

"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, Hayes, Bannister, Moss, Willis - Staff Contact: Sarah Hearn)

SENATE BILL 2

S. 2 -- Senators Peeler, Malloy, McElveen, Hembree, Senn, Kimbrell and Turner: A BILL TO AMEND CHAPTER 1, TITLE 44, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SO AS TO RENAME THE CHAPTER THE "DEPARTMENT OF BEHAVIORAL AND PUBLIC HEALTH" AND TO REORGANIZE THE CHAPTER TO CREATE THE DIVISION OF PUBLIC HEALTH, TO DELEGATE TO THE DIVISION THE PUBLIC HEALTH RESPONSIBILITIES OF THE DEPARTMENT, TO ABOLISH THE DEPARTMENT AND BOARD OF HEALTH AND ENVIRONMENTAL CONTROL, TO PROVIDE FOR THE APPOINTMENT OF A DIRECTOR OF THE DEPARTMENT BY THE GOVERNOR, AND TO TRANSFER ENVIRONMENTAL RESPONSIBILITIES OF THE DEPARTMENT TO THE DIVISION OF ENVIRONMENTAL CONTROL OF THE DEPARTMENT OF AGRICULTURE AND THE DEPARTMENT OF NATURAL RESOURCES, AS APPROPRIATE; TO AMEND CHAPTER 9, TITLE 44, RELATING, IN PART, TO THE DEPARTMENT OF MENTAL HEALTH, SO AS TO CREATE THE DIVISION OF MENTAL HEALTH WITHIN THE DEPARTMENT OF BEHAVIORAL AND PUBLIC HEALTH, TO MAKE CONFORMING CHANGES REFLECTING THE TRANSFER OF RESPONSIBILITIES TO THE DIVISION, WITH EXCEPTIONS, AND TO ABOLISH THE DEPARTMENT OF MENTAL HEALTH AND THE MENTAL HEALTH COMMISSION; TO AMEND CHAPTER 49, TITLE 44, RELATING TO THE DEPARTMENT OF ALCOHOL AND OTHER DRUG ABUSE SERVICES, SO AS TO CREATE THE DIVISION OF ALCOHOL AND OTHER DRUG ABUSE SERVICES WITHIN THE DEPARTMENT OF BEHAVIORAL AND PUBLIC HEALTH, TO MAKE CONFORMING CHANGES REFLECTING THE TRANSFER OF RESPONSIBILITIES TO THE DIVISION, AND TO ABOLISH THE DEPARTMENT OF ALCOHOL AND OTHER DRUG ABUSE SERVICES; BY ADDING ARTICLE 7 TO CHAPTER 11, TITLE 25 SO AS TO TRANSFER FROM THE DEPARTMENT OF MENTAL HEALTH TO THE DEPARTMENT OF VETERANS' AFFAIRS THE AUTHORITY TO ESTABLISH AND OPERATE VETERANS HOMES; TO AMEND SECTIONS 44-11-10, 44-11-60, 44-11-70, 44-13-20, 44-13-30, 44-13-40, 44-13-60, 44-15-10, 44-15-20, 44-15-30, 44-15-60, 44-15-70, 44-15-80, 44-15-90, 44-17-450, 44-17-460, 44-17-580, 44-17-860, 44-17-865, 44-17-870, 44-22-10, 44-22-110, 44-24-10, 44-25-30, 44-27-10, 44-27-30, 44-28-20, 44-28-40, 44-28-60, 44-28-80, 44-28-360, AND 44-28-370, RELATING TO THE DEPARTMENT OF MENTAL HEALTH, SO AS TO MAKE CONFORMING CHANGES; BY ADDING CHAPTER 57 TO TITLE 46 SO AS TO CREATE A DIVISION OF ENVIRONMENTAL PROTECTION WITHIN THE DEPARTMENT OF AGRICULTURE AND TRANSFER TO THE DIVISION THE DIVISIONS, OFFICES, AND PROGRAMS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL THAT PERFORM ENVIRONMENTAL FUNCTIONS, WITH EXCEPTIONS; TO AMEND SECTION 46-3-10, RELATING TO THE DUTIES OF THE DEPARTMENT OF AGRICULTURE, SO AS TO ADD THE ADMINISTRATION OF THE DIVISION OF ENVIRONMENTAL PROTECTION; TO AMEND SECTIONS 48-2-20, 48-2-70, 48-2-320, 48-2-330, 48-2-340, 48-14-20, 48-18-20, 48-18-50, 48-20-30, 48-20-40, 48-20-70, 48-21-20, 48-43-10, 48-46-30, 48-46-40, 48-46-50, 48-46-80, 48-46-90, 48-52-810, 48-52-865, 48-55-10, 48-56-20, 48-57-20, 48-60-20, 49-5-30, AND 49-5-60, RELATING TO ENVIRONMENTAL PROTECTION FUNDS, STORMWATER MANAGEMENT AND SEDIMENT REDUCTION, EROSION AND SEDIMENT REDUCTION, MINING, OIL AND GAS CONSERVATION AND PRODUCTION, RADIOACTIVE WASTE, ENVIRONMENTAL AWARENESS AND INNOVATION, INFORMATION TECHNOLOGY EQUIPMENT RECOVERY, AND GROUNDWATER, ALL SO AS TO TRANSFER REGULATORY AUTHORITY TO THE

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DEPARTMENT OF AGRICULTURE; TO AMEND SECTIONS 48-1-10, 48-1-20, 48-1-55, 48-1-85, 48-1-95, 48-1-100, 48-1-280, 48-3-10, AND 48-3-140, RELATING TO THE POLLUTION CONTROL ACT OR POLLUTION CONTROL FACILITIES, ALL SO AS TO TRANSFER REGULATORY AUTHORITY TO THE DEPARTMENT OF NATURAL RESOURCES; TO AMEND SECTION 48-4-10, RELATING TO THE ORGANIZATIONAL STRUCTURE OF THE DEPARTMENT OF NATURAL RESOURCES, SO AS TO TRANSFER THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL'S COASTAL DIVISION AND OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT TO THE DEPARTMENT OF NATURAL RESOURCES; TO AMEND SECTIONS 48-39-10, 48-39-35, 48-39-50, 48-39-270, 48-40-20, 48-40-40, 49-1-15, 49-1-16, 49-1-18, 49-3-30, 49-4-20, 49-4-80, 49-4-170, 49-6-30, 49-11-120, RELATING TO COASTAL TIDELANDS AND WETLANDS, THE BEACH RESTORATION AND IMPROVEMENT TRUST ACT, NAVIGABLE WATERS, WATER RESOURCES PLANNING, SURFACE WATER WITHDRAWAL REGULATION AND REPORTING, THE AQUATIC PLANT MANAGEMENT COUNCIL, DAM AND RESERVOIR SAFETY, ALL SO AS TO TRANSFER REGULATORY AUTHORITY TO THE DEPARTMENT OF NATURAL RESOURCES; TO AMEND SECTION 1-30-10, AS AMENDED, RELATING TO DEPARTMENTS OF STATE GOVERNMENT, SO AS TO DELETE THE DEPARTMENT OF ALCOHOL AND OTHER DRUG ABUSE SERVICES, THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, AND THE DEPARTMENT OF MENTAL HEALTH, AND TO ADD THE DEPARTMENT OF BEHAVIORAL AND PUBLIC HEALTH; TO AMEND SECTION 1-30-20, RELATING TO THE DEPARTMENT OF ALCOHOL AND OTHER DRUG ABUSE SERVICES, SO AS TO CHANGE THE REFERENCE TO THE DEPARTMENT OF BEHAVIORAL AND PUBLIC HEALTH; TO AMEND SECTION 1-30-75, RELATING TO THE DEPARTMENT OF NATURAL RESOURCES, SO AS TO MAKE CONFORMING CHANGES; AND TO REPEAL SECTION 1-30-45 RELATING TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SECTION 1-30-70 RELATING TO THE DEPARTMENT OF MENTAL HEALTH, AND SECTIONS 44-11-30 AND 44-11-40 RELATING TO VETERANS HOMES.

Received by Ways and Means:

March 29, 2022

Summary of Bill:

This bill abolishes the South Carolina Department of Health and Environmental Control along with its governing board. Two new agencies, the South Carolina Department of Behavioral and Public Health (DBPH) and the South Carolina Department of Environmental Services (DES), are established. DHEC's divisions, offices, and programs that perform health-related functions are transferred into DBPH, and DHEC's divisions, offices, and programs that perform environmental-related functions, as well as the Department of Natural Resources' water-related programs, are transferred into DES. The South Carolina Department of Alcohol and Other Drug Abuse Services and the South Carolina Department of Mental Health are abolished as freestanding state agencies, and most of their functions and responsibilities are consolidated within DBPH, to be established as divisions of the new agency. The authority of the Department of Mental Health to establish, manage, and operate veteran's homes is transferred to the Department of Veterans' Affairs, DHEC's Food Safety Program and milk and dairy lab are transferred to the Department of Agriculture, and DNR's flood mitigation program is transferred to the Office of Resilience.

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Estimated Revenue Impact:

DHEC anticipates one-time expenses relating to transaction activities including separating shared databases, business applications, and federal grant management; dividing human resource records; printing replacement signage and new forms; website modification; and re-tasking personnel will be needed due to this bill. DHEC estimates these transaction activities may increase one-time expenses up to \$18,209,850 across all fund sources. However, these potential transaction related expenses will be determined by the leadership of the newly constituted agencies and may be limited by the authorized appropriations of the transferred agencies.

Based on preliminary estimates provided by DHEC, DMH, and DAODAS, using the FY 2021- 22 Appropriations Act, it is estimated DBPH will receive total recurring appropriations of approximately \$1,084,533,625.31 and 6,836.50 FTEs, of which it is estimated \$396,447,623.76 and 3,611.10 FTEs will be General Fund appropriations. The total appropriations are comprised of \$515,550,545.90 and 2,352.93 FTEs received from DHEC, \$520,448,271 and 4,441.56 FTEs received from DMH, and \$94,429,622 and 43.01 FTEs received from DAODAS.

DES will consist of the divisions and programs of DHEC that are concerned with the regulation and protection of the environment and the hydrology and aquatic nuisance species program of DNR. DES will receive total recurring appropriations of approximately \$132,689,787.16 and 1,086.96 FTEs, of which it is estimated \$46,902,763.00 and 443.63 FTEs will be General Fund appropriations. This includes \$131,661,874.16 and 1,075.96 FTEs from DHEC and \$1,027,913 and 11.00 FTEs from DNR. Also, DES will receive the South Carolina Aquatic Plant Management Trust and a portion of the Water Recreation Resource Fund revenue from DNR.

This bill also transfers the authority to establish, manage, and operate veterans' homes from DMH to the Department of Veterans' Affairs (DVA). Based on the FY 2021-22 Appropriations Act and supplemental information provided by DMH, this will result in a transfer of recurring appropriations of \$52,915,712. and 188.35, of which \$12,721,526.00 and 92.45 FTEs are General Fund appropriations. Additionally, DVA anticipates the need for 28.0 FTEs and \$3,007,333 in funding, including \$2,980,789 in recurring funding for staff salaries, office space, and other expenses and \$112,000 in non-recurring expenses for initial office setup. DVA states the additional resourcing and

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requirements will enable the department to establish the necessary capabilities and complete the necessary coordination to allow the transfer of responsibility without degradation in the level of service to veterans.

Additionally, the Food Safety Program and the milk and dairy lab of DHEC will be transferred to Agriculture. Based on preliminary estimates provided by DHEC, this bill is estimated to increase the recurring General Fund appropriations for Agriculture by \$3,077,780.14 and 39.66 FTEs. In total, this transfer of duties will result in an increase in combined General Funds, Other Funds, and Federal Funds of \$7,722,844.94 and 106.94 FTEs to assume the responsibilities transferred to Agriculture. Also, based on a previous response, Agriculture anticipates a need for additional funding to fully implement the program; however, the amount is currently unknown.

This bill provides that The Department of Administration (Admin) will cause all necessary actions to be taken to accomplish the transfers enumerated in this bill. This bill will not have a fiscal impact on Admin, as the department anticipates it will perform the duties required in this bill using existing appropriations and personnel.

Further, this bill provides that the employees, appropriations, debts, and real and personal property of a transferring department will be transferred to the receiving department unless otherwise specifically provided. While the revenues and appropriations of the individual receiving agencies are anticipated to increase by the amounts transferred to them, the Revenue and Fiscal Affairs Office (RFA) does not anticipate there will be a net impact to the total revenues of the effected agencies.

Other Notes/Comments:

Strike and insert amendment adopted and bill reported out Favorably as Amended from subcommittee on 4/26/2022.

Amendment Summary:

Section 1 – New Agencies

- Creates the two new cabinet agencies – Department of Behavioral and Public Health (DBPH) and Department of Environmental Services (DES).
- Abolishes the Department of Alcohol and Other Drug Abuse Services (DAODAS), DHEC and its board, and the Department of Mental Health (DMH) and its board.
- Transfers all programs and services of DAODAS and DMH to the newly created DBPH.

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- Transfers Veterans Nursing Homes from DMH to the Department of Veterans' Affairs.
- Changes go into effect July 1, 2024.

