

"THE BELOW CONSTITUTED SUMMARY IS PREPARED BY THE STAFF OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES AND IS NOT THE EXPRESSION OF THE LEGISLATION'S SPONSOR(S) OR THE HOUSE OF REPRESENTATIVES. IT IS STRICTLY FOR THE INTERNAL USE AND BENEFIT OF MEMBERS OF THE HOUSE OF REPRESENTATIVES AND IS NOT TO BE CONSTRUED BY A COURT OF LAW AS AN EXPRESSION OF LEGISLATIVE INTENT".

**REPORT OF THE  
GENERAL GOVERNMENT,  
PERSONNEL & BENEFITS SUBCOMMITTEE**  
(Cobb-Hunter, Herbkersman, Hayes, Moss, Gagnon - Staff Contact: Ryan Tooley)

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**HOUSE BILL 4124**

H. 4124 -- Reps. G.M. Smith, Bannister and Herbkersman: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 44-1-20, RELATING TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SO AS TO PROVIDE FOR THE CREATION OF A DEPARTMENT OF PUBLIC HEALTH TO ASSUME THE HEALTH-RELATED FUNCTIONS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL AND FOR OTHER PURPOSES; BY AMENDING SECTIONS 44-1-60, 44-1-140, AND 44-1-150, ALL RELATING TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SO AS TO MAKE CONFORMING CHANGES; BY REPEALING SECTIONS 1-30-45 AND 44-1-65 RELATING TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL AND THE PERMITTING OF CERTAIN ANIMAL FACILITIES; BY RENAMING CHAPTER 1 OF TITLE 44, "DEPARTMENT OF PUBLIC HEALTH"; BY ADDING CHAPTER 6 TO TITLE 48 SO AS TO CREATE THE DEPARTMENT OF ENVIRONMENTAL SERVICES TO ASSUME THE ENVIRONMENTAL-RELATED FUNCTIONS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, TO PROVIDE FOR THE APPOINTMENT OF A DIRECTOR BY THE GOVERNOR, AND FOR OTHER PURPOSES; BY AMENDING SECTION 1-30-10, RELATING TO DEPARTMENTS OF STATE GOVERNMENT, SO AS TO ADD THE DEPARTMENT OF PUBLIC HEALTH AND THE DEPARTMENT OF ENVIRONMENTAL SERVICES; AND BY ADDING SECTIONS 1-30-135 AND 1-30-140 SO AS TO MAKE CONFORMING CHANGES.

*Received by Ways and Means:*

3/9/22

*Summary of Bill:*

This bill begins the process of restructuring the Department of Health and Environmental Control, also known as DHEC, to create two separate agencies. One agency would be the Department of Public Health and the other would be the Department of Environmental Services. The bill states it is the intent of the General Assembly to transfer the programs, services, duties, and authority of DHEC into both new agencies.

The new Department of Public Health would be under the supervision of all the current board members of the Board of Health and Environmental Control who would continue to serve until their term expires and a successor is appointed. The board would be renamed to the Board of Public Health to correspond to the new agency name. The current director of DHEC would serve as the initial director of the Department of Public Health. This agency would continue all the programs, services, and duties that are currently conducted in the Public Health and

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Healthcare Quality areas of DHEC.

The new Department of Environmental Services would be headed by a director who is appointed by the Governor with the advice and consent of the Senate. In the interim, the initial director will be the current Director of Environmental Affairs of DHEC. This agency would continue all the programs, services, and duties that are currently conducted in the Environmental Affairs area of DHEC.

The Department of Administration is tasked with conducting research to determine the best manner to complete the transfer efficiently and effectively. Additionally, the Department of Administration is required to submit a report no later than December 31, 2023 with recommendations of statutory changes needed. Support services such as procurement, IT, and HR will be supplied through the Department of Administration until such time as the new Department of Environmental Services can take on the responsibilities. Funds were provided in the House version of the Appropriations Bill to the Department of Administration for these duties.

The restructuring would occur on July 1, 2024.

***Estimated Revenue Impact:***

Pending

***Other Notes/Comments:***

Reported favorable with amendment.

**SOUTH CAROLINA**  
**HOUSE AMENDMENT**

David Good  
March 28, 2023

AMENDMENT NO. \_\_\_\_\_

ADOPTED	REJECTED	TABLED	ADJOURN DEBATE	RECONSIDERED	ROO

\_\_\_\_\_  
Clerk of the House

ADOPTION NO. \_\_\_\_\_

**BILL NO: H. 4124**

(Reference is to the original version)

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The General Government Subcommittee proposes the following amendment (LC-4124.DG0003H):

Amend the bill, as and if amended, SECTION 2, by striking subsections (A) and (B) and inserting:

