistry, have an extremely limited mission serving a specialized group of professionals. The following table lists state agencies according to the 10 functional categories in which they operate.

Executive Administration .................. 11
Legislative Administration .................. 12
Judicial Administration ..................... 7
Regulatory Division (Includes Licensing and Professional Boards) ..................... 41
Educational Division (Including all State Supported Colleges and Universities) ............. 26
Health Division ....................... 6
Correctional and Law Enforcement Division ............. 7
Transportation Division .................... 3
Social Rehabilitation Services ............... 13
Conservation, Natural Resources and Development ......... 13

TOTAL ................................ 139
This administrative network has continued to grow in order to meet the needs of increased population and socio-economic change. During the past 20 years, 56 new agencies have been established (an increase of 43 percent), many of them stimulated by federal activity. At the same time, state employment rose by more than 60 percent. The following graph indicates the growth history of state agencies (illustration).

Although the Constitution calls for the Governor to be given "supreme executive authority," such implied control is far from reality. Governmental agencies in South Carolina are not controlled through a direct line of command that begins with the Governor. These agencies are, in fact, governed and administered separately by individuals or groups, all of whom act with relative independence in delivering services and performing responsibilities.

Boards and Commissions:

Of the approximately 140 entities which meet the criteria of an agency, 104 are governed by boards and commissions (some exceptions exist for those agencies governed by elected constitutional officers, i.e., Treasurer, Attorney General, etc.). Board membership ranges in size from 3 to 29 members, the average being nine. There is no correlation between agency size and board membership.

Boards and commissions are created by law. Therefore, the General Assembly determines the legal mission of the organization and the manner in which the membership will be appointed. Responsibilities of boards and commissions include but are not limited to:

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1 Article IV, Section 1, South Carolina Constitution.
(1) Establishing policy under the authority granted by the state;
(2) Satisfying the legal mission of the agency;
(3) Employing a director of the agency;
(4) Approving and executing the agency budget; and
(5) Providing general direction of agency activities.

Although board and commission members are seldom involved in the day-to-day functions of the agency, they are ultimately responsible for the overall performance of the agency. Inasmuch as these members provide the link between state agencies and the electorate, they directly influence the means and effectiveness by which the agency responds to public need. As a result, the appointment process assumes added importance.

Methods of Appointment:

Board and commission members may be appointed by the following methods:

(1) Election by the General Assembly;
(2) Appointment by the Governor;
(3) Appointment by Governor with advice and consent of the Senate, General Assembly or legislative delegation;
(4) Election by majority of General Assembly members within a congressional district or judicial circuit district; and
(5) Election by legislative delegation of a respective county.

In addition to appointment methods established by the General Assembly, other conditions such as geographical boundaries and professional qualifications may prevail.
**Executive Influence:**

A closer inspection of the manner in which board and commission members are appointed underscores the decentralized nature of state agencies. While the Governor is, in fact, involved in 80 percent of all appointments to boards and commissions, the majority of these appointments are restricted by conditions as well as the concurrence of another body, usually the Senate.

As the following table indicates the Governor directly appoints only 14 percent of the total number of boards and commissions.

<table>
<thead>
<tr>
<th>Method</th>
<th>Percentage</th>
<th>Actual Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Governor Appoints Directly</td>
<td>14%</td>
<td>15</td>
</tr>
<tr>
<td>Governor Shares Appointment:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Direct Appointment but General Assembly Defines Conditions</td>
<td>13%</td>
<td>13</td>
</tr>
<tr>
<td>Appointment After Involved Group Makes Nomination</td>
<td>20%</td>
<td>21</td>
</tr>
<tr>
<td>With Advice and Consent of Senate</td>
<td>29%</td>
<td>31</td>
</tr>
<tr>
<td>With Advice and Consent of Legislative Delegation or General Assembly</td>
<td>4%</td>
<td>4</td>
</tr>
<tr>
<td>Governor Not Involved (Appointment by General Assembly or Others)</td>
<td>20%</td>
<td>20</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>100%</strong></td>
<td><strong>104</strong></td>
</tr>
</tbody>
</table>

There are, however, additional entities such as advisory boards which do not constitute an agency yet the Governor has exclusive authority to make appointments. This executive authority, however, is somewhat diminished by the fact that the majority of appointment powers are shared.
Not only does the Governor share with the General Assembly the power to make the majority of appointments, the preceding Governor's appointees cannot be replaced until their terms expire. The exception would be those few appointments which are specified as coterminous with the Governor's stay in office. This means the appointment runs concurrently with the Governor's term. With respect to these appointments, the Governor has predominant control.