Section 2 – Dept. of Admin Duties

- States the intent to fully absorb DAODAS, DHEC, and DMH into the two newly created agencies.
- Assigns the Department of Administration (DOA) with the duty of analyzing the best way to reorganize and transfer all programs, services, duty, and authority of the above agencies between the two newly created agencies.
- DOA must provide an initial report of its recommendations by January 15, 2023 and a final report, to include necessary changes to the Code of Laws, by March 15, 2023.
- Gives DOA the procurement authority necessary to carry out this process with assistance from SFAA if needed.
- Requires DOADAS, DMH, and DHEC to pay for the costs of this process, if any.

Section 3 – Committee

- Creates Committee on Improving Behavioral and Public Health and Environmental Services.
- Goal of committee is to make recommendations as to the best way to reorganize and transfer the agencies as stated above.
- Members of the committee must have appropriate knowledge of the subject matter
- Committee makeup is as follows:
 1. 1 member appointed by the House Speaker
 2. 1 member appointed by the Senate President
 3. 1 member appointed by Ways and Means Chairman
 4. 1 member appointed by Senate Finance Chairman
 5. 1 member appointed by House 3M Chairman
 6. 1 member appointed by Senate Medical Affairs Chairman
 7. 1 member appointed by House Majority Leader
 8. 1 member appointed by House Minority Leader
 9. 1 member appointed by Senate Majority Leader
 10. 1 member appointed by Senate Minority Leader
- Committee must meet and organize itself asap, but no later than the submission of DOA's initial report, and meet regularly as necessary after that.
- Committee must provide a report with recommendations to the General Assembly including necessary changes to the Code of Laws by January 15, 2024.

Sections 4 & 5 – Legalese

- Language saying that all employees, authorized appropriations, bonded indebtedness, assets & liabilities, and property must be transferred along with the agencies' programs and duties, and that DOA will facilitate this transfer in consultation with the agency heads of the abolished agencies.
- Language saying that transferring agencies, departments, entities, or officials between agencies means all authority and power are transferred as well.

HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

RAVENEL/DOWNEY
APRIL 25, 2022

CLERK OF THE HOUSE

THE GENERAL GOVERNMENT SUBCOMMITTEE PROPOSES THE
FOLLOWING AMENDMENT No. TO S. 2
(COUNCIL\VR\2C002.NBD.VR22):

REFERENCE IS TO PRINTER'S DATE 3/17/22-S.

**AMEND THE BILL, AS AND IF AMENDED, BY
STRIKING ALL AFTER THE ENACTING WORDS AND
INSERTING:**

/ SECTION 1. ON JULY 1, 2024:

**(1)THERE IS CREATED THE DEPARTMENT OF
BEHAVIORAL AND PUBLIC HEALTH TO BE
HEADED BY A DIRECTOR WHO IS APPOINTED BY
THE GOVERNOR PURSUANT TO SECTION 1-30-10
WITH THE ADVICE AND CONSENT OF THE SENATE
AND WHO IS SUBJECT TO REMOVAL BY THE**

GOVERNOR PURSUANT TO SECTION 1-3-240; PROVIDED, HOWEVER, UNTIL THE INITIAL DIRECTOR IS APPOINTED AND QUALIFIES, THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL SHALL SERVE AS THE DIRECTOR OF THE DEPARTMENT OF BEHAVIORAL AND PUBLIC HEALTH. THE INTERIM DIRECTOR IS SUBJECT TO REMOVAL BY THE GOVERNOR PURSUANT TO SECTION 1-3-240;

(2) THERE IS CREATED THE DEPARTMENT OF ENVIRONMENTAL SERVICES TO BE HEADED BY A DIRECTOR WHO IS APPOINTED BY THE GOVERNOR PURSUANT TO SECTION 1-30-10 WITH THE ADVICE AND CONSENT OF THE SENATE AND WHO IS SUBJECT TO REMOVAL BY THE GOVERNOR PURSUANT TO SECTION 1-3-240; PROVIDED, HOWEVER, UNTIL THE INITIAL DIRECTOR IS APPOINTED AND QUALIFIES, THE DIRECTOR OF THE DIVISION OF ENVIRONMENTAL AFFAIRS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL SHALL SERVE AS THE DIRECTOR OF THE DEPARTMENT OF

ENVIRONMENTAL SERVICES. THE INTERIM DIRECTOR IS SUBJECT TO REMOVAL BY THE GOVERNOR PURSUANT TO SECTION 1-3-240;

(3) THE DEPARTMENT OF ALCOHOL AND OTHER DRUG ABUSE SERVICES, THE SOUTH CAROLINA BOARD OF HEALTH AND ENVIRONMENTAL CONTROL, THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, THE SOUTH CAROLINA MENTAL HEALTH COMMISSION, AND THE STATE DEPARTMENT OF MENTAL HEALTH SHALL BE ABOLISHED, AND THE TERMS OF ANY SITTING BOARD MEMBER OR COMMISSIONER ARE ENDED;

(4) ALL PROGRAMS AND SERVICES OF THE DEPARTMENT OF ALCOHOL AND OTHER DRUG ABUSE SERVICES AND OF THE DEPARTMENT OF MENTAL HEALTH SHALL BE TRANSFERRED TO AND DEVOLVED UPON THE DEPARTMENT OF BEHAVIORAL AND PUBLIC HEALTH; AND

(5) THE AUTHORITY TO ESTABLISH, MANAGE, AND OPERATE VETERANS HOMES SHALL BE

TRANSFERRED TO THE DEPARTMENT OF VETERANS' AFFAIRS, AND ALL POWERS AND DUTIES ASSIGNED TO THE DEPARTMENT OF MENTAL HEALTH REGARDING VETERANS HOMES SHALL BE TRANSFERRED TO AND DEVOLVED UPON THE DEPARTMENT OF VETERANS' AFFAIRS. TO THE EXTENT THE DEPARTMENT OF MENTAL HEALTH OWNS THE GROUNDS UPON WHICH THESE VETERANS HOMES ARE LOCATED, TITLE SHALL BE TRANSFERRED TO THE DEPARTMENT OF VETERANS' AFFAIRS. TO THE EXTENT THE DEPARTMENT OF MENTAL HEALTH HAS APPROVED THE CONSTRUCTION OR RENOVATION OF ANY VETERANS HOMES, THE DEPARTMENT OF VETERANS' AFFAIRS MUST FULFILL THE PLANS AND ENSURE THEIR COMPLETION.

SECTION 2. (A) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO CONSOLIDATE THE PROGRAMS, SERVICES, DUTIES, AND AUTHORITY OF THE AGENCIES ABOLISHED IN ITEM (3) OF SECTION 1 INTO THE DEPARTMENT OF

BEHAVIORAL AND PUBLIC HEALTH OR THE DEPARTMENT OF ENVIRONMENTAL SERVICES. ACCORDINGLY, THE DEPARTMENT OF ADMINISTRATION SHALL ANALYZE THE CIRCUMSTANCES AND DETERMINE THE BEST MANNER TO EFFICIENTLY AND EFFECTIVELY REORGANIZE AND TRANSFER ALL PROGRAMS, SERVICES, DUTIES, AND AUTHORITY OF SUCH ABOLISHED AGENCIES TO THE DEPARTMENT OF BEHAVIORAL AND PUBLIC HEALTH OR THE DEPARTMENT OF ENVIRONMENTAL SERVICES, CONSISTENT WITH THE PROVISIONS OF SECTION 1. THE DEPARTMENT SHALL PREPARE AN INITIAL REPORT OF ITS RECOMMENDATIONS BY JANUARY 15, 2023, WHICH IT SHALL PROVIDE TO THE GENERAL ASSEMBLY AND TO THE COMMITTEE ON IMPROVING BEHAVIORAL AND PUBLIC HEALTH AND ENVIRONMENTAL SERVICES CREATED PURSUANT TO SECTION 3, AND SHALL PROVIDE ITS FINAL REPORT TO THE GENERAL ASSEMBLY AND THE COMMITTEE ON IMPROVING BEHAVIORAL AND PUBLIC HEALTH AND

ENVIRONMENTAL SERVICES BY MARCH 15, 2023. THE FINAL REPORT MUST INCLUDE NECESSARY CHANGES AND CORRECTIONS TO THE 1976 CODE TO REFLECT THE RECOMMENDATIONS OF TRANSFERS OF AUTHORITY AND RESPONSIBILITY.

(B) THE DEPARTMENT OF ADMINISTRATION MAY PROCURE SUCH SUPPLIES, SERVICES, INFORMATION TECHNOLOGY, AND EXPERT, INCLUDING ATTORNEYS, AS ARE NECESSARY TO PERFORM THE REQUIREMENTS OF SUBSECTIONS (A) AND (B). SUCH PROCUREMENTS ARE EXEMPT FROM THE PURCHASING PROCEDURES OF THE SOUTH CAROLINA CONSOLIDATED PROCUREMENT CODE BUT MUST BE MADE WITH AS MUCH COMPETITION AS IS PRACTICABLE. ADDITIONALLY, IF DETERMINED NECESSARY, THE STATE FISCAL ACCOUNTABILITY AUTHORITY SHALL ASSIGN SUCH PERSONNEL AS REQUESTED BY THE EXECUTIVE DIRECTOR OF DEPARTMENT OF ADMINISTRATION TO ASSIST THE DEPARTMENT IN ANY REQUIRED PROCUREMENTS. THE AGENCIES ABOLISHED PURSUANT TO ITEM (3) OF SECTION 1 SHALL PAY THE COSTS OF ANY SUPPLIES, SERVICES, INFORMATION TECHNOLOGY, AND EXPERTS, INCLUDING ATTORNEYS, PROCURED PURSUANT TO THIS SUBSECTION.

SECTION 3. (A) THERE IS CREATED A COMMITTEE ON IMPROVING BEHAVIORAL AND PUBLIC HEALTH AND ENVIRONMENTAL SERVICES TO MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY AS TO THE APPROPRIATE REORGANIZATION AND TRANSFER OF ALL PROGRAMS, SERVICES, DUTIES, AND AUTHORITY OF THE AGENCIES ABOLISHED PURSUANT TO ITEM (3) OF SECTION 1 TO THE DEPARTMENT OF BEHAVIORAL AND PUBLIC HEALTH OR THE DEPARTMENT OF ENVIRONMENTAL SERVICES. THE COMMITTEE SHALL CONSIDER THE REPORTS AND RECOMMENDATIONS OF THE DEPARTMENT OF

ADMINISTRATION. MEMBERS OF THE COMMITTEE SHOULD INCLUDE REPRESENTATION OF INDIVIDUALS WITH KNOWLEDGE AND EXPERTISE IN THE PROGRAMS AND SERVICES BEING TRANSFERRED TO AND DEVOLVED UPON NEW DEPARTMENTS OR AGENCIES AS WELL AS THE EFFECTIVE AND EFFICIENT OPERATION OF PUBLIC SYSTEMS AND SHALL INCLUDE:

(1) ONE MEMBER APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES;

(2) ONE MEMBER APPOINTED BY THE PRESIDENT OF THE SENATE;

(3) ONE MEMBER APPOINTED BY THE CHAIRMAN OF THE HOUSE WAYS AND MEANS COMMITTEE;

(4) ONE MEMBER APPOINTED BY THE CHAIRMAN OF THE SENATE FINANCE COMMITTEE;

(5) ONE MEMBER APPOINTED BY THE CHAIRMAN OF THE HOUSE MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS COMMITTEE;

(6) ONE MEMBER APPOINTED BY THE CHAIRMAN OF THE SENATE MEDICAL AFFAIRS COMMITTEE;

(7) ONE MEMBER APPOINTED BY THE HOUSE MAJORITY LEADER;

(8) ONE MEMBER APPOINTED BY THE HOUSE MINORITY LEADER;

(9) ONE MEMBER APPOINTED BY THE SENATE MAJORITY LEADER; AND

(10) ONE MEMBER APPOINTED BY THE SENATE MINORITY LEADER.

(B) THE COMMITTEE SHALL MEET AS SOON AS PRACTICABLE AFTER APPOINTMENT, BUT NO LATER THAN THE SUBMISSION OF THE DEPARTMENT OF ADMINISTRATION'S INITIAL REPORT, AND ORGANIZE ITSELF BY ELECTING ONE OF ITS MEMBERS AS CHAIRMAN AND SUCH OTHER OFFICERS AS THE COMMITTEE MAY CONSIDER NECESSARY. THEREAFTER, THE COMMITTEE MUST MEET AS NECESSARY TO FULFILL

THE DUTIES REQUIRED BY THIS JOINT RESOLUTION AT THE CALL OF THE CHAIRMAN OR BY A MAJORITY OF THE MEMBERS. A QUORUM CONSISTS OF SIX MEMBERS.

(C) THE COMMITTEE SHALL PREPARE A REPORT WITH RECOMMENDATIONS AND PROVIDE IT TO THE GENERAL ASSEMBLY BY JANUARY 15, 2024, CONSISTENT WITH THE PROVISIONS OF SECTION 1. THE REPORT MUST INCLUDE NECESSARY CHANGES AND CORRECTIONS TO THE 1976 CODE TO REFLECT THE TRANSFERS OF AUTHORITY AND RESPONSIBILITY.