SECTION 2. (A) It is the intent of the General Assembly to restructure and transfer the programs, services, duties, and authority of the Department of Health and Environmental Control into the Department of Public Health or the Department of Environmental Services. Accordingly, the Department of Administration immediately shall commence the process of analyzing the circumstances and determining the best manner to efficiently and effectively restructure and transfer all programs, services, duties, and authority of the Department of Health and Environmental Control to the Department of Public Health or the Department of Environmental Services, consistent with the provisions of this act. The Department of Health and Environmental

Control shall cooperate with the Department of Administration and assign such personnel as requested by the Executive Director of the Department of Administration to assist the department and enable it to complete its duties under this SECTION. To complete its duties under this SECTION the Department of Administration shall consult with the existing Director of the Department of Health and Environmental Control and the existing Director of Environmental Affairs of the Department of Health and Environmental Control.

(B) The Department of Administration's analysis required by this SECTION must include the submission of a report to the General Assembly no later than December 31, 2023, with specific recommendations of statutory changes needed throughout the South Carolina Code of Laws to reflect the restructuring and transfer of the health-related programs, services, duties, and authority of the Department of Health and Environmental Control to the Department of Public Health and to reflect the restructuring and transfer of the environmental-related programs, services, duties, and authority of the Department of Health and Environmental Control to the Department of Environmental Services. The Department of Health and Environmental Control shall assign such legal, programmatic and administrative personnel as requested by the Executive Director of Department of Administration to assist the department in identifying statutory provisions requiring change and in suggesting appropriate language to effectuate required changes. The Code Commissioner shall be available to consult with and assist the Department of Administration in making the recommendations required by this SECTION.

Amend the bill further, SECTION 4, by striking Section 48-6-30(D)(2) and inserting:

(2) Within thirty calendar days after the receipt of a decision pursuant to item (1), an applicant, permittee, licensee, certificate holder, or affected person desiring to contest the department decision may request a contested case hearing before the Administrative Law Court, in accordance with the Administrative Procedures Act. Notwithstanding Section 1-23-600(H)(1), the entirety of Section 12-23-600(H) shall apply to timely requests for a contested hearing of decisions from the Department of Environmental Services. The court shall give consideration to

the provisions of Section 1-23-330 regarding the department's specialized knowledge.

Amend the bill further, by striking SECTION 9 and inserting:

SECTION 9. This act takes effect on July 1, 2024, except that the provisions of SECTION 2, relating to the Department of Administration's duties, take effect upon approval by the Governor.

Renumber sections to conform.

Amend title to conform.



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
**(803)734-3780 • RFA.SC.GOV/IMPACTS**

*This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.*

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**Bill Number:** H. 4124 Introduced on March 9, 2023  
**Author:** G.M. Smith  
**Subject:** DHEC Restructuring  
**Requestor:** House Ways and Means  
**RFA Analyst(s):** Griffith  
**Impact Date:** March 29, 2023

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### **Fiscal Impact Summary**

This bill restructures the Department of Health and Environmental Control (DHEC) into two separate agencies, the Department of Public Health (DPH) and the Department of Environmental Services (DES), effective July 1, 2024. Immediately upon passage of the bill, the Department of Administration (Admin) must begin the process of determining the best manner to efficiently and effectively restructure and transfer all programs, services, duties, and authority of DHEC to DPH or DES. DHEC shall pay any costs the Admin may incur during the restructuring analysis.

The bill will transfer \$661,248,769 and 3,536.84 in total appropriations and FTEs from DHEC to DPH and DES. Of these amounts, the bill will transfer \$154,208,837 in General Fund appropriations and 1,292.38 General Fund FTEs. We have requested additional information from DHEC regarding the appropriations and FTEs that will be transferred to each new agency.

DHEC has estimated that one-time General Fund expenditures of up to \$21,934,906 may be necessary to duplicate the current system for each of the two new agencies. These costs include IT network and system separation, relocation of certain offices and centers, signage replacement, and moving costs. DHEC also estimates that the bill may increase General Fund expenditures of DPH and DES by \$6,290,868 and \$7,596,448, respectively, beginning in FY 2024-25 for shared IT network and system services, new leadership positions, and new offices. The new agencies, with the assistance of Admin, may be able to reduce and or eliminate some or all of these costs. In state government restructuring in 1993 and 2014, agencies experienced similar restructuring requirements, which were accomplished within existing appropriations.

The expenditure impact of the bill on Admin is pending, contingent upon a response from the agency.

Included in the transfer from DHEC to DPH and DES will be all fines, fees, forfeitures, and other revenues. The total amounts transferred from DHEC to each agency is currently undetermined. We will update this fiscal impact statement if we receive more information from DHEC.