Beyond this exception, the Governor may only make appointments as terms expire or become vacant. The terms for boards and commission members commonly range from four to six years. For purposes of illustration, consider a Governor who assumes office in 1982. In 1984 this Governor makes an appointment to a board for a six-year term. As the following illustration shows, (Graph comparing term to appointment) gubernatorial influence over that position is carried forward for the remainder of the Governor's term as well as the subsequent four-year term. It is therefore conceivable that a one-term Governor could have no influence over a particular position on a governing body. Depending on when the appointment occurs, the Governor may have only marginal control over certain positions.

It is important to note that the constitutional amendment allowing the Governor to hold two consecutive terms may give more managerial influence to the chief executive in the future. Should the Governor be successful in seeking a second term, the eight-year period will afford an opportunity to review every position on each board and commission.
THE EXECUTIVE BRANCH: A Historical Perspective

The present offices previously discussed have not always comprised the executive branch of government. Over the history of the state, there have been a number of changes in the composition and powers of the executive officers.

The first constitution of the State of South Carolina was written in 1776, when the United States declared independence from England. It established the first executive branch under a democratic system of government in South Carolina. The 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.

Constitutional revision in 1778 changed the titles of several executive officers such as President and Vice-President to Governor and Lieutenant Governor respectively. In 1779 the office of Comptroller of the Revenue was created and added to the executive branch. This composition prevailed for nearly two-thirds of the 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 "advance democracy" in the state. It was patterned after the constitution of Ohio, which has also been influenced by the Reconstruction Period. The 1868 constitution made the first specific reference to the 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 also 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 Department of Agriculture was created.

The Constitutional Convention of 1895, led by Governor Benjamin R. Tillman, resulted in the drafting of a new constitution. Although amended over 500 times, the Constitution of 1895 did not substantially alter the executive branch. There have been modifications, however, initiated through statutory changes as a result of recommendations by the State Reorganization Commission. These include creation of the Budget and Control Board in 1950, the Department of Wildlife and Marine Resources in 1952 and the consolidation of several state agencies to form the Department of Health and Environmental Control in 1972.

The process of a complete revision of the Constitution of 1895 began in 1966 when Governor Robert E. McNair appointed a committee of legislators, lawyers and laymen to review the document. Through
a series of amendments, the Constitution of 1895 underwent an article-by-article revision which constitutes the version by which South Carolina is governed today.

Major constitutional changes affecting the executive branch were a 1981 amendment allowing the Governor to serve two consecutive terms and a 1983 amendment making the Commissioner of Agriculture a constitutional officer.
THE LEGISLATIVE BRANCH:

The South Carolina Constitution states that "the legislative power of the state is vested with the General Assembly."¹ The Constitution further provides that the General Assembly possess all powers that are not specifically reserved by the Constitution. As a result of these powers, both actual and implied, the legislature is considered the dominant branch in state government.

In addition to the making of laws and providing for their implementation, the legislature levies taxes, appropriates money and creates agencies to carry out the daily functions of government. The General Assembly of South Carolina is "bicameral" in nature as are all state legislatures, with the exception of Nebraska. Both the House and the Senate maintain rules and procedures which govern their law-making responsibilities.

The Senate:

The South Carolina Senate is composed of 46 members elected under a single-member district plan (see "Legislative History:). Members must be at least 25 years of age and be duly qualified electors in the district they represent. There is no limit to the number of terms a senator may serve.

The leadership function in the Senate is divided between the Lieutenant Governor and the President Pro Tempore of the Senate. As presiding officer of the Senate, the Lieutenant Governor formally manages the flow of activity in the Chamber and assigns legislation to committees for review. As ex officio officer of the Senate, the Lieutenant Governor has no vote unless the Senate finds itself equally divided.

¹ Article III, Section 1, South Carolina Constitution.
The President Pro Tempore, who is chosen by the Senate, has traditionally been the senior Senator in terms of service. Responsible for seeing that legislation is processed through the Senate, the President Pro Tempore is frequently involved in negotiating agreements among members and making important conference committee assignments. The President Pro Tempore also acts as presiding officer of the Senate in the absence of the Lieutenant Governor.

The Senate also elects the Clerk, who is not a member of the body but serves as its chief administrative officer. Other officers elected by the Senate are Chaplain, Reading Clerk, Sergeant-at-Arms and Assistant Sergeant-at-Arms.