SECTION 4. (A) WHEN THE PROVISIONS OF THIS ACT TRANSFER PARTICULAR STATE AGENCIES, DEPARTMENTS, BOARDS, COMMISSIONS, COMMITTEES, OR ENTITIES, OR SECTIONS, DIVISIONS, OR PORTIONS THEREOF (TRANSFERRING DEPARTMENTS), TO ANOTHER STATE AGENCY, DEPARTMENT, DIVISION, OR ENTITY OR MAKE THEM A PART OF ANOTHER DEPARTMENT OR DIVISION (RECEIVING DEPARTMENTS), THE EMPLOYEES, AUTHORIZED APPROPRIATIONS, BONDED INDEBTEDNESS IF APPLICABLE, REAL AND PERSONAL PROPERTY, ASSETS, AND LIABILITIES OF THE TRANSFERRING DEPARTMENT ALSO ARE TRANSFERRED TO AND BECOME PART OF THE RECEIVING DEPARTMENT OR DIVISION UNLESS OTHERWISE SPECIFICALLY PROVIDED. ALL CLASSIFIED OR UNCLASSIFIED PERSONNEL OF THE AFFECTED AGENCY, DEPARTMENT, BOARD, COMMISSION, COMMITTEE, ENTITY, SECTION, DIVISION, OR POSITION EMPLOYED BY THESE TRANSFERRING DEPARTMENTS ON THE EFFECTIVE DATE OF THIS ACT, EITHER BY CONTRACT OR BY EMPLOYMENT AT WILL, SHALL BECOME EMPLOYEES OF THE RECEIVING DEPARTMENT OR DIVISION, WITH THE SAME COMPENSATION, CLASSIFICATION, AND GRADE LEVEL, AS APPLICABLE. THE DEPARTMENT OF ADMINISTRATION SHALL CAUSE ALL NECESSARY ACTIONS TO BE TAKEN TO ACCOMPLISH THIS TRANSFER AND SHALL IN CONSULTATION WITH THE AGENCY HEAD OF THE TRANSFERRING AND RECEIVING AGENCIES PRESCRIBE THE MANNER IN WHICH THE TRANSFER

PROVIDED FOR IN THIS SECTION SHALL BE ACCOMPLISHED. THE DEPARTMENT OF ADMINISTRATION'S ACTION IN FACILITATING THE PROVISIONS OF THIS SECTION ARE MINISTERIAL IN NATURE AND SHALL NOT BE CONSTRUED AS AN APPROVAL PROCESS OVER ANY OF THE TRANSFERS.

(B) WHEN AN AGENCY, DEPARTMENT, ENTITY, OR OFFICIAL IS TRANSFERRED TO OR CONSOLIDATED WITH ANOTHER AGENCY, DEPARTMENT, DIVISION, ENTITY OR OFFICIAL, REGULATIONS PROMULGATED BY THAT TRANSFERRED AGENCY, DEPARTMENT, ENTITY OR OFFICIAL UNDER THE AUTHORITY OF FORMER PROVISIONS OF LAW PERTAINING TO IT ARE CONTINUED AND ARE CONSIDERED TO BE PROMULGATED UNDER THE AUTHORITY OF PRESENT PROVISIONS OF LAW PERTAINING TO IT. WHEN POWERS AND DUTIES OF AN AGENCY, DEPARTMENT, ENTITY, OR OFFICIAL ARE TRANSFERRED TO AND DEVOLVED UPON ANOTHER DEPARTMENT, AGENCY, OR SUBDIVISION THEREOF, THE POWER AND DUTY TO PROMULGATE REGULATIONS IS ALSO TRANSFERRED TO AND DEVOLVED UPON THAT DEPARTMENT, AGENCY, OR SUBDIVISION THEREOF.

SECTION 5. THIS ACT TAKES 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
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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.

Bill Number:	S. 0002	Amended by Senate Medical Affairs on March 3, 2022
Author:	Peeler	
Subject:	Create Department of Behavioral and Public Health	
Requestor:	Senate Medical Affairs	
RFA Analyst(s):	Miller, Boggs, Coomer, Gardner, and Griffith	
Impact Date:	March 9, 2022	

Fiscal Impact Summary

This bill creates two new departments, the Department of Behavioral and Public Health (DBPH) and the Department of Environmental Services (DES). DBPH will consist of the health-related divisions of the Department of Health and Environmental Control (DHEC), all divisions of the Department of Alcohol and Other Drug Abuse Services (DAODAS), and most divisions of the Department of Mental Health (DMH). DES will consist of the divisions and programs of DHEC that are concerned with the regulation and protection of the environment and the hydrology and aquatic nuisance species program of the Department of Natural Resources (DNR). This bill also transfers the authority to establish, manage, and operate veterans' homes from DMH to the Department of Veterans' Affairs (DVA). Additionally, the Food Safety Program and the milk and dairy lab of DHEC will be transferred to the Department of Agriculture (Agriculture), and the flood mitigation program from DNR will be transferred to the Office of Resilience. The existing staff and appropriations will transfer to each receiving agency. The following fiscal impact is based on the preliminary estimates of the transferring and existing receiving agencies. DHEC indicates that due to the complex and intertwined nature of the department's environmental programs and the department's overall administrative and overhead structure, the estimate provided is preliminary, and the exact amounts to be transferred to each department may change after a more detailed analysis of the bill's provisions and discussions with affected entities. Therefore, the actual fiscal impact may vary from the estimate dependent upon the transition.

DHEC anticipates one-time expenses relating to transaction activities including separating shared databases, business applications, and federal grant management; dividing human resource records; printing replacement signage and new forms; website modification; and re-tasking personnel will be needed due to this bill. DHEC estimates these transaction activities may increase one-time expenses up to \$18,209,850 across all fund sources. However, these potential transaction related expenses will be determined by the leadership of the newly constituted agencies and may be limited by the authorized appropriations of the transferred agencies.

Based on preliminary estimates provided by DHEC, DMH, and DAODAS, using the FY 2021-22 Appropriations Act, it is estimated DBPH will receive total recurring appropriations of approximately \$1,084,533,625.31 and 6,836.50 FTEs, of which it is estimated \$396,447,623.76 and 3,611.10 FTEs will be General Fund appropriations. The total appropriations are comprised

of \$515,550,545.90 and 2,352.93 FTEs received from DHEC, \$520,448,271 and 4,441.56 FTEs received from DMH, and \$94,429,622 and 43.01 FTEs received from DAODAS.

DES will consist of the divisions and programs of DHEC that are concerned with the regulation and protection of the environment and the hydrology and aquatic nuisance species program of DNR. DES will receive total recurring appropriations of approximately \$132,689,787.16 and 1,086.96 FTEs, of which it is estimated \$46,902,763.00 and 443.63 FTEs will be General Fund appropriations. This includes \$131,661,874.16 and 1,075.96 FTEs from DHEC and \$1,027,913 and 11.00 FTEs from DNR. Also, DES will receive the South Carolina Aquatic Plant Management Trust and a portion of the Water Recreation Resource Fund revenue from DNR.

This bill also transfers the authority to establish, manage, and operate veterans' homes from DMH to the Department of Veterans' Affairs (DVA). Based on the FY 2021-22 Appropriations Act and supplemental information provided by DMH, this will result in a transfer of recurring appropriations of \$52,915,712. and 188.35, of which \$12,721,526.00 and 92.45 FTEs are General Fund appropriations 92.45 FTEs. Additionally, DVA anticipates the need for 28.0 FTEs and \$3,007,333 in funding, including \$2,980,789 in recurring funding for staff salaries, office space, and other expenses and \$112,000 in non-recurring expenses for initial office setup. DVA states the additional resourcing and requirements will enable the department to establish the necessary capabilities and complete the necessary coordination to allow the transfer of responsibility without degradation in the level of service to veterans.

Additionally, the Food Safety Program and the milk and dairy lab of DHEC will be transferred to Agriculture. Based on preliminary estimates provided by DHEC, this bill is estimated to increase the recurring General Fund appropriations for Agriculture by \$3,077,780.14 and 39.66 FTEs. In total, this transfer of duties will result in an increase in combined General Funds, Other Funds, and Federal Funds of \$7,722,844.94 and 106.94 FTEs to assume the responsibilities transferred to Agriculture. Also, based on a previous response, Agriculture anticipates a need for additional funding to fully implement the program; however, the amount is currently unknown.

This bill provides that The Department of Administration (Admin) will cause all necessary actions to be taken to accomplish the transfers enumerated in this bill. This bill will not have a fiscal impact on Admin, as the department anticipates it will perform the duties required in this bill using existing appropriations and personnel.

Further, this bill provides that the employees, appropriations, debts, and real and personal property of a transferring department will be transferred to the receiving department unless otherwise specifically provided. While the revenues and appropriations of the individual receiving agencies are anticipated to increase by the amounts transferred to them, the Revenue and Fiscal Affairs Office (RFA) does not anticipate there will be a net impact to the total revenues of the effected agencies.

Explanation of Fiscal Impact

Amended by Senate Medical Affairs on March 3, 2022

State Expenditure

Section 1 of this bill creates two new departments, DBPH and DES. DBPH will consist of the health-related divisions of DHEC, all divisions of DAODAS, and most divisions of DMH. DES will consist of the divisions and programs of DHEC that are concerned with the regulation and protection of the environment and the hydrology and aquatic nuisance species program of DNR. This bill also transfers the authority to establish, manage, and operate veterans' homes from DMH to DVA. Additionally, the Food Safety Program and the milk and dairy lab of DHEC will be transferred to Agriculture, and the flood mitigation program from DNR will be transferred to the Office of Resilience.

Section 63 of this bill outlines the procedures for the transfer of agencies, departments, and boards, among other things, from the transferring department to the receiving department. Employees, appropriations, debts, and real and personal property will also transfer from the old agency to the new agency unless this bill specifies otherwise. Transferred employees will maintain the same compensation, classification, and grade level within the new agency. Admin will manage this transition. All transferred employees and personnel will remain in the office locations and facilities they currently occupy until otherwise changed by appropriate action and authorization. The rents and physical operating costs of these office locations and facilities shall continue to be paid by the transferring agencies until otherwise provided by the General Assembly. The records and files of the transferring departments who employed these individuals will continue to remain the property of the transferring departments, except that the personnel will have full access in the performance of their duties as new employees of the applicable receiving department. Fines, fees, forfeitures, or revenues of a transferring department will be used and expended by the receiving department for the purposes provided prior to the date this bill is ratified. When the functions of a transferring department are transferred to more than one receiving department, the general support services of the transferring department will be transferred to the appropriate receiving departments as provided by the General Assembly's annual appropriations act. Additionally, promulgated regulations of a transferring department will be considered promulgated by the receiving department and references to the names of transferred departments and other entities affected by this bill, including provisions of the 1976 Code, will be considered to mean the appropriate references.

Department of Health and Environmental Control. Section 1 of this bill abolishes DHEC and transfers its divisions, offices, programs, powers, and duties among Agriculture and the newly created DBPH and DES. Because the bill abolishes DHEC, there is no expenditure impact on this agency. However, the agency notes that during the transition, the receiving agencies may incur significant administrative costs. These transition activities relate to separating shared databases, business applications, and federal grant management; dividing human resource records; printing replacement signage and new forms; website modification; and re-tasking personnel. Any potential expenditures related to these transition activities will be managed by the receiving agencies from authorized appropriations of the transferred agencies. DHEC estimates the total one-time may be up to \$18,209,850 across all fund sources. However, these potential expenditures will be determined by the leadership of the newly constituted agencies and may be limited by the authorized appropriations of the transferred agencies. Given

the uncertainty and complexity of the transitions that may be required, RFA is unable to determine the amount of one-time General Fund transition-related expenditures.

Pursuant to Section 63 of the bill, the appropriations, other revenues, and FTEs of a transferring department will be transferred to the receiving department, to be used to carry out the responsibilities formerly vested in the transferring department. Based on the FY 2021-22 Appropriations Act, the total annual appropriations of DHEC to be transferred to the receiving agencies is approximately \$654,935,000. The number of FTEs to be transferred is 3,535.84. DHEC indicates that due to the complex and intertwined nature of the department's environmental programs and the department's overall administrative and overhead structure, the estimate provided is preliminary, and the exact amounts to be transferred to each department may change after a more detailed analysis of the bill's provisions and discussions with affected entities.

Department of Mental Health. Section 1 of this bill abolishes DMH and transfers its divisions, offices, programs, powers, and duties to newly created DBPH, except for the responsibility of veterans' homes, which will transfer to DVA. Because the bill abolishes DMH, there is no expenditure impact on this agency. However, DMH notes specifically for support services for veterans' homes, that certain areas are not fully funded. DMH anticipates administrative support services will transfer to DVA and result in shortfall in administrative support services for DBPH.

Pursuant to Section 63 of the bill, the appropriations, other revenues, and FTEs of a transferring department will be transferred to the receiving department, to be used to carry out the responsibilities formerly vested in the transferring department. Based on the FY 2021-22 Appropriations Act, the total annual appropriations and FTEs of DMH to be transferred is \$573,360,938 and 4,629.91 respectively.

Department of Alcohol and Other Drug Abuse Services. Section 1 of this bill abolishes DAODAS and transfers its divisions, offices, programs, powers, and duties to newly created DBPH. Because the bill abolishes DAODAS, there is no expenditure impact on this agency.