## Explanation of Fiscal Impact

### Introduced on March 9, 2023

#### State Expenditure

This bill restructures DHEC into two separate agencies, DPH and DES, effective July 1, 2024. All health-related programs of DHEC will be transferred to DPH, and all environmental-related programs of DHEC will be transferred to DES. The transfers include all programs, services, duties, authority, employees, authorized appropriations, bonded indebtedness if applicable, real and personal property, assets, and liabilities of DHEC. The Director of DHEC will serve as the Director of DPH, and the Director of DES will be appointed by the Governor pursuant Code Section 1-30-10.

Immediately upon passage of the bill, Admin must begin the process of determining the best manner to efficiently and effectively restructure and transfer all programs, services, duties, and authority of DHEC to DPH or DES. The analysis must include the submission of a report to the General Assembly no later than December 31, 2023, with specific recommendations of statutory changes needed through the South Carolina Code of Laws to reflect the restructuring and transfer of DHEC's programs, services, duties, and authority to DPH and DES. To perform the analysis, Admin may procure supplies, services, information technology, and experts, all of which are exempt from the purchasing procedures of the South Carolina Consolidated Procurement Code. DHEC shall pay any costs Admin may incur during the analysis.

**Department of Health and Environmental Control.** Given the uncertainty and complexity of the transitions that may be required, DHEC indicates that it is difficult to fully assess the potential expenses. In state government restructuring in 1992 and 2014, agencies experienced similar requirements to restructure, but no additional funding was appropriated. However, DHEC developed an initial cost estimate to duplicate the current systems for each of the two new agencies. The new agencies, with the assistance of Admin, may be able to reduce and or eliminate some or all of these costs totaling \$21,934,906. Please see below for DHEC's initial one-time expenditure estimates:

- \$17,555, 906 for IT network and system separation, migration, and duplication,
- \$2,509,000 for the relocation of the Public Health Preparedness and Agency Coordination Center,
- \$850,000 for the relocation of the Vital Records Central Office,
- \$930,000 for the replacement of signage throughout the state that provide information to the public, and
- \$90,000 for moving costs associated with staff in ten co-located facilities.

Assumptions for these estimates are that the new agencies will not be co-located, the new agencies will maintain their own administrative staff, agency IT systems and networks must be separated, any agency paraphernalia will be replaced gradually through routine printing costs, and transitions may not be fully implemented within one year due to IT system development and/or procurement process length.

Additionally, the bill will transfer \$661,248,769 and 3,536.84 in total appropriations and FTEs from DHEC to DPH and DES. Of these amounts, the bill will transfer \$154,208,837 in General Fund appropriations and 1,292.38 FTEs. We have requested additional information from DHEC regarding the appropriations and FTEs that will be transferred to each new agency.

**Department of Public Health.** DHEC estimates the following recurring costs associated with DPH:

- \$4,175,796 for shared IT network and system services and for upgrades, migrations, etc.,
- \$1,768,072 for new leadership positions (split evenly between the new agencies), and
- \$347,000 for the commercial lease of a new Vital Records Central Office, along with fire suppression system maintenance, system installation, secure moving services, and site upfitting.

In total, DHEC estimates that one-time General Fund expenditures of DPH may increase by \$6,290,868 in FY 2024-25 and in each fiscal year thereafter.

**Department of Environmental Services.** DHEC estimates the following recurring costs associated with DES:

- \$4,548,509 for shared IT network and system services and for upgrades, migrations, etc.,
- \$1,768,072 for new leadership positions (split evenly between the new agencies), and
- \$1,279,867 for rent and utilities for new Environmental Affairs offices.

In total, DHEC estimates that one-time General Fund expenditures of DES may increase by \$7,596,448 in FY 2024-25 and in each fiscal year thereafter.

**Department of Administration.** The fiscal impact of the bill on the Admin is pending, contingent upon a response from the agency.

### State Revenue

Included in the transfer from DHEC to DPH and DES will be all fines, fees, forfeitures, or revenues. These monies must continue to be used and expended for the purposes provided prior to the effective date of the bill, including for the support, benefit, or expense of personnel transferred. The total amounts shifted from DHEC to each agency is undetermined. We will update this fiscal impact statement if we receive more information.

### Local Expenditure

N/A

### Local Revenue

N/A



Frank A. Rainwater, Executive Director



**South Carolina General Assembly**  
125th Session, 2023-2024

**H. 4124**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. G.M. Smith, Bannister and Herbkersman

Companion/Similar bill(s): 399, 3239

Document Path: LC-0204VR23.docx

Introduced in the House on March 9, 2023

Currently residing in the House Committee on **Ways and Means**

Summary: DHEC Restructuring

**HISTORY OF LEGISLATIVE ACTIONS**

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
3/9/2023	House	Introduced and read first time (House Journal-page 17)
3/9/2023	House	Referred to Committee on <b>Ways and Means</b> (House Journal-page 17)