**House of Representatives:**

The House of Representatives is composed of 124 members elected from single-member districts. To be eligible to serve in the House, a person must be 21 years of age and reside within the district represented. Members are elected every two years with no limit in the number of terms they may serve.

The Speaker of the House is the presiding officer of the House of Representatives, is elected by its members, and is a member of the House. The Speaker exerts considerable influence over the House by making all committee assignments and determining which committee will receive pending legislation for review.

Other officers elected by the House are the Speaker Pro Tempore, who presides in the absence of the Speaker, and the following positions held by staff who are not members of the legislature: Clerk of the House, Chaplain, Reading Clerk, Sergeant-at-Arms and Assistant Sergeant-at-Arms.
Legislative Structure:

The law-making authority of the General Assembly is the most important function of the legislative branch of government. The South Carolina General Assembly is typical of most state legislatures in that it relies on a committee system within each chamber. Once a bill is introduced to the House or Senate for first reading, the proposed legislation is referred to one of 15 standing committees in the Senate or one of 11 in the House. (Illustration: see "Table of Committees").

Inasmuch as committees are designed to research and analyze the merits of legislation, committee review is often referred to as the backbone of the legislative process. The committee system aids the legislative process in two ways: First, it divides the work load among a number of small groups which can function simultaneously in refining the proposed legislation; secondly, the system allows members to specialize in certain policy areas and thereby gain expertise on a particular subject.

In addition to standing committees, the General Assembly relies on other types of committees for review: special committees which are created for the sole purpose of considering a specific piece of legislation; study committees or "joint committees" composed of members from both houses; conference committees composed of three members from both houses, who must reach a compromise when the two chambers have passed similar but not identical bills; and interim committees who study specific issues between legislative sessions.
The process continues with submittal of the committee recommendation to the house in which it originated. Subsequent debate and a second reading may follow which may result in referring the bill back to committee. Debates and committee actions may both lead to amendments of the original bill. A third reading is required before the legislation passes the house in which it was introduced.

When the introducing house has passed a bill, it is sent to the other house where the same procedure of committee action and debate takes place. Should the bill be amended by the second house, the amendment must be approved by the originating house. Approval constitutes ratification which occurs when the bill, which is now referred to as an "Act", is sent to the Governor for signing. If the bill is not ratified, it can be referred to a conference committee, composed of members from both houses, to resolve whatever differences exist. If the matter is not resolved, the bill is tabled. The Governor may choose to approve or veto the Act, the latter of which would result in sending the legislation back to the General Assembly for a two-thirds majority vote in each house to override the Governor's veto. An Act normally becomes law 20 days after approval by the Governor (illustration: "Legislative Process").

Legislative History:

Prior to the Civil War, South Carolina government was in a state of transition. During this time, the General Assembly possessed extraordinary powers including the authority to elect
the Governor, all state executive officials, judges and many local officials.

Following the Antebellum Period, the Constitution of 1868 altered representation and rearranged authority among the three branches of government. For the first time in history, the House of Representatives was apportioned based upon population. Most importantly, the Office of Governor was elected by the people but the term was reduced from four to two years. The legislature relinquished additional control by extending a general veto to the Chief Executive.

With the signing of the Constitution of 1895, there existed 36 counties and the same number of senatorial offices. Since that time, 10 counties have been created, increasing the size of the Senate to its present members. Since 1868, the size of the House of Representatives has remained unchanged, consisting of 124 members.

While the number of members in the General Assembly has remained unchanged, Court requirements of single-member districts based on population has changed district lines from time to time. After a series of debates and litigation, the House of Representatives has elected its members by single-member districts since 1974. Currently each of the 124 House members represents a single geographic district composed of approximately 20,000 citizens. Since 1984 senatorial elections have been held under a 46 single-member district plan.
THE JUDICIAL BRANCH:

South Carolina's judicial system consists of a two-tiered trial court arrangement and two levels of appellate courts. The courts which serve the judicial system are: the Supreme Court, the Court of Appeals, Circuit Courts, Family Courts and inferior courts. The relationship of the various courts and the lines of appeal are illustrated below (illustration).

The Supreme Court:

The Supreme Court, the highest tribunal in the state, is composed of a Chief Justice and four associate justices. All five are elected by the General Assembly for ten-year terms, staggered so that one term expires every two years.

Having both appellate and original jurisdiction, the Supreme Court also serves as the administrative entity for the judicial branch, thereby providing administrative support and organization to the other courts. These administrative responsibilities include the supervision of caseload activity of the statewide court system and the assignment and scheduling of the Court of Appeals, Circuit Courts and Family Court judges. Other responsibilities include educational programs for magistrate training and the supervision of support personnel for all courts.