Pursuant to Section 63 of the bill, the appropriations, other revenues, and FTEs of a transferring department will be transferred to the receiving department, to be used to carry out the responsibilities formerly vested in the transferring department. Based on the FY 2021-22 Appropriations Act, the total annual appropriations and FTEs of DAODAS to be transferred is \$94,429,622 and 43.01 respectively.

Department of Administration. This bill directs Admin to take all necessary action to ensure the transfer of all employees, assets, and any other transitions required by this bill, occurs in the manner as required in the bill. Admin anticipates being able to manage this responsibility with existing staff and within existing appropriations. Therefore, this bill will have no expenditure impact for Admin.

Department of Natural Resources. This bill transfers the aquatic nuisance program and the hydrology program from DNR to DES. Additionally, this bill transfers the flood mitigation from

DNR to the Office of Resilience. The transfer of all associated funding and FTEs will result in a total shift of \$3,436,938 and 14.75 FTEs from DNR to the receiving agencies.

Further, the aquatic nuisance program is supported by from the South Carolina Aquatic Management Trust (SCAMT). This bill will result in a transfer of funds in SCAMT from DNR to DES. The total amount transferred will depend upon the amount in the fund. As of February 28, 2022, there was \$620,958 in the Trust. Additionally, the aquatic nuisance program received funding from the Water Recreation Resource Fund. Section 12-27-2730(D) allows DNR to use up to one-third of the funds in the Trust to support the aquatic nuisance program, among programs and responsibilities. DNR anticipates transferring the appropriate amount of funds to DES from the Trust annually. The amount transferred will depend upon the total amount within the Trust annually. Finally, DNR notes that the certain registration fee revenue will transfer to the Office of Resilience with the flood mitigation program.

DNR also noted that the current plan is to vacate the offices where the hydrology staff is housed in two years. This space will be reallocated to the Attorney General's Office. This may impact the transfer of assets to the receiving agency.

Department of Agriculture. This bill transfers the Food Safety Program and the milk and dairy lab of DHEC to Agriculture. According to DHEC, this will result in a transfer of \$7,722,844.94 of total funds and 106.94 FTEs, of which \$3,077,780.14 and 39.66 FTEs are General Fund appropriations.

Additionally, based on a previous response from Agriculture, RFA anticipates the total expenditure impact is undetermined due to the department's uncertainty as to how many FTEs, primarily in support roles such as HR, legal, audit, executive assistants, procurement, will be transferred as a result of this bill. Further, the department anticipates that other operating expenditures will increase as a result of this bill due to the need for website changes, updated signage, uniform purchases, and technical and administrative training, among other potential expenditures. As a result of these factors, Agriculture anticipates this bill will result in an undetermined increase to General Fund expenditures beginning in FY 2022-23.

Department of Veterans' Affairs. This bill transfers the authority to establish, manage, and operate veterans' homes from DMH to DVA. DVA will receive \$52,912,712 of appropriations and 188.35 FTEs. Additionally, DVA anticipates that additional personnel and funds will be needed for the agency in order to run the veterans' home program. DVA anticipates the need for 28.0 FTEs and \$3,007,333 in funding, including \$2,980,789 in recurring funding for staff salaries, office space, and other expenses and \$112,000 in non-recurring expenses for initial office setup. DVA states the additional resourcing and requirements will enable the department to establish the necessary capabilities and complete the necessary coordination to allow the transfer of responsibility without degradation in the level of service to veterans.

Office of Resilience. This bill transfers the flood mitigation program from DNR to the Office of Resilience. DNR anticipates a transfer of \$2,409,025 in recurring funds and 3.75 FTEs with the flood mitigation program. Additionally, certain registration fee revenue will transfer with the

flood mitigation program. The current Other Fund revenue amount is \$6,955.68 for these registration fees. This fiscal impact statement will be updated if additional information from the Office of Resilience becomes available.

Department of Behavioral and Public Health. This bill creates DBPH which will consist of the health-related divisions of DHEC, all divisions of DAODAS, and most divisions of DMH. DBPH will receive a total of \$1,084,533,625.31 in appropriations and 6,837.50 FTEs from the transferring agencies, of which it is estimated \$396,447,623.76 and 3,611.10 FTEs will be General Fund appropriations. This includes \$94,429,622 and 43.01 from DAODAS, \$520,448,271 and 4,441.56 FTEs from DMH, and \$515,550,545.90 and 2,352.93 FTEs from DHEC.

Additionally, this bill will result in one-time expenditures for the initial creation of the agency. DHEC anticipates one-time expenses relating to transaction activities including separating shared databases, business applications, and federal grant management; dividing human resource records; printing replacement signage and new forms; website modification; and re-tasking personnel will be needed due to this bill. DHEC estimates these transaction activities may increase one-time expenses up to \$18,209,850 across all fund sources. However, these potential transaction related expenses will be determined by the leadership of the newly constituted agencies and may be limited by the authorized appropriations of the transferred agencies.

Department of Environmental Services. This bill creates DES, which will consist of the divisions and programs of DHEC that are concerned with the regulation and protection of the environment and the hydrology and aquatic nuisance species program of DNR. DES will receive a total of \$132,698,787.16 and 1,086.96 FTEs, from the transferring agencies, of which it is estimated \$46,902,763 and 443.63 FTEs will be General Fund appropriations. This includes \$131,661,874.16 and 1,075.96 FTEs from DHEC and \$1,027,913 and 11.00 FTEs from DNR.

Also, DES will receive the South Carolina Aquatic Plant Management Trust and a portion of the Water Recreation Resource Fund revenue from DNR.

Additionally, this bill will result in one-time expenditures for the initial creation of the agency. DHEC anticipates one-time expenses relating to transaction activities including separating shared databases, business applications, and federal grant management; dividing human resource records; printing replacement signage and new forms; website modification; and re-tasking personnel will be needed due to this bill. DHEC estimates these transaction activities may increase one-time expenses up to \$18,209,850 across all fund sources. However, these potential transaction related expenses will be determined by the leadership of the newly constituted agencies and may be limited by the authorized appropriations of the transferred agencies.

State Revenue

N/A

Local Expenditure

N/A

Local Revenue

N/A

Amended by S.2 Select Subcommittee of Senate Medical Affairs on March 30, 2021

State Expenditure

Section 1 of this bill creates two new departments, DBPH and DES. DBPH will consist of the health-related divisions of DHEC, all divisions of DAODAS, and most divisions of DMH. DES will consist of the divisions and programs of DHEC that are concerned with the regulation and protection of the environment and the water resources division of the Department of Natural Resources (DNR). This bill also transfers the authority to establish, manage, and operate veterans' homes from DMH to the Department of Veterans' Affairs (DVA). Additionally, the Food Safety Program and the milk and dairy lab of DHEC will be transferred to Agriculture.

Section 61 of this bill outlines the procedures for the transfer of agencies, departments, and boards, among other things, from the transferring department to the receiving department. Employees, appropriations, debts, and real and personal property will also transfer from the old agency to the new agency unless this bill specifies otherwise. Transferred employees will maintain the same compensation, classification, and grade level within the new agency. The Department of Administration (Admin) will manage this transition. All transferred employees and personnel will remain in the office locations and facilities they currently occupy until otherwise changed by appropriate action and authorization. The rents and physical operating costs of these office locations and facilities shall continue to be paid by the transferring agencies until otherwise provided by the General Assembly. The records and files of the transferring departments who employed these individuals will continue to remain the property of the transferring departments, except that the personnel will have full access in the performance of their duties as new employees of the applicable receiving department. Fines, fees, forfeitures, or revenues of a transferring department will be used and expended by the receiving department for the purposes provided prior to the date this bill is ratified. When the functions of a transferring department are transferred to more than one receiving department, the general support services of the transferring department will be transferred to the appropriate receiving departments as provided by the General Assembly's annual appropriations act. Additionally, promulgated regulations of a transferring department will be considered promulgated by the receiving department and references to the names of transferred departments and other entities affected by this bill, including provisions of the 1976 Code, will be considered to mean the appropriate references.

Based upon the provisions of Section 61 of the bill, the Revenue and Fiscals Affairs Office (RFA) anticipates the expenditures of the four receiving departments will be increased by an amount equal to appropriations received from the four transferring departments. Since FY 2020-21 appropriations were authorized by continuing resolution, RFA requested each transferring department to estimate the portion of their FY 2019-20 appropriations that would be transferred to applicable receiving agencies.

Department of Health and Environmental Control. Section 1 of this bill abolishes DHEC and transfers its divisions, offices, programs, powers, and duties among Agriculture and the newly created DBPH and DES. Because the bill abolishes DHEC, there is no expenditure impact on this agency. However, the agency notes that during the transition, the receiving agencies may incur significant administrative costs. These transition activities relate to separating shared databases, business applications, and federal grant management; dividing human resource records; printing replacement signage and new forms; website modification; and re-tasking personnel. Any potential expenditures related to these transition activities will be managed by the receiving agencies from authorized appropriations of the transferred agencies. DHEC estimates the total one-time expenditures at approximately \$18,209,850 across all fund sources. However, these potential expenditures will be determined by the leadership of the newly constituted agencies and may be limited by the authorized appropriations of the transferred agencies. Given the uncertainty and complexity of the transitions that may be required, RFA is unable to determine the amount of one-time General Fund transition-related expenditures.

Pursuant to Section 61 of the bill, the appropriations, other revenues, and FTEs of a transferring department will be transferred to the receiving department, to be used to carry out the responsibilities formerly vested in the transferring department. Based on the FY 2019-20 Appropriations Act, the total annual appropriations of DHEC to be transferred to the receiving agencies is approximately \$649,662,400. The number of FTEs to be transferred is 3,530.84. See the attached table for a breakdown of the funds and FTEs transferred to Agriculture, DBPH, and DES. DHEC indicates that due to the complex and intertwined nature of the department's environmental programs and the department's overall administrative and overhead structure, the estimate provided is preliminary, and the exact amounts to be transferred to each department may change after a more detailed analysis of the bill's provisions and discussions with affected entities.

Department of Mental Health. Section 3 of this bill abolishes SCMHC and transfers most of the authorities and responsibilities of the SCMHC and DMH to the newly established Division of Mental Health within the DBPH. Also, Sections 5 and 59 of this bill result in a shift in the authority to establish and operate veterans' homes from DMH to DVA.

Pursuant to Section 61 of the bill, the appropriations, other revenues, and FTEs of a transferring department will be transferred to the receiving department, to be used to carry out the responsibilities formerly vested in the transferring department. Based on the FY 2019-20 Appropriations Act, the total annual appropriations of DMH to be transferred to the two receiving departments equals approximately \$504,271,729. The number of FTEs to be transferred equals 4,629.91. DMH received an additional \$5,237,069 in General Funds in FY 2020-21 for the two percent pay plan allocation and one percent retirement rate increase. The additional General Funds appropriation brings DMH's total appropriations to be transferred to the two receiving departments to \$509,508,798. Of these totals, approximately \$50,634,174 in appropriations and 188.35 FTEs are related to DMH's current responsibilities to operate three veterans' homes in this state. This amount includes the program service appropriations for the three veterans' homes currently operated by DMH totaling \$47,795,532 and 182.35 FTEs, of

which \$10,422,415 and 86.45 FTEs are provided through the General Fund. Of the remaining amount estimated to be transferred to DVA, \$399,000 in General Fund appropriations would provide for one general administrative FTE and five clinical support service FTEs. The remaining \$2,549,642 in total funds, of which \$1,352,629 is from the General Fund, would provide for the employee benefits of the transferred FTEs. It is expected the appropriations and FTEs necessary to operate these three facilities will be transferred to DVA. The remaining \$458,856,624 in annual appropriations and 4,441.56 FTEs are expected to be transferred to the newly established Division of Mental Health within the DBPH.

DMH indicates that administrative support services are currently funded by a combination of recurring General Fund appropriations and non-recurring one-time funds, and that some components are not fully funded. DMH estimates that the appropriations and expenses for administrative support services that would transfer to DVA would be funded by the General Fund, and that this transfer would create an additional lack of recurring funding for the remaining administrative services retained by the DBPH. DMH estimates DVA will receive \$399,000 and 6.0 FTEs for administrative support services, and that DBPH will have an expenditure impact of up to \$399,000 to replace these funds.

Department of Alcohol and Other Drug Abuse Services. Section 4 of this bill abolishes DAODAS as an agency and transfers all of the responsibilities and authorities of the agency to the Division of Alcohol and Other Drug Abuse Services within the DBPH. Pursuant to Section 61 of the bill, the appropriations, other revenues, and FTEs of a transferring department will be transferred to the receiving department, to be used to carry out the responsibilities formerly vested in the transferring department. Based on the FY 2019-20 Appropriations Act, the total annually recurring appropriations of DAODAS to be transferred to the DBPH equals \$67,708,753. The number of FTEs to be transferred equals 43.01.

Department of Natural Resources. Section 1 of the bill provides that the Water Resources Division of DNR will be transferred to and become a division of DES. Pursuant to Section 61 of the bill, the appropriations, other revenues, and FTEs of a transferring department will be transferred to the receiving department, to be used to carry out the responsibilities formerly vested in the transferring department. At this time, the amount of appropriations and FTEs to be transferred to DES for the Water Resources Division of DNR is unknown.