View the latest [legislative information](#) at the website

**VERSIONS OF THIS BILL**

03/09/2023

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10

**A BILL**

11 TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 44-1-20,  
12 RELATING TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SO AS  
13 TO PROVIDE FOR THE CREATION OF A DEPARTMENT OF PUBLIC HEALTH TO ASSUME  
14 THE HEALTH-RELATED FUNCTIONS OF THE DEPARTMENT OF HEALTH AND  
15 ENVIRONMENTAL CONTROL AND FOR OTHER PURPOSES; BY AMENDING SECTIONS  
16 44-1-60, 44-1-140, AND 44-1-150, ALL RELATING TO THE DEPARTMENT OF HEALTH AND  
17 ENVIRONMENTAL CONTROL, SO AS TO MAKE CONFORMING CHANGES; BY REPEALING  
18 SECTIONS 1-30-45 AND 44-1-65 RELATING TO THE DEPARTMENT OF HEALTH AND  
19 ENVIRONMENTAL CONTROL AND THE PERMITTING OF CERTAIN ANIMAL FACILITIES;  
20 BY RENAMING CHAPTER 1 OF TITLE 44, "DEPARTMENT OF PUBLIC HEALTH"; BY  
21 ADDING CHAPTER 6 TO TITLE 48 SO AS TO CREATE THE DEPARTMENT OF  
22 ENVIRONMENTAL SERVICES TO ASSUME THE ENVIRONMENTAL-RELATED  
23 FUNCTIONS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, TO  
24 PROVIDE FOR THE APPOINTMENT OF A DIRECTOR BY THE GOVERNOR, AND FOR  
25 OTHER PURPOSES; BY AMENDING SECTION 1-30-10, RELATING TO DEPARTMENTS OF  
26 STATE GOVERNMENT, SO AS TO ADD THE DEPARTMENT OF PUBLIC HEALTH AND THE  
27 DEPARTMENT OF ENVIRONMENTAL SERVICES; AND BY ADDING SECTIONS 1-30-135  
28 AND 1-30-140 SO AS TO MAKE CONFORMING CHANGES.  
29

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

31  
32 SECTION 1. On July 1, 2024:

33 (1) There is created the Department of Public Health which shall be administered under the  
34 supervision of the Board of Health and Environmental Control, which is hereby renamed the Board of  
35 Public Health. Board members shall be appointed pursuant to Section 44-1-20, and the Board of Public  
36 Health shall select a director pursuant to Section 44-1-40. Every current member of the former Board  
37 of Health and Environmental Control shall continue to serve as a member of the renamed Board of  
38 Public Health until each member's term expires and a successor is appointed. The Director of the  
39 Department of Health and Environmental Control shall serve as the Director of the Department of  
40 Public Health until the Board of Public Health selects an initial director of the Department of Public  
41 Health.

42 (2) There is created the Department of Environmental Services to be headed by a director who is  
43 appointed by the Governor pursuant to Section 1-30-10 with the advice and consent of the Senate;  
44 provided, however, until the Governor appoints the initial Director after creation of the Department of  
45 Environmental Services, the Director of Environmental Affairs of the Department of Health and

1 Environmental Control shall serve as the Director of the Department of Environmental Services.

2 (3) The South Carolina Department of Health and Environmental Control is abolished.

3  
4 SECTION 2. (A) It is the intent of the General Assembly to restructure and transfer the programs,  
5 services, duties, and authority of the Department of Health and Environmental Control into the  
6 Department of Public Health or the Department of Environmental Services. Accordingly, the  
7 Department of Administration immediately shall commence the process of analyzing the circumstances  
8 and determining the best manner to efficiently and effectively restructure and transfer all programs,  
9 services, duties, and authority of the Department of Health and Environmental Control to the  
10 Department of Public Health or the Department of Environmental Services, consistent with the  
11 provisions of this act. The Department of Health and Environmental Control shall cooperate with the  
12 Department of Administration to enable the Department of Administration to complete its duties under  
13 this SECTION.

14 (B) The Department of Administration's analysis required by this SECTION must include the  
15 submission of a report to the General Assembly no later than December 31, 2023, with specific  
16 recommendations of statutory changes needed throughout the South Carolina Code of Laws to reflect  
17 the restructuring and transfer of the health-related programs, services, duties, and authority of the  
18 Department of Health and Environmental Control to the Department of Public Health and to reflect the  
19 restructuring and transfer of the environmental-related programs, services, duties, and authority of the  
20 Department of Health and Environmental Control to the Department of Environmental Services.

21 (C) The Department of Administration may procure such supplies, services, information technology,  
22 and experts, including attorneys, as are necessary to perform the requirements of this SECTION. Such  
23 procurements are exempt from the purchasing procedures of the South Carolina Consolidated  
24 Procurement Code but must be made with as much competition as is practicable. Additionally, if  
25 determined necessary, the State Fiscal Accountability Authority shall assign such personnel as  
26 requested by the Executive Director of Department of Administration to assist the department in any  
27 required procurements. The Department of Health and Environmental Control shall pay the costs of  
28 any supplies, services, information technology, and experts, including attorneys, procured pursuant to  
29 this subsection.