The Supreme Court hears direct appeals from the Circuit Courts in matters pertaining to death penalties, cases involving elections, cases challenging the constitutionality of statutes, appeals from regulatory commissions and cases dealing with bonded debt of the state and its political subdivisions.
The Court of Appeals:

To alleviate the overload of cases heard by the Supreme Court, the South Carolina General Assembly created a Court of Appeals in June of 1983. The new court consists of a chief judge and five associate judges, all of whom are elected by the General Assembly. The Court of Appeals has jurisdiction in appeals of most civil cases and in criminal cases other than those involving the death penalty.

The Court of Appeals functions differently from the Supreme Court in that the new court sits in panels of three judges with rotating members. Under unusual circumstances, the full court may sit as one body. Unlike the Supreme Court, which decides which cases it may hear, appeal to the Court of Appeals is a matter of right, as the court has no discretion over the cases it hears.

Circuit Courts:

Circuit Courts serve as the state's general trial court and are superior in jurisdiction to all inferior courts in the areas of criminal and civil matters. The Circuit Court is known as the "Court of General Sessions" when exercising civil jurisdiction and the "Court of Common Pleas" when exercising criminal jurisdiction.

The Circuit Courts are the courts of broadest jurisdiction, which is unlimited on both 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 Constitution provides for the division of the state into
judicial circuits by the General Assembly. Each circuit is to have one resident judge. There are 31 judges, 25 of whom are elected by the General Assembly from the 16 judicial circuits. The remaining six are elected by the General Assembly to serve from the state at large. Terms of service for Circuit Court judges are six years.

**Family Courts:**

Family Courts follow the Circuit Court geographic pattern in that legislation provides for 16 courts served by 46 Family Court judges rotating among all counties in the system. Termed the "courts of special jurisdiction," the Family Court is restricted to specialized types of cases involving domestic matters. Areas of jurisdiction include delinquent, neglected and abandoned children, as well as other domestic concerns such as divorce, separation, annulment, adoption and child custody.

Judicial reform enacted in 1976 established a statewide Family Court system and effectively abolished county courts. The Family Courts now take much of the caseload originally assumed by Circuit Courts, Magisterial and Municipal Courts prior to reform. Family Court judges are elected by the General Assembly for four-year terms. Appeals from this court are heard by the Court of Appeals.

**Inferior Courts:**

The South Carolina Constitution provides that the General Assembly is given the authority to establish any inferior courts which it deems necessary. Probate and magistrates' courts are implied as inferior courts by the Constitution. Additionally, the legislature
has established municipal courts.

Based on constitutional authority, the General Assembly has created a Probate Court in each county which has jurisdiction in all matters pertaining to wills, administration of estates and in all cases of mental incompetency. Judicial reform gave the Supreme Court the authority to regulate the procedure and conduct of the courts of probate. They are, therefore, recognized as a component of the statewide judicial system.

Judges to the Probate Court are elected by popular vote at each alternate general election for four-year terms. The Probate Court has original jurisdiction only and appeals are directed to the Circuit Court.

The Constitution also grants the General Assembly the authority to make provisions for Magistrates' Courts to hear limited civil and criminal cases. Criminal jurisdiction is limited to offenses with fines up to $200 or imprisonment for up to 30 days. Civil jurisdiction is limited to $1000. Since the judicial reform of 1976, the Governor has been given the authority to appoint magistrates with the advice and consent of the Senate.

The General Assembly has also established Municipal Courts which operate under the ordinances of municipal councils. Like Probate and Magisterial Courts, appeals from Municipal Courts are directed to the Circuit Courts. Appointments to these judgeships are by the respective councils for terms not to exceed four years.

1Article V, South Carolina Constitution.
Judicial Reform: A Continuing Process

A judicial system of varying degrees has been present throughout the history of the state. South Carolina was typical of other states whose court system developed in a random fashion. Until recent reform, the organizational structure of the judicial branch was typified by large numbers of specialized, autonomous courts.

The most significant aspect of reform came in 1976 and can be found in Article V of the Constitution, which states that "the judicial power of the state be vested in a uniform judicial system." Consequently, the judicial branch has become more centralized, while eliminating inconsistent and overlapping jurisdictions. Moreover, a substantial number of limited and special jurisdictional courts have been abolished.
State Reorganization Commission (Ernie Munnery and Associates)
The Organizational Structure of South Carolina State Government (1985)

DATE DUE