Department of Behavioral and Public Health. Sections 1 and 2 of this bill create DBPH, consisting of the health-related divisions of DHEC, all divisions of DAODAS, and most divisions of DMH. DBPH will be comprised of three divisions, Public Health, Alcohol and Other Drug Abuse Services, and Mental Health.

Pursuant to Section 61 of the bill, the appropriations, other revenues, and FTEs of a transferring department will be transferred to the receiving department, to be used to carry out the responsibilities formerly vested in the transferring department. Based on preliminary estimates provided by DHEC, DMH, and DAODAS, using the FY 2019-20 Appropriations Act, it is estimated DBPH will receive total recurring appropriations of approximately \$1,017,448,112 and 6,836.27 FTEs, of which it is estimated \$350,039,712 and 3,569.93 FTEs will be General Fund

appropriations. The total appropriations are comprised of \$490,882,735 and 2,351.70 FTEs received from DHEC, \$458,856,624 and 4,441.56 FTEs received from DMH, and \$67,708,753 and 43.01 FTEs received from DAODAS.

DHEC indicates that due to the complex and intertwined nature of the department's environmental programs and the department's overall administrative and overhead structure, the estimate provided is preliminary and the exact amounts to be transferred to each department may change after a more detailed analysis of the bill's provisions and discussions with affected entities.

Please see the attached table for additional detail of the appropriations estimated to be transferred to DBPH.

Department of Environmental Services. Section 1 of this bill provides that the environmental protection divisions, offices, and programs of DHEC will be transferred to the newly created DES, along with all relevant powers and duties. All employees, funds, property, and contractual rights and obligations associated with these divisions, offices, programs and other related entities will be transferred to, incorporated in, and administered as part of DES. Additionally, the Water Resources Division of DNR will transfer to DES. Section 16 of the bill amends Chapter 3 of Title 49 to establish DES, which will consist of six divisions including Onsite Wastewater and Enforcement, Environmental Response, Land and Waste Management, Water Resources, Water Permitting, Compliance and Enforcement, and the Office of Ocean and Coastal Resource Management.

Pursuant to Section 61 of the bill, the appropriations, other revenues, and FTEs of a transferring department will be transferred to the receiving department, to be used to carry out the responsibilities formerly vested in the transferring department. Based on preliminary estimates provided by DHEC, using the FY 2019-20 Appropriations Act, it is estimated DES will receive total recurring appropriations of approximately \$149,992,849 and 1,072.66 FTEs, of which it is estimated \$46,079,690 and 434.84 FTEs will be General Fund appropriations. At this time, the amount of appropriations and FTEs to be transferred to DES for the Water Resources Division of DNR is unknown.

DHEC indicates that due to the complex and intertwined nature of the department's environmental programs and the department's overall administrative and overhead structure, the estimate provided is preliminary, and the exact amounts to be transferred to each department may change after a more detailed analysis of the bill's provisions and discussions with affected entities. Please see the attached table for additional detail of the appropriations estimated to be transferred to DBPH.

Department of Agriculture. Section 32 of this bill provides that the Food Safety Program of DHEC will be transferred to Agriculture, along with all relevant powers and duties. All employees, funds, property, and contractual rights and obligations associated with these divisions, offices, programs, and other related entities will be transferred to, incorporated in, and administered as part of Agriculture.

Pursuant to Section 61 of the bill, the appropriations, other revenues, and FTEs of a transferring department will be transferred to the receiving department, to be used to carry out the responsibilities formerly vested in the transferring department. Based on preliminary estimates provided by DHEC, this bill is estimated to increase the recurring General Fund appropriations of Agriculture by \$3,082,743 and 39.61 FTEs. In total, this transfer of duties will result in an increase in combined General Funds, Other Funds, and Federal Funds of \$8,786,815 and 106.47 FTEs to assume the authorities and responsibilities transferred to Agriculture.

DHEC indicates that due to the complex and intertwined nature of the department's environmental programs and the department's overall administrative and overhead structure, the estimate provided is preliminary, and the exact amounts to be transferred to each department may change after a more detailed analysis of the bill's provisions and discussions with affected entities. Please see the attached table for additional detail of the appropriations estimated to be transferred to Agriculture.

Additionally, Agriculture notes the total expenditure impact is undetermined due to the department's uncertainty as to how many FTEs, primarily in support roles such as HR, legal, audit, executive assistants, procurement, will be transferred as a result of this bill. Further, the department anticipates that other operating expenditures will increase as a result of this bill due to the need for website changes, updated signage, uniform purchases, and technical and administrative training among other potential expenditures. As a result of these factors, Agriculture anticipates this bill will result in an undetermined increase to General Fund expenditures beginning in FY 2021-22.

Department of Veterans' Affairs. Section 5 of this bill gives the DVA the authority to establish and operate veterans' homes. Currently, the authority to establish and operate veterans' homes in this state is vested in DMH, pursuant to Section 44-11-30 of the Code, which is repealed by section 59 of this bill. Section 1 of this bill specifically requires DMH to transfer the title of any veterans' home held by DMH to the DVA.

Pursuant to Section 61 of the bill, the appropriations, other revenues, and FTEs of a transferring department will be transferred to the receiving department, to be used to carry out the responsibilities formerly vested in the transferring department. Based on the FY 2019-20 Appropriations Act and supplemental information provided by DMH, this will result in a transfer of recurring General Fund appropriations totaling \$12,064,044 and 92.45 FTEs. In total, this transfer of duties will result in an increase in combined General Funds, Other Funds, and Federal Funds of \$50,634,174 and 188.35 FTEs for the management of the three existing veterans nursing homes. Included in this estimated total is \$399,000 in General Fund appropriations to provide for one general administrative FTE and five clinical support service FTEs.

Department of Administration. Section 61(A) of the bill provides that Admin will cause all necessary actions to be taken to accomplish the transfers enumerated in this bill, in consultation with the department heads of the transferring and receiving agencies. The department anticipates

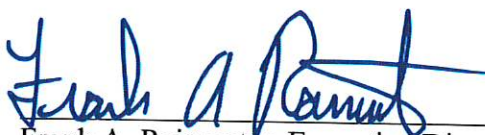
it will perform the duties required in this bill using existing appropriations and personnel. Therefore, this bill will not have a fiscal impact on Admin.

State Revenue

Section 61(A) of the bill provides that the employees, appropriations, debts, and real and personal property of a transferring department will be transferred to the receiving department unless otherwise specifically provided. As explained in the section above, RFA anticipates the expenditures of the four receiving departments will be increased by an amount equal to appropriations received from the four transferring departments. While the revenues and appropriations of the individual receiving agencies are anticipated to increase by the amounts transferred to them, RFA does not anticipate there will be a net impact to the total revenues of the effected agencies.

Local Expenditure and Local Revenue

N/A



Frank A. Rainwater, Executive Director

South Carolina General Assembly
124th Session, 2021-2022

S. 2

STATUS INFORMATION

General Bill

Sponsors: Senators Peeler, Malloy, McElveen, Hembree, Senn, Kimbrell and Turner

Document Path: I:\council\bill\sm\20108vr21.docx

Companion/Similar bill(s): 3766

Introduced in the Senate on January 12, 2021

Introduced in the House on March 29, 2022

Last Amended on March 17, 2022

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

Summary: Create Department of Behavioral and Public Health

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
12/9/2020	Senate	Prefiled
12/9/2020	Senate	Referred to Committee on Medical Affairs
1/12/2021	Senate	Introduced and read first time (Senate Journal-page 87)
1/12/2021	Senate	Referred to Committee on Medical Affairs (Senate Journal-page 87)
3/3/2022	Senate	Committee report: Favorable with amendment Medical Affairs (Senate Journal-page 10)
3/15/2022	Senate	Special order, set for March 15, 2022 (Senate Journal-page 41)
3/16/2022	Senate	Committee Amendment Adopted (Senate Journal-page 32)
3/16/2022	Senate	Amended (Senate Journal-page 32)
3/16/2022	Senate	Read second time (Senate Journal-page 32)
3/17/2022	Senate	Amended (Senate Journal-page 42)
3/17/2022	Senate	Read third time and sent to House (Senate Journal-page 42)
3/17/2022	Senate	Roll call Ayes-43 Nays-0 (Senate Journal-page 42)
3/21/2022		Scrivener's error corrected
3/29/2022	House	Introduced and read first time (House Journal-page 30)
3/29/2022	House	Referred to Committee on Ways and Means (House Journal-page 30)

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VERSIONS OF THIS BILL

[12/9/2020](#)

[3/3/2022](#)

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[3/17/2022-A](#)

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1 ~~Indicates Matter Stricken~~

2 Indicates New Matter

3

4 AS PASSED BY THE SENATE

5 March 17, 2022

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S. 2

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9 Introduced by Senators Peeler, Malloy, McElveen, Hembree, Senn
10 Kimbrell and Turner

11

12 S. Printed 3/17/22--S.

[SEC 3/21/22 11:14 AM]

13 Read the first time January 12, 2021.

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A BILL

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11 TO AMEND CHAPTER 1, TITLE 44, CODE OF LAWS OF
12 SOUTH CAROLINA, 1976, RELATING TO THE
13 DEPARTMENT OF HEALTH AND ENVIRONMENTAL
14 CONTROL, SO AS TO RENAME THE CHAPTER THE
15 "DEPARTMENT OF BEHAVIORAL AND PUBLIC HEALTH"
16 AND TO REORGANIZE THE CHAPTER TO CREATE THE
17 DIVISION OF PUBLIC HEALTH, TO DELEGATE TO THE
18 DIVISION THE PUBLIC HEALTH RESPONSIBILITIES OF
19 THE DEPARTMENT, TO ABOLISH THE DEPARTMENT AND
20 BOARD OF HEALTH AND ENVIRONMENTAL CONTROL,
21 TO PROVIDE FOR THE APPOINTMENT OF A DIRECTOR OF
22 THE DEPARTMENT BY THE GOVERNOR, AND TO
23 TRANSFER ENVIRONMENTAL RESPONSIBILITIES OF THE
24 DEPARTMENT TO THE DIVISION OF ENVIRONMENTAL
25 CONTROL OF THE DEPARTMENT OF AGRICULTURE AND
26 THE DEPARTMENT OF NATURAL RESOURCES, AS
27 APPROPRIATE; TO AMEND CHAPTER 9, TITLE 44,
28 RELATING, IN PART, TO THE DEPARTMENT OF MENTAL
29 HEALTH, SO AS TO CREATE THE DIVISION OF MENTAL
30 HEALTH WITHIN THE DEPARTMENT OF BEHAVIORAL
31 AND PUBLIC HEALTH, TO MAKE CONFORMING CHANGES
32 REFLECTING THE TRANSFER OF RESPONSIBILITIES TO
33 THE DIVISION, WITH EXCEPTIONS, AND TO ABOLISH THE
34 DEPARTMENT OF MENTAL HEALTH AND THE MENTAL
35 HEALTH COMMISSION; TO AMEND CHAPTER 49, TITLE 44,
36 RELATING TO THE DEPARTMENT OF ALCOHOL AND
37 OTHER DRUG ABUSE SERVICES, SO AS TO CREATE THE
38 DIVISION OF ALCOHOL AND OTHER DRUG ABUSE
39 SERVICES WITHIN THE DEPARTMENT OF BEHAVIORAL
40 AND PUBLIC HEALTH, TO MAKE CONFORMING CHANGES
41 REFLECTING THE TRANSFER OF RESPONSIBILITIES TO
42 THE DIVISION, AND TO ABOLISH THE DEPARTMENT OF