30  
31 SECTION 3.A. Section 44-1-20 of the S.C. Code is amended to read:

32  
33 Section 44-1-20. There is created the South Carolina Department of Public Health and  
34 ~~Environmental Control~~ which shall be administered under the supervision of the South Carolina Board  
35 of ~~Health and Environmental Control~~. The board shall consist of eight members, one from each  
36 congressional district, and one from the State at large to be appointed by the Governor, upon the advice

1 and consent of the Senate. The member who is appointed at large shall serve as the chairman of the  
2 board. The Governor may remove the chairman of the board pursuant to Section 1-3-240(B); however,  
3 the Governor only may remove the other board members pursuant to Section 1-3-240(C). The terms of  
4 the members shall be for four years and until their successors are appointed and qualify. All vacancies  
5 shall be filled in the manner of the original appointment for the unexpired portion of the term only. In  
6 making these appointments, race, gender, and other demographic factors should be considered to ensure  
7 nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the  
8 population of the State; however, consideration of these factors in making an appointment in no way  
9 creates a cause of action or basis for an employee grievance for a person appointed or for a person who  
10 fails to be appointed.

11  
12 B. Section 44-1-60(A) of the S.C. Code is amended to read:

13  
14 (A) All department decisions involving the issuance, denial, renewal, suspension, or revocation of  
15 permits, licenses, or other actions of the department which may give rise to a contested case, ~~except a~~  
16 ~~decision to establish a baseline or setback line,~~ must be made using the procedures set forth in this  
17 section. ~~A department decision referenced in this subsection relating to a poultry facility or another~~  
18 ~~animal facility, except a swine facility, also must comply with the provisions of Section 44-1-65.~~

19  
20 C. Section 44-1-140 of the S.C. Code is amended to read:

21  
22 Section 44-1-140. ~~(A)~~ The Department of Public Health and Environmental Control may make,  
23 adopt, promulgate and enforce reasonable rules and regulations from time to time requiring and  
24 providing for:

25 (1) ~~For~~ the thorough sanitation and disinfection of all passenger cars, sleeping cars, steamboats and  
26 other vehicles of transportation in this State and all convict camps, penitentiaries, jails, hotels, schools  
27 and other places used by or open to the public;

28 (2) ~~For~~ the sanitation of hotels, restaurants, cafes, drugstores, hot dog and hamburger stands and all  
29 other places or establishments providing eating or drinking facilities and all other places known as  
30 private nursing homes or places of similar nature, operated for gain or profit;

31 (3) ~~For~~ the production, storing, labeling, transportation and selling of milk and milk products, filled  
32 milk and filled milk products, imitation milk and imitation milk products, synthetic milk and synthetic  
33 milk products, milk derivatives and any other products made in semblance of milk or milk products;

34 (4) ~~For~~ the sanitation and control of abattoirs, meat markets, whether the same be definitely provided  
35 for that purpose or used in connection with other business, and bottling plants;

36 (5) ~~For the classification of waters and for the safety and sanitation in the harvesting, storing,~~

1 processing, handling and transportation of mollusks, fin fish and crustaceans;

2 ~~(6) For the control of disease-bearing insects, including the impounding of waters;~~

3 ~~(7) For the safety, safe operation and sanitation of public swimming pools and other public bathing~~  
4 ~~places, construction, tourist and trailer camps, and fairs;~~

5 ~~(8) For the control of industrial plants, including the protection of workers from fumes, gases and~~  
6 ~~dust, whether obnoxious or toxic;~~

7 ~~(9) For the use of water in air humidifiers;~~

8 ~~(10)(7) For the care, segregation and isolation of persons having or suspected of having any~~  
9 ~~communicable, contagious or infectious disease; and~~

10 ~~(11) For the regulation of the methods of disposition of garbage or sewage and any like refuse matter~~  
11 ~~in or near any village, town or city of the State, incorporated or unincorporated, and to abate obnoxious~~  
12 ~~and offensive odors caused or produced by septic tank toilets by prosecution, injunction or otherwise;~~

13 ~~—(12)(8) For the thorough investigation and study of the causes of all diseases, epidemic and~~  
14 ~~otherwise, in this State, the means for the prevention of contagious disease and the publication and~~  
15 ~~distribution of such information as may contribute to the preservation of the public health and the~~  
16 ~~prevention of disease; and~~

17 ~~(13) For alteration of safety glazing material standards and the defining of additional structural~~  
18 ~~locations as hazardous areas, and for notice and hearing procedures by which to effect these changes.~~

19 (B) The Department may make separate orders and rules to meet any emergency not provided for by  
20 general rules and regulations, for the purpose of suppressing nuisances dangerous to the public health  
21 and communicable, contagious and infectious diseases and other danger to the public life and health.