1 ALCOHOL AND OTHER DRUG ABUSE SERVICES; BY
2 ADDING ARTICLE 7 TO CHAPTER 11, TITLE 25 SO AS TO
3 TRANSFER FROM THE DEPARTMENT OF MENTAL
4 HEALTH TO THE DEPARTMENT OF VETERANS' AFFAIRS
5 THE AUTHORITY TO ESTABLISH AND OPERATE
6 VETERANS HOMES; TO AMEND SECTIONS 44-11-10,
7 44-11-60, 44-11-70, 44-13-20, 44-13-30, 44-13-40, 44-13-60,
8 44-15-10, 44-15-20, 44-15-30, 44-15-60, 44-15-70, 44-15-80,
9 44-15-90, 44-17-450, 44-17-460, 44-17-580, 44-17-860, 44-17-865,
10 44-17-870, 44-22-10, 44-22-110, 44-24-10, 44-25-30, 44-27-10,
11 44-27-30, 44-28-20, 44-28-40, 44-28-60, 44-28-80, 44-28-360,
12 AND 44-28-370, RELATING TO THE DEPARTMENT OF
13 MENTAL HEALTH, SO AS TO MAKE CONFORMING
14 CHANGES; BY ADDING CHAPTER 57 TO TITLE 46 SO AS TO
15 CREATE A DIVISION OF ENVIRONMENTAL PROTECTION
16 WITHIN THE DEPARTMENT OF AGRICULTURE AND
17 TRANSFER TO THE DIVISION THE DIVISIONS, OFFICES,
18 AND PROGRAMS OF THE DEPARTMENT OF HEALTH AND
19 ENVIRONMENTAL CONTROL THAT PERFORM
20 ENVIRONMENTAL FUNCTIONS, WITH EXCEPTIONS; TO
21 AMEND SECTION 46-3-10, RELATING TO THE DUTIES OF
22 THE DEPARTMENT OF AGRICULTURE, SO AS TO ADD THE
23 ADMINISTRATION OF THE DIVISION OF
24 ENVIRONMENTAL PROTECTION; TO AMEND SECTIONS
25 48-2-20, 48-2-70, 48-2-320, 48-2-330, 48-2-340, 48-14-20,
26 48-18-20, 48-18-50, 48-20-30, 48-20-40, 48-20-70, 48-21-20,
27 48-43-10, 48-46-30, 48-46-40, 48-46-50, 48-46-80, 48-46-90,
28 48-52-810, 48-52-865, 48-55-10, 48-56-20, 48-57-20, 48-60-20,
29 49-5-30, AND 49-5-60, RELATING TO ENVIRONMENTAL
30 PROTECTION FUNDS, STORMWATER MANAGEMENT AND
31 SEDIMENT REDUCTION, EROSION AND SEDIMENT
32 REDUCTION, MINING, OIL AND GAS CONSERVATION AND
33 PRODUCTION, RADIOACTIVE WASTE, ENVIRONMENTAL
34 AWARENESS AND INNOVATION, INFORMATION
35 TECHNOLOGY EQUIPMENT RECOVERY, AND
36 GROUNDWATER, ALL SO AS TO TRANSFER REGULATORY
37 AUTHORITY TO THE DEPARTMENT OF AGRICULTURE; TO
38 AMEND SECTIONS 48-1-10, 48-1-20, 48-1-55, 48-1-85, 48-1-95,
39 48-1-100, 48-1-280, 48-3-10, AND 48-3-140, RELATING TO THE
40 POLLUTION CONTROL ACT OR POLLUTION CONTROL
41 FACILITIES, ALL SO AS TO TRANSFER REGULATORY
42 AUTHORITY TO THE DEPARTMENT OF NATURAL
43 RESOURCES; TO AMEND SECTION 48-4-10, RELATING TO

1 THE ORGANIZATIONAL STRUCTURE OF THE
2 DEPARTMENT OF NATURAL RESOURCES, SO AS TO
3 TRANSFER THE DEPARTMENT OF HEALTH AND
4 ENVIRONMENTAL CONTROL'S COASTAL DIVISION AND
5 OFFICE OF OCEAN AND COASTAL RESOURCE
6 MANAGEMENT TO THE DEPARTMENT OF NATURAL
7 RESOURCES; TO AMEND SECTIONS 48-39-10, 48-39-35,
8 48-39-50, 48-39-270, 48-40-20, 48-40-40, 49-1-15, 49-1-16,
9 49-1-18, 49-3-30, 49-4-20, 49-4-80, 49-4-170, 49-6-30, 49-11-120,
10 RELATING TO COASTAL TIDELANDS AND WETLANDS,
11 THE BEACH RESTORATION AND IMPROVEMENT TRUST
12 ACT, NAVIGABLE WATERS, WATER RESOURCES
13 PLANNING, SURFACE WATER WITHDRAWAL
14 REGULATION AND REPORTING, THE AQUATIC PLANT
15 MANAGEMENT COUNCIL, DAM AND RESERVOIR SAFETY,
16 ALL SO AS TO TRANSFER REGULATORY AUTHORITY TO
17 THE DEPARTMENT OF NATURAL RESOURCES; TO AMEND
18 SECTION 1-30-10, AS AMENDED, RELATING TO
19 DEPARTMENTS OF STATE GOVERNMENT, SO AS TO
20 DELETE THE DEPARTMENT OF ALCOHOL AND OTHER
21 DRUG ABUSE SERVICES, THE DEPARTMENT OF HEALTH
22 AND ENVIRONMENTAL CONTROL, AND THE
23 DEPARTMENT OF MENTAL HEALTH, AND TO ADD THE
24 DEPARTMENT OF BEHAVIORAL AND PUBLIC HEALTH; TO
25 AMEND SECTION 1-30-20, RELATING TO THE
26 DEPARTMENT OF ALCOHOL AND OTHER DRUG ABUSE
27 SERVICES, SO AS TO CHANGE THE REFERENCE TO THE
28 DEPARTMENT OF BEHAVIORAL AND PUBLIC HEALTH; TO
29 AMEND SECTION 1-30-75, RELATING TO THE
30 DEPARTMENT OF NATURAL RESOURCES, SO AS TO MAKE
31 CONFORMING CHANGES; AND TO REPEAL SECTION
32 1-30-45 RELATING TO THE DEPARTMENT OF HEALTH AND
33 ENVIRONMENTAL CONTROL, SECTION 1-30-70 RELATING
34 TO THE DEPARTMENT OF MENTAL HEALTH, AND
35 SECTIONS 44-11-30 AND 44-11-40 RELATING TO VETERANS
36 HOMES.

37 Amend Title To Conform

38

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

41

42 SECTION 1. On the effective date of this act:

1 (1) there is created the Department of Behavioral and Public
2 Health;

3 (2) the divisions, offices, and programs of the Department of
4 Health and Environmental Control that perform health-related
5 functions shall become a division of the Department of Behavioral
6 and Public Health with the director of the department being deemed
7 the head of the division unless otherwise specified, and all relevant
8 powers and duties assigned to the Department of Health and
9 Environmental Control being transferred to and devolved upon the
10 Department of Behavioral and Public Health;

11 (3) the divisions, offices, and programs of the Department of
12 Alcohol and Other Drug Abuse Services shall become a division of
13 the Department of Behavioral and Public Health with the director of
14 the department being deemed the head of the division unless
15 otherwise specified, and all powers and duties assigned to the
16 Department of Alcohol and Other Drug Abuse Services being
17 transferred to and devolved upon the Department of Behavioral and
18 Public Health;

19 (4)(a) except as provided in subitem (b), the divisions, offices,
20 and programs of the Department of Mental Health shall become a
21 division of the Department of Behavioral and Public Health with the
22 director of the department being deemed the head of the division
23 unless otherwise specified, and all powers and duties assigned to the
24 Department of Mental Health being transferred to and devolved
25 upon the Department of Behavioral and Public Health;

26 (b) the authority to establish, manage, and operate veterans
27 homes shall be transferred to the Department of Veterans' Affairs,
28 and all powers and duties assigned to the Department of Mental
29 Health regarding veterans homes being transferred to and devolved
30 upon the Department of Veterans' Affairs. To the extent, the
31 Department of Mental Health owns the grounds upon which these
32 veterans homes are located, title shall be transferred to the
33 Department of Veterans' Affairs;

34 (5) there is created the Department of Environmental Services;

35 (6)(a) except as provided in subitem (b), the divisions, offices,
36 and programs of the Department of Health and Environmental
37 Control that perform functions related to regulation and protection
38 of the environment shall become divisions, offices, and programs of
39 the Department of Environmental Services with the director of the
40 department being deemed the head of the divisions, offices, and
41 programs unless otherwise specified, and all relevant powers and
42 duties assigned to the Department of Health and Environmental

1 Control being transferred to and devolved upon the Department of
2 Environmental Services;

3 (b) the food safety program in the Division of Food and Lead
4 Risk Assessment and the Milk and Dairy Lab of the Department of
5 Health and Environmental Control shall become a division of the
6 Department of Agriculture with the director of that department
7 being deemed the head of the division unless otherwise specified,
8 and all relevant powers and duties assigned to the Department of
9 Health and Environmental Control being transferred to and
10 devolved upon the Department of Agriculture;

11 (7) the hydrology and aquatic nuisance species programs of the
12 Land, Water and Conservation Division of the Department of
13 Natural Resources shall become a division of the Department of
14 Environmental Services, and all relevant powers and duties assigned
15 to the Department of Natural Resources being transferred to and
16 devolved upon the Department of Environmental Services;

17 (8) the flood mitigation program of the Department of Natural
18 Resources shall become a program of the Office of Resilience and
19 all relevant powers and duties assigned to the Department of Natural
20 Resources being transferred to and devolved upon the Office of
21 Resilience; and

22 (9) the South Carolina Department of Alcohol and Other Drug
23 Abuse Services, South Carolina Mental Health Commission, the
24 South Carolina Department of Mental Health, the South Carolina
25 Department of Health and Environmental Control, and the South
26 Carolina Board of Health and Environmental Control shall be
27 abolished.

28
29 SECTION 2. Chapter 1, Title 44 of the 1976 Code is amended to
30 read:

31
32 "CHAPTER 1

33
34 Department of ~~Health and Environmental Control~~
35 Behavioral and Public Health

36
37 Article 1

38
39 General Provisions

40
41 Section 44-1-10. There is created the Department of Behavioral
42 and Public Health comprised of:

43 (1) the Division of Public Health;

- 1 (2) the Division of Alcohol and Other Drug Abuse Services; and
2 (3) the Division of Mental Health.

3

4 Section 44-1-20. ~~There is created the South Carolina Department~~
5 ~~of Health and Environmental Control which shall be administered~~
6 ~~under the supervision of the South Carolina Board of Health and~~
7 ~~Environmental Control. The board shall consist of eight members,~~
8 ~~one from each congressional district, and one from the State at large~~
9 ~~to be appointed by the Governor, upon the advice and consent of the~~
10 ~~Senate. The member who is appointed at large shall serve as the~~
11 ~~chairman of the board. The Governor may remove the chairman of~~
12 ~~the board pursuant to Section 1-3-240(B); however, the Governor~~
13 ~~only may remove the other board members pursuant to Section~~
14 ~~1-3-240(C). The terms of the members shall be for four years and~~
15 ~~until their successors are appointed and qualify. All vacancies shall~~
16 ~~be filled in the manner of the original appointment for the unexpired~~
17 ~~portion of the term only. In making these appointments, race,~~
18 ~~gender, and other demographic factors should be considered to~~
19 ~~ensure nondiscrimination, inclusion, and representation to the~~
20 ~~greatest extent possible of all segments of the population of the~~
21 ~~State; however, consideration of these factors in making an~~
22 ~~appointment in no way creates a cause of action or basis for an~~
23 ~~employee grievance for a person appointed or for a person who fails~~
24 ~~to be appointed. (A) The Governor shall appoint a Director of the~~
25 Department of Behavioral and Public Health pursuant to Section
26 1-30-10(B)(1) with the advice and consent of the Senate who
27 manages the department and who may appoint deputies for the
28 divisions pursuant to Section 1-30-10(E).

29 (B) If a vacancy occurs in the department when the Senate is not
30 in session, the Governor may appoint a director to fill the vacancy
31 until the Senate acts on the appointment.

32 (C) The director is subject to removal by the Governor as
33 provided for in Section 1-3-240.

34

35 Section 44-1-30. ~~The Board shall meet at least quarterly and the~~
36 ~~members shall receive such compensation for their services as is~~
37 ~~provided by law for members of boards and commissions. The~~
38 director shall have all authority and duties as provided for in Chapter
39 30, Title 1.

40

41 Section 44-1-40. ~~The board shall select a director for the~~
42 ~~department who shall serve a four year term and who shall have~~
43 ~~such authority and perform such duties as may be directed by the~~

1 board. The salary of the director shall be fixed by the board, upon
2 approval of the State Budget and Control Board. For any vacancy
3 occurring in the office of director on or after February 1, 1995, the
4 board, after consultation with and approval by the Governor, must
5 submit the name of its appointee to the Senate for the Senate's
6 advice and consent. On or after February 1, 1995, the board may
7 remove a director only after consultation with and approval by the
8 Governor.

9

10 Section 44-1-50. The board may conduct such administrative
11 reviews as may be required by law, as considered necessary by the
12 board to render a final agency determination in matters involving
13 the issuance, denial, renewal or revocation of permits, licenses, or
14 other actions of the department which may give rise to a contested
15 case pursuant to Chapter 23 of Title 1.

16 The board shall provide for the administrative organization of the
17 department and shall consolidate and merge existing duties,
18 functions, and officers of the former agencies as may be necessary
19 for economic and efficient administration. Provided, however, that
20 the board may appoint such advisory boards as it considers
21 necessary to carry out the functions of Sections 44-1-10 to 44-1-70,
22 and there shall be provided a compensation for their services as
23 provided by the law for members of boards and commissions.

24

25 Section 44-1-60. (A) All department decisions of the
26 Department of Behavioral and Public Health involving the issuance,
27 denial, renewal, suspension, or revocation of permits, licenses,
28 certificates, or other actions of the department which may give rise
29 to a contested case, ~~except a decision to establish a baseline or~~
30 ~~setback line~~, must be made using the procedures set forth in this
31 section. A department decision referenced in this subsection relating
32 to a poultry facility or another animal facility, ~~except a swine~~
33 ~~facility~~, also must comply with the provisions of Section 44-1-65.