22  
23 D. Section 44-1-150 (A) and (E) of the S.C. Code is amended to read:

24  
25 (A) Except as provided in Section 44-1-151, a person who after notice violates, disobeys, or refuses,  
26 omits, or neglects to comply with a regulation of the Department of Public Health and Environmental  
27 Control, made by the department pursuant to Section 44-1-140, is guilty of a misdemeanor and, upon  
28 conviction, must be fined not more than two hundred dollars or imprisoned for thirty days.

29  
30 ~~(B) This section does not apply to fines levied under Section 44-1-140(8) or any other areas regulated~~  
31 ~~by the South Carolina Occupational Health and Safety Act, Section 41-12-10 et seq.~~

32  
33 E. Sections 1-30-45 and 44-1-65 of the S.C. Code are repealed.

34  
35 F. Chapter 1, Title 44 of the S.C. Code is renamed "Department of Public Health".

1 SECTION 4. Title 48 of the S.C. Code is amended by adding:

2

3

## CHAPTER 6

4

5

### Department of Environmental Services

6

7

Section 48-6-10. (A) There is created the Department of Environmental Services which shall be headed by a director appointed by the Governor, upon the advice and consent of the Senate. The director is subject to removal by the Governor as provided for in Section 1-3-240.

8

9

(B) As the governing authority of the department, the director is vested with all authorities and duties as provided for in Section 1-30-10.

10

11

12

Section 48-6-20. (A) The Department of Environmental Services is vested with all the functions, powers, and duties of the environmental divisions, offices, and programs of the Department of Health and Environmental Control on the effective date of this act.

13

14

(B) The department may promulgate regulations necessary to implement the provisions of this chapter.

15

16

(C) The department may apply for and accept funds, grants, gifts, and services from the State, the United States government or any of its agencies, or any other public or private source and may use funds derived from these sources to defray clerical and administrative costs, as may be necessary for carrying out the department's duties.

17

18

Section 48-6-30. (A) All decisions of the Department of Environmental Services involving the issuance, denial, renewal, suspension, or revocation of permits, licenses, certificates, or other actions of the department which may give rise to a contested case, except a decision to establish a baseline or setback line, must be made using the procedures set forth in this section. A department decision referenced in this subsection relating to a poultry facility or another animal facility, except a swine facility, also must comply with the provisions of Section 48-6-40.

19

20

(B) The department shall comply with all requirements for public notice, receipt of public comments, and public hearings before making a decision. To the maximum extent possible, the department shall use a uniform system of public notice of permit applications, opportunity for public comment, and public hearings.

21

22

(C) In making a decision about a permit, license, certification, or other approval, the department shall take into consideration all material comments received in response to the public notice in determining whether to issue, deny, or condition a permit, license, certification, or other approval. At the time that a decision is made, the department shall issue a written decision and shall base its decision on the

1 administrative record, which must consist of the application and supporting exhibits, all public  
2 comments and submissions, and other documents contained in the supporting file for the permit,  
3 license, certification, or other approval. The administrative record also may include material readily  
4 available at the department, or published materials which are generally available and need not be  
5 physically included in the same file as the rest of the record as long as those materials are referred to  
6 specifically in the department decision. The department is not required to issue a written decision for  
7 issuance of routine permits for which the department has not received adverse public comments.

8 (D)(1) The department shall send notice of a decision by certified mail, return receipt requested to  
9 the applicant, permittee, licensee, certificate holder, and affected persons who have requested in writing  
10 to be notified. Affected persons may request in writing to be notified by regular mail or electronic mail  
11 in lieu of certified mail. Notice of decisions for which a department decision is not required pursuant  
12 to subsection (C) must be provided by mail, delivery, or other appropriate means to the applicant,  
13 permittee, licensee, certificate holder, and affected persons who have requested in writing to be notified.

14 (2) Within thirty calendar days after the receipt of a decision pursuant to item (1), an applicant,  
15 permittee, licensee, certificate holder, or affected person desiring to contest the department decision  
16 may request a contested case hearing before the Administrative Law Court, in accordance with the  
17 Administrative Procedures Act. The court shall give consideration to the provisions of Section 1-23-330  
18 regarding the department's specialized knowledge.

19 (E) If a deadline provided for in this section falls on a Saturday, Sunday, or state holiday, the deadline  
20 must be extended until the next calendar day that is not a Saturday, Sunday, or state holiday.

21  
22 Section 48-6-40. (A) In making a decision on a permit, license, certification, or other approval of a  
23 poultry facility or another animal facility, except a swine facility, pursuant to Section 48-6-30(C), the  
24 department shall base its decision solely on whether the permit complies with the applicable department  
25 regulations governing the permitting of poultry and other animal facilities, other than swine facilities.

26 (B) For purposes of permitting, licensing, certification, or other approval of a poultry facility or  
27 another animal facility, other than a swine facility:

28 (1) only an applicant, permittee, licensee, or affected person may request a contested case hearing  
29 pursuant to Section 48-6-30(D)(2);

30 (2) only an applicant, permittee, licensee, or affected person may become a party to a contested  
31 case hearing; and

32 (3) only an applicant, permittee, licensee, or affected person is entitled as of right to be admitted  
33 as a party pursuant to Section 1-23-310(5) of the Administrative Procedures Act.

34 (C)(1) In determining whether to issue a permit, license, certification, or other approval of a poultry  
35 facility or another animal facility, except a swine facility, the department only may take into  
36 consideration the existing development on and use of property owned or occupied by an affected person

1 on the date the department receives the applicant's complete application package as prescribed by  
2 regulation. The department must not take into consideration any changes to the development or use of  
3 property after receipt of the application including, but not limited to, the construction of a residence.

4 (2) If a property owner signs a setback waiver of the right to contest the issuance of a permit,  
5 license, certification, or other approval of a poultry facility or another animal facility, except a swine  
6 facility, including waiver of the right to notice and a public hearing on a permit, license, certification,  
7 or other approval and to file a contested case or other action, then the affected person has seventy-two  
8 hours to provide in writing a withdrawal or rescission of the waiver.

9 (D)(1) An applicant, permittee, licensee, or affected person who is aggrieved by a decision to issue  
10 or deny a permit, license, certification, or other approval of a poultry facility or another animal facility,  
11 except a swine facility, may request a contested case hearing before the Administrative Law Court, in  
12 accordance with the Administrative Procedures Act.

13 (2) Notwithstanding any other provision of law, a decision to issue a permit, license, certification,  
14 or other approval of a poultry facility or another animal facility, except a swine facility, may not be  
15 contested if the proposed building footprint is located eight hundred feet or more from the facility  
16 owner's property line or located one thousand feet or more from an adjacent property owner's  
17 residence.

18 (E) For purposes of this section, "affected person" means a property owner with standing within a  
19 one mile radius of the proposed building footprint or permitted poultry facility or other animal facility,  
20 except a swine facility, who is challenging on his own behalf the permit, license, certificate, or other  
21 approval for the failure to comply with the specific grounds set forth in the applicable department  
22 regulations governing the permitting of poultry facilities and other animal facilities, other than swine  
23 facilities.

24  
25 Section 48-6-50. All rules and regulations promulgated by the department shall be null and void  
26 unless approved by a concurrent resolution of the General Assembly at the session of the General  
27 Assembly following their promulgation.

28  
29 Section 48-6-60. (A) The Department of Environmental Services may make, adopt, promulgate, and  
30 enforce reasonable rules and regulations from time to time requiring and providing for:

31 (1) the classification of waters;

32 (2) the control of disease-bearing insects, including the impounding of waters;

33 (3) the control of industrial plants, including the protection of workers from fumes, gases, and  
34 dust, whether obnoxious or toxic;

35 (4) the use of water in air humidifiers;

36 (5) the regulation of the methods of disposition of garbage or sewage and any like refuse matter



1 in or near any village, town, or city of the State, incorporated or unincorporated, and to abate obnoxious  
2 and offensive odors caused or produced by septic tank toilets by prosecution, injunction, or otherwise;  
3 and

4 (6) the alteration of safety glazing material standards and the defining of additional structural  
5 locations as hazardous areas, and for notice and hearing procedures by which to effect these changes.

6 (B) The department may make separate orders and rules to meet any emergency not provided for by  
7 general rules and regulations, for the purpose of suppressing nuisances dangerous to the environment.  
8

9 Section 48-6-70. (A) A person who after notice violates, disobeys, or refuses, omits, or neglects to  
10 comply with a regulation of the Department of Environmental Services, made by the department  
11 pursuant to Section 48-6-60, is guilty of a misdemeanor and, upon conviction, must be fined not more  
12 than two hundred dollars or imprisoned for thirty days.

13 (B) A person who after notice violates a rule, regulation, permit, permit condition, final  
14 determination, or order of the department issued pursuant to Section 48-6-60 is subject to a civil penalty  
15 not to exceed one thousand dollars a day for each violation.

16 (C) Fines collected pursuant to subsection (B) must be remitted by the department to the State  
17 Treasurer for deposit in the state general fund.

18 (D) The term "notice" as used in this section means either actual notice or constructive notice.