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

39 (C) ~~The initial decision involving the issuance, denial, renewal,~~
40 ~~suspension, or revocation of permits, licenses, or other action of the~~
41 ~~department shall be a staff decision.~~

42 (D) In making a staff decision ~~on any~~ about a permit, license,
43 certification or other approval, the department staff shall take into

1 consideration all material comments received in response to the
2 public notice in determining whether to issue, deny or condition
3 such a permit, license, certification or other approval. At the time
4 that such staff a decision is made, the department shall issue a
5 department written decision, and shall base its department decision
6 on the administrative record, which shall must consist of the
7 application and supporting exhibits, all public comments and
8 submissions, and other documents contained in the supporting file
9 for the permit, license, certification or other approval. The
10 administrative record may also may include material readily
11 available at the department, or published materials which are
12 generally available and need not be physically included in the same
13 file as the rest of the record as long as such materials are specifically
14 referred to in the department decision. The department ~~decision~~
15 ~~need not be issued for routine permits for which no adverse public~~
16 ~~comments have been received~~ is not required to issue a written
17 decision for issuance of routine permits for which the department
18 has not received adverse public comments.

19 ~~(E)(D)(1) Notice of a~~ The department decision must be sent shall
20 send a notice of a decision by certified mail, returned receipt
21 requested to the applicant, permittee, licensee, certificate holder,
22 and affected persons who have requested in writing to be notified.
23 Affected persons may request in writing to be notified by regular
24 mail or electronic mail in lieu of certified mail. Notice of ~~staff~~
25 decisions for which a department written decision is not required
26 pursuant to subsection ~~(D)(C)~~ must be provided by mail, delivery,
27 or other appropriate means to the applicant, permittee, licensee,
28 certificate holder, and affected persons who have requested in
29 writing to be notified.

30 ~~(2) The staff decision becomes the final agency decision~~
31 ~~fifteen calendar days after notice of the staff decision has been~~
32 ~~mailed to the applicant, unless a written request for final review~~
33 ~~accompanied by a filing fee is filed with the department by the~~
34 ~~applicant, permittee, licensee, or affected person.~~

35 ~~(3) The filing fee must be in the amount of one hundred~~
36 ~~dollars unless the department establishes a fee schedule by~~
37 ~~regulation after complying with the requirements of Article 1,~~
38 ~~Chapter 23, Title 1. This fee must be retained by the department in~~
39 ~~order to help defray the costs of the proceedings and legal expenses.~~

40 ~~(F) No later than sixty calendar days after the date of receipt of~~
41 ~~a request for final review, a final review conference must be~~
42 ~~conducted by the board, its designee, or a committee of three~~
43 ~~members of the board appointed by the chair. If the board declines~~

1 in writing to schedule a final review conference or if a final review
2 conference is not conducted within sixty calendar days, the staff
3 decision becomes the final agency decision, and an applicant,
4 permittee, licensee, or affected person requests pursuant to
5 subsection (G) a contested case hearing before the Administrative
6 Law Court. The department shall set the place, date, and time for the
7 conference; give the applicant and affected persons at least ten
8 calendar days' written notice of the conference; and advise the
9 applicant that evidence may be presented at the conference. The
10 final review conference must be held as follows:

11 (1) Final review conferences are open to the public; however,
12 the officers conducting the conference may meet in closed session
13 to deliberate on the evidence presented at the conference. The
14 burden of proof in a conference is upon the moving party. During
15 the course of the final review conference, the staff must explain the
16 staff decision and the materials relied upon in the administrative
17 record to support the staff decision. The applicant or affected party
18 shall state the reasons for protesting the staff decision and may
19 provide evidence to support amending, modifying, or rescinding the
20 staff decision. The staff may rebut information and arguments
21 presented by the applicant or affected party and the applicant or
22 affected party may rebut information and arguments presented by
23 the staff. Any final review conference officer may request additional
24 information and may question the applicant or affected party, the
25 staff, and anyone else providing information at the conference.

26 (2) After the final review conference, the board, its designee,
27 or a committee of three members of the board appointed by the chair
28 shall issue a written final agency decision based upon the evidence
29 presented. The decision may be announced orally at the conclusion
30 of the final review conference or it may be reserved for
31 consideration. The written decision must explain the basis for the
32 decision and inform the parties of their right to request a contested
33 case hearing before the Administrative Law Court. In either event,
34 the written decision must be mailed to the parties no later than thirty
35 calendar days after the date of the final review conference. Within
36 thirty calendar days after the receipt of the decision pursuant to item
37 (1) an applicant, permittee, licensee, certificate holder, or affected
38 person desiring to contest the final agency decision may request a
39 contested case hearing before the Administrative Law Court, in
40 accordance with the Administrative Procedures Act. The court shall
41 give consideration to the provisions of Section 1-23-330 regarding
42 the department's specialized knowledge.

1 (3) ~~Prior to the initiation of the final review conference, an~~
2 ~~applicant, permittee, licensee, or affected person must be notified of~~
3 ~~their right to request a transcript of the proceedings of the final~~
4 ~~review conference. If a transcript is requested, the applicant,~~
5 ~~permittee, licensee, or affected person making the request is~~
6 ~~responsible for all costs.~~

7 (G) ~~An applicant, permittee, licensee, or affected person may file~~
8 ~~a request with the Administrative Law Court for a contested case~~
9 ~~hearing within thirty calendar days after:~~

10 (1) ~~notice is mailed to the applicant, permittee, licensee, and~~
11 ~~affected persons that the board declined to hold a final review~~
12 ~~conference; or~~

13 (2) ~~the sixty-calendar day deadline to hold the final review~~
14 ~~conference lapses and no conference has been held; or~~

15 (3) ~~the final agency decision resulting from the final review~~
16 ~~conference is received by the parties.~~

17 (H) ~~Applicants, permittees, licensees, and affected persons are~~
18 ~~encouraged to engage in mediation during the final review process.~~

19 (I) ~~The department may promulgate regulations providing for~~
20 ~~procedures for final reviews.~~

21 (J) ~~Any statutory deadlines applicable to permitting and~~
22 ~~licensing programs administered by the department must be~~
23 ~~extended to all for this final review process.~~

24 (E) ~~If any a deadline provided for in this section falls on a~~
25 ~~Saturday, Sunday, or state holiday, the deadline must be extended~~
26 ~~until the next calendar day that is not a Saturday, Sunday, or state~~
27 ~~holiday.~~

28
29 Section 44-1-65. (A) ~~In making a staff decision on a permit,~~
30 ~~license, certification, or other approval of a poultry facility or~~
31 ~~another animal facility, except a swine facility, pursuant to Section~~
32 ~~44-1-60(D), or if the department conducts a final review conference~~
33 ~~related to a decision on a permit, license, certification, or other~~
34 ~~approval of a poultry facility or another animal facility, except a~~
35 ~~swine facility, pursuant to Section 44-1-60(F), the department shall~~
36 ~~base its decision solely on whether the permit complies with the~~
37 ~~applicable department regulations governing the permitting of~~
38 ~~poultry and other animal facilities, other than swine facilities.~~

39 (B) ~~For purposes of permitting, licensing, certification, or other~~
40 ~~approval of a poultry facility or another animal facility, other than a~~
41 ~~swine facility:~~

1 ~~(1) only an applicant, permittee, licensee, or affected person~~
2 ~~may request a final review conference pursuant to Section~~
3 ~~44-1-60(F);~~

4 ~~(2) only an affected person may request a contested case~~
5 ~~hearing pursuant to Section 44-1-60(G);~~

6 ~~(3) only an applicant, permittee, licensee, or affected person~~
7 ~~may become a party to a final review conference;~~

8 ~~(4) only an affected person may become a party to a contested~~
9 ~~case hearing; and~~

10 ~~(5) only an applicant, permittee, licensee, or affected person~~
11 ~~is entitled as of right to be admitted as a party pursuant to Section~~
12 ~~1-23-310(5) of the Administrative Procedures Act.~~

13 ~~(C)(1) In determining whether to issue a permit, license,~~
14 ~~certification, or other approval of a poultry facility or another animal~~
15 ~~facility, except a swine facility, the department only may take into~~
16 ~~consideration the existing development on and use of property~~
17 ~~owned or occupied by an affected person on the date the department~~
18 ~~receives the applicant's complete application package as prescribed~~
19 ~~by regulation. The department must not take into consideration any~~
20 ~~changes to the development or use of property after receipt of the~~
21 ~~application, including, but not limited to, the construction of a~~
22 ~~residence.~~

23 ~~(2) If a property owner signs a setback waiver of the right to~~
24 ~~contest the issuance of a permit, license, certification, or other~~
25 ~~approval of a poultry facility or another animal facility, except a~~
26 ~~swine facility, including waiver of the right to notice and a public~~
27 ~~hearing on a permit, license, certification, or other approval and to~~
28 ~~file a contested case or other action, then the affected person has~~
29 ~~seventy two hours to provide in writing a withdrawal or rescission~~
30 ~~of the waiver.~~

31 ~~(D)(1) An applicant, permittee, licensee, or affected person who~~
32 ~~has exhausted all administrative remedies within the department~~
33 ~~relating to a decision to issue or deny a permit, license, certification,~~
34 ~~or other approval of a poultry facility or another animal facility,~~
35 ~~except a swine facility, and who is aggrieved by a final decision may~~
36 ~~request a contested case hearing before the Administrative Law~~
37 ~~Court, in accordance with the Administrative Procedures Act.~~

38 ~~(2) Notwithstanding any other provision of law, a final~~
39 ~~decision to issue a permit, license, certification, or other approval of~~
40 ~~a poultry facility or another animal facility, except a swine facility,~~
41 ~~may not be contested if the proposed building footprint is located~~
42 ~~eight hundred feet or more from the facility owner's property line or~~

1 ~~located one thousand feet or more from an adjacent property~~
2 ~~owner's residence.~~

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

11
12 ~~Section 44-1-70. All rules and regulations promulgated by the~~
13 ~~Board department in accordance with this chapter are subject to the~~
14 ~~provisions of the Administrative Procedures Act shall be null and~~
15 ~~void unless approved by a concurrent resolution of the General~~
16 ~~Assembly at the session of the General Assembly following their~~
17 ~~promulgation.~~

18

19

Article 3

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Division of Public Health

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1 judgment, necessary to prevent the spread of disease from the
2 infected locality.

3 (B)(1) Whenever the ~~board~~ department learns of a case of a
4 reportable illness or health condition, an unusual cluster, or a
5 suspicious event that it reasonably believes has the potential to cause
6 a public health emergency, as defined in Section 44-4-130, it is
7 authorized to notify the appropriate public safety authority, tribal
8 authorities, and federal health and public safety authorities.

9 (2) The sharing of information on reportable illnesses, health
10 conditions, unusual clusters, or suspicious events between
11 authorized personnel must be restricted to information necessary for
12 the treatment, control, investigation, and prevention of a public
13 health emergency. Restriction of access to this information to those
14 authorized personnel for the protection of public health ensures
15 compliance with all state and federal health information privacy
16 laws.

17 (3) The ~~board~~ department and its agents ~~must~~ shall have full
18 access to medical records and nonmedical records when necessary
19 to investigate the causes, character, and means of preventing the
20 spread of a qualifying health event or public health emergency. For
21 purposes of this item, 'nonmedical records' ~~mean~~ means records of
22 entities, including businesses, health facilities, and pharmacies,
23 which are needed to adequately identify and locate persons believed
24 to have been potentially exposed or known to have been infected
25 with a contagious disease.

26 (4) An order of the ~~board~~ department given to effectuate the
27 purposes of this subsection is enforceable immediately by the public
28 safety authority.

29 (5) For purposes of this subsection, the terms qualifying
30 health event, public health emergency, and public safety authority
31 have the same meanings as provided in Section 44-4-130.

32
33 Section 44-1-90. The ~~State Board of Health and Environmental~~
34 ~~Control~~ Department of Behavioral and Public Health or its
35 designated agents, when it is deemed necessary by the municipal
36 officers of any town or city or the governing body of any county,
37 may (a) visit cities, towns, villages, or localities where disease is
38 prevalent or threatened, (b) investigate and advise with the local
39 authorities or persons as to such measures as may tend to prevent
40 the spread of disease or to remove or abate causes that may tend to
41 cause or intensify disease, (c) advise, when practicable or possible,
42 as to measures of sanitation or hygiene, and (d) investigate and
43 advise as to all matters respecting water supply, sewage, drainage,

1 ventilation, heating, lighting, or other measures connected with
2 public sanitation or safety.

3 Section 44-1-100. All sheriffs and constables in the several
4 counties of this State and police officers and health officers of cities
5 and towns must aid and assist the Director of the ~~Department of~~
6 ~~Health and Environmental Control~~ Division of Public Health and
7 must carry out and obey his orders, or those of the ~~Department of~~
8 ~~Health and Environmental Control~~ division, to enforce and carry out
9 any and all restrictive measures and quarantine regulations that may
10 be prescribed. During a state of public health emergency, as defined
11 in Section 44-4-130, the director may request assistance in enforcing
12 orders issued pursuant to this chapter and pursuant to Chapter 4,
13 Title 44, from the public safety authority, as defined in Section
14 44-4-130, other state law enforcement authorities, and local law
15 enforcement. The public safety authority may request assistance
16 from the South Carolina National Guard in enforcing orders made
17 pursuant to this chapter or pursuant to Chapter 4, Title 44.

18
19 Section 44-1-110. (A) The Department of ~~Health and~~
20 ~~Environmental Control~~ Behavioral and Public Health is invested
21 with all the rights and charged with all the duties pertaining to
22 organizations of like character and is the sole advisor of the State in
23 all questions involving the protection of the public health within its
24 limits.

25 (B) ~~It shall~~ The department, through its representatives, shall
26 investigate the causes, character, and means of preventing the
27 epidemic and endemic diseases as the State is liable to suffer from
28 and the influence of climate, location, and occupations, habits,
29 drainage, scavengering, water supply, heating, and ventilation. ~~It~~
30 ~~shall have~~ has, upon request, full access to the medical records,
31 tumor registries, and other special disease record systems
32 maintained by physicians, hospitals, and other health facilities as
33 necessary to carry out its investigation of these diseases. No
34 physician, hospital, or health facility, or person in charge of these
35 records is liable in any action-at-law for permitting the examination
36 or review. Patient-identifying information elicited from these
37 records and registries must be kept confidential by the department,
38 and ~~it~~ the information is exempt from the provisions of Chapter 4,
39 ~~of~~ Title 30. ~~It~~ The department shall supervise and control the
40 quarantine system of the State. ~~It and~~ may establish quarantine both
41 by land and sea.

42

1 Section 44-1-130. The Department of ~~Health and Environmental~~
2 ~~Control~~ Behavioral and Public Health may divide the State into
3 health districts and establish in these districts advisory boards of
4 health which shall consist of representatives from each county in the
5 district. Boards of health now existing in the districts shall have
6 representation on the district advisory board. Counties not having
7 local boards of health shall must be represented by individuals
8 appointed by the county legislative delegation. The number of
9 members of a district advisory board shall must be determined by
10 the department with due consideration to the population and
11 community needs of the district. District advisory boards of health
12 ~~shall be~~ are subject to the supervisory and advisory control of the
13 department. District advisory boards are charged with the duty of
14 advising the district medical director or administrator in all matters
15 of sanitary interest and scientific importance bearing upon the
16 protection of the public health. The district medical director or
17 administrator ~~shall be~~ is the secretary of the advisory board, and the
18 district advisory board shall elect annually from its membership a
19 chairman.

20
21 Section 44-1-140. The Department of ~~Health and Environmental~~
22 ~~Control~~ Behavioral and Public Health may make, adopt,
23 promulgate, and enforce reasonable rules and regulations from time
24 to time requiring and providing for:

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

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

34 ~~(3) For the production, storing, labeling, transportation, and~~
35 ~~selling of milk and milk products, filled milk and filled milk~~
36 ~~products, imitation milk and imitation milk products, synthetic milk~~
37 ~~and synthetic milk products, milk derivatives and any other products~~
38 ~~made in semblance of milk or milk products;~~

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

1 ~~(5) For the classification of waters and for the safety and~~
2 ~~sanitation in the harvesting, storing, processing, handling and~~
3 ~~transportation of mollusks, fin fish and crustaceans;~~

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

6 ~~(7)(1) For the safety, safe operation and sanitation of public~~
7 ~~swimming pools and other public bathing places, construction,~~
8 ~~tourist and trailer camps, and fairs;~~

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

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

13 ~~(10)(2) For the care, segregation and isolation of persons~~
14 ~~having or suspected of having any communicable, contagious, or~~
15 ~~infectious disease; and~~

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

21 ~~(12)(3) For the thorough investigation and study of the~~
22 ~~causes of all diseases, epidemic and otherwise, in this State, the~~
23 ~~means for the prevention of contagious disease and the publication~~
24 ~~and distribution of such information as may contribute to the~~
25 ~~preservation of the public health and the prevention of disease; and~~

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

29 ~~(B) The department may make separate orders and rules to meet~~
30 ~~any emergency not provided for by general rules and regulations,~~
31 ~~for the purpose of suppressing nuisances conditions dangerous to~~
32 ~~the public health and communicable, contagious and infectious~~
33 ~~diseases, and other danger to the public life and health.~~

34
35 Section 44-1-143. ~~(A) For the purposes of this section:~~

36 ~~(1) 'Home-based food production operation' means an~~
37 ~~individual, operating out of the individual's dwelling, who prepares,~~
38 ~~processes, packages, stores, and distributes nonpotentially~~
39 ~~hazardous foods for sale directly to a person.~~

40 ~~(2) 'Nonpotentially hazardous foods' are candy and baked~~
41 ~~goods that are not potentially hazardous foods.~~

42 ~~(3) 'Person' means an individual consumer.~~

43 ~~(4) 'Potentially hazardous foods' includes:~~

1 (a) an animal food that is raw or heat-treated; a plant food
2 that is heat-treated or consists of raw seed sprouts; cut melons; cut
3 leafy greens; cut tomatoes or mixtures of cut tomatoes not modified
4 to prevent microorganism growth or toxin formation; garlic in oil
5 mixtures not modified to prevent microorganism growth or toxin
6 formation;

7 (b) certain foods that are designated as Product Assessment
8 Required (PA) because of the interaction of the pH and Aw values
9 in these foods. Below is a table indicating the interaction of pH and
10 Aw for control of spores in food heat-treated to destroy vegetative
11 cells and subsequently packaged;

	Aw values	pH values	
14		4.6 or less	>4.6-5.6 >5.6
15 (1)	<0.92	non-PHF	non-PHF
16 (2)	>0.92-0.95	non-PHF	PHF
17 (3)	>0.95	PHF	PHF

18
19 Foods in item (2) with a pH value greater than 5.6 and foods in item
20 (3) with a pH value greater than 4.6 are considered potentially
21 hazardous unless a product assessment is conducted pursuant to the
22 2009 Federal Drug Administration Food Code.

23 (B) The operator of the home-based food production operation
24 must take all reasonable steps to protect food items intended for sale
25 from contamination while preparing, processing, packaging,
26 storing, and distributing the items, including, but not limited to:

27 (1) maintaining direct supervision of any person, other than
28 the operator, engaged in the processing, preparing, packaging, or
29 handling of food intended for sale;

30 (2) prohibiting all animals, including pets, from entering the
31 area in the dwelling in which the home-based food production
32 operation is located while food items are being prepared, processed,
33 or packaged and prohibiting these animals from having access to or
34 coming in contact with stored food items and food items being
35 assembled for distribution;

36 (3) prohibiting all domestic activities in the kitchen while the
37 home-based food production operation is processing, preparing,
38 packaging, or handling food intended for sale;

39 (4) prohibiting any person who is infected with a
40 communicable disease that can be transmitted by food, who is a
41 carrier of organisms that can cause a communicable disease that can
42 be transmitted by food, who has an infected wound, or who has an
43 acute respiratory infection from processing, preparing, packaging,

1 ~~or handling food intended for sale by the home-based food~~
2 ~~production operation; and~~

3 ~~(5) ensuring that all people engaged in processing, preparing,~~
4 ~~packaging, or handling food intended for sale by the home-based~~
5 ~~food production operation are knowledgeable of and follow safe~~
6 ~~food handling practices.~~

7 ~~(C) Each home-based food production operation shall maintain~~
8 ~~a clean and sanitary facility to produce nonpotentially hazardous~~
9 ~~foods including, but not limited to:~~

10 ~~(1) department approved water supply;~~

11 ~~(2) a separate storage place for ingredients used in foods~~
12 ~~intended for sale;~~

13 ~~(3) a properly functioning refrigeration unit;~~

14 ~~(4) adequate facilities, including a sink with an adequate hot~~
15 ~~water supply to meet the demand for the cleaning and sanitization~~
16 ~~of all utensils and equipment;~~

17 ~~(5) adequate facilities for the storage of utensils and~~
18 ~~equipment;~~

19 ~~(6) adequate hand washing facilities separate from the utensil~~
20 ~~and equipment cleaning facilities;~~

21 ~~(7) a properly functioning toilet facility;~~

22 ~~(8) no evidence of insect or rodent activity; and~~

23 ~~(9) department approved sewage disposal, either onsite~~
24 ~~treatment or publicly provided.~~

25 ~~(D) All food items packaged at the operation for sale must be~~
26 ~~properly labeled. The label must comply with federal laws and~~
27 ~~regulations and must include:~~

28 ~~(1) the name and address of the home-based food production~~
29 ~~operation;~~

30 ~~(2) the name of the product being sold;~~

31 ~~(3) the ingredients used to make the product in descending~~
32 ~~order of predominance by weight; and~~

33 ~~(4) a conspicuous statement printed in all capital letters and in~~
34 ~~a color that provides a clear contrast to the background that reads:~~
35 ~~'NOT FOR RESALE - PROCESSED AND PREPARED BY A~~
36 ~~HOME BASED FOOD PRODUCTION OPERATION THAT IS~~
37 ~~NOT SUBJECT TO SOUTH CAROLINA'S FOOD SAFETY~~
38 ~~REGULATIONS.'~~

39 ~~(E) Home-based food operations only may sell, or offer to sell,~~
40 ~~food items directly to a person for his own use and not for resale. A~~
41 ~~home-based food operation may not sell, or offer to sell, food items~~
42 ~~at wholesale. Food produced from a home-based food production~~

1 operation must not be considered to be from an approved source, as
2 required of a retail food establishment pursuant to Regulation 61.25.

3 (F) A home-based food production operation is not a retail food
4 establishment and is not subject to regulation by the department
5 pursuant to Regulation 61.25.

6 (G) The provisions of this section do not apply to an operation
7 with net earnings of less than five hundred dollars annually but that
8 would otherwise meet the definition of a home-based food operation
9 provided in subsection (A)(1).

10

11 Section 44-1-145. (A) Notwithstanding any other provision of
12 law, ground beef or any food containing ground beef prepared by a
13 food service provider for public consumption must be cooked to
14 heat all parts of the food to at least one hundred fifty-five degrees
15 Fahrenheit (sixty-eight degrees Celsius), unless otherwise ordered
16 by the immediate consumer.

17 (B) The food service provider, its business or its employees or
18 agents, are not liable for any adverse affects to the purchaser or
19 anyone else for providing a ground beef product cooked at an
20 internal temperature less than one hundred fifty-five degrees
21 Fahrenheit (sixty-eight degrees Celsius), if providing the product is
22 at the request of the purchaser and if the food service provider has
23 notified the purchaser in advance that a possible health risk may
24 exist by eating the product. The notice must state that a possible
25 health risk may exist in eating undercooked ground beef at an
26 internal temperature less than one hundred fifty-five degrees
27 Fahrenheit (sixty-eight degrees Celsius), and be given to the
28 purchaser:

29 (1) in writing;

30 (2) as stated on the menu; or

31 (3) by visible sign warning.

32 (C) In order for an immediate consumer or purchaser, as used in
33 this section, to request or order ground beef to be cooked to a
34 temperature less than one hundred fifty-five degrees Fahrenheit
35 (sixty-eight degrees Celsius), the individual must be eighteen years
36 of age or older.

37

38 Section 44-1-148. Fresh meat or fresh meat products sold to a
39 consumer may not be offered to the public for resale for human
40 consumption if the fresh meat or fresh meat products have been
41 returned by the consumer.

42

1 Section 44-1-150. (A) ~~Except as provided in Section 44-1-151,~~
2 ~~a~~ A person who after notice violates, disobeys, or refuses, omits, or
3 neglects to comply with a regulation of the Department of Health
4 ~~and Environmental Control~~ Behavioral and Public Health, made by
5 the department pursuant to Section 44-1-140, is guilty of a
6 misdemeanor and, upon conviction, must be fined not more than two
7 hundred dollars or imprisoned for thirty days.

8 (B) A person who after notice violates a rule, regulation, permit,
9 permit condition, final determination, or order of the department
10 issued pursuant to Section 44-1-140 is subject to a civil penalty not
11 to exceed one thousand dollars a day for each violation.

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

15 (D) The term 'notice' as used in this section means either actual
16 notice or constructive notice.

17 ~~(E) This section does not apply to fines levied under Section~~
18 ~~44-1-140(8) or any other areas regulated by the South Carolina~~
19 ~~Occupational Health and Safety Act, Section 41-12-10 et seq.~~
20

21 Section 44-1-151. ~~Notwithstanding any other provision of law, all~~
22 ~~shellfish involved in any violation of law, including any regulation,~~
23 ~~regarding shellfish may be confiscated and disposed of at the~~
24 ~~discretion of the arresting officer. Any person convicted of a second~~
25 ~~offense of harvesting shellfish in any polluted area shall, upon such~~
26 ~~conviction, be fined not less than two hundred dollars and not more~~
27 ~~than five hundred dollars or imprisoned for not less than thirty days~~
28 ~~and not more than sixty days. Any person convicted of a third or~~
29 ~~subsequent offense of harvesting shellfish in any polluted area shall,~~
30 ~~upon such conviction, be fined not less than five hundred dollars and~~
31 ~~not more than one thousand or imprisoned for not less than sixty~~
32 ~~days and not more than ninety days. All equipment, including, but~~
33 ~~not limited to, vehicles, boats, motors, trailers, harvesting~~
34 ~~equipment, weapons, spotlights, bags, boxes, or tools, used or in any~~
35 ~~other manner involved in a first offense of harvesting shellfish in~~
36 ~~any polluted area, may be impounded at the discretion of the~~
37 ~~arresting officer. The equipment