19 (E) This section does not apply to fines levied pursuant to Section 48-6-60(3) or any other areas  
20 regulated by the South Carolina Occupational Health and Safety Act, Section 41-12-10, et seq.  
21

22 Section 48-6-80. Nothing contained in Section 48-6-60 in any way abridges or limits the right of a  
23 person to maintain or prosecute a civil or criminal proceeding against a person maintaining a nuisance.  
24

25 SECTION 5.A. Section 1-30-10(A)8. of the S.C. Code is amended to read:

26  
27 8. Department of Public Health and Environmental Control  
28

29 B. Section 1-30-10(A) of the S.C. Code is amended by adding:

30  
31 25. Department of Environmental Services  
32

33 SECTION 6.A. Chapter 30, Title 1 of the S.C. Code is amended by adding:  
34

35 Section 1-30-135. There is hereby created, within the executive branch of the state government, the  
36 Department of Public Health, headed by a director selected by the Board of Public Health pursuant to

1 Section 44-1-40. The divisions, offices, and programs of the Department of Health and Environmental  
2 Control performing functions related to regulation and protection of the public health prior to the  
3 effective date of this act, including all of the allied, advisory, affiliated, or related entities as well as the  
4 employees, funds, property, and all contractual rights and obligations associated with these divisions,  
5 offices, programs, and other related entities, except for those subdivisions specifically included under  
6 another department, are hereby transferred to and incorporated in and shall be administered as part of  
7 the Department of Public Health.

8  
9 B. Chapter 30, Title 1 of the S.C. Code is amended by adding:

10  
11 Section 1-30-140. There is hereby created, within the executive branch of the state government, the  
12 Department of Environmental Services, headed by a director appointed by the Governor pursuant to  
13 Section 48-6-10. The divisions, offices, and programs of the Department of Health and Environmental  
14 Control performing functions related to regulation and protection of the environment prior to the  
15 effective date of this act, including all of the allied, advisory, affiliated, or related entities as well as the  
16 employees, funds, property and all contractual rights and obligations associated with these divisions,  
17 offices, programs, and other related entities, except for those subdivisions specifically included under  
18 another department, are hereby transferred to and incorporated in and shall be administered as part of  
19 the Department of Environmental Services.

20  
21 SECTION 7. (A) When the provisions of this act transfer particular state agencies, departments, boards,  
22 commissions, committees, or entities, or sections, divisions, or portions thereof (transferring  
23 departments), to another state agency, department, division, or entity or make them a part of another  
24 department or division (receiving departments), the employees, authorized appropriations, bonded  
25 indebtedness if applicable, real and personal property, assets, and liabilities of the transferring  
26 department also are transferred to and become part of the receiving department or division unless  
27 otherwise specifically provided. All classified or unclassified personnel of the affected agency,  
28 department, board, commission, committee, entity, section, division, or position employed by these  
29 transferring departments on the effective date of this act, either by contract or by employment at will,  
30 shall become employees of the receiving department or division, with the same compensation,  
31 classification, and grade level, as applicable. The Department of Administration shall cause all  
32 necessary actions to be taken to accomplish this transfer and shall in consultation with the agency head  
33 of the transferring and receiving agencies prescribe the manner in which the transfer provided for in  
34 this section shall be accomplished. The Department of Administration's action in facilitating the  
35 provisions of this section are ministerial in nature and shall not be construed as an approval process  
36 over any of the transfers.

1 (B) When an agency, department, entity, or official is transferred to or consolidated with another  
2 agency, department, division, entity or official, regulations promulgated by that transferred agency,  
3 department, entity or official under the authority of former provisions of law pertaining to it are  
4 continued and are considered to be promulgated under the authority of present provisions of law  
5 pertaining to it. When powers and duties of an agency, department, entity, or official are transferred to  
6 and devolved upon another department, agency, or subdivision thereof, the power and duty to  
7 promulgate regulations is also transferred to and devolved upon that department, agency, or subdivision  
8 thereof.

9 (C) References to the names of agencies, departments, entities, or public officials changed by this  
10 act, to their duties or functions herein devolved upon other agencies, departments, entities, or officials,  
11 or to provisions of law consolidated with or transferred to other parts of the S.C. Code are considered  
12 to be and must be construed to mean appropriate references.

13 (D) Unless otherwise provided herein or by law, all fines, fees, forfeitures, or revenues imposed or  
14 levied by agencies, personnel, or portions thereof, so transferred to other agencies or departments must  
15 continue to be used and expended for those purposes provided prior to the effective date of this act. If  
16 a portion of these fines, fees, forfeitures, or revenues were required to be used for the support, benefit,  
17 or expense of personnel transferred, these funds must continue to be used for these purposes.

18  
19 SECTION 8. The repeal or amendment by this act of any law, whether temporary or permanent or civil  
20 or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter,  
21 discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or  
22 amended law, unless the repealed or amended provision shall so expressly provide. After the effective  
23 date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full  
24 force and effect for the purpose of sustaining any pending or vested right, civil action, special  
25 proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the  
26 enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or  
27 amended laws.

28  
29 SECTION 9. This act takes effect upon approval by the Governor.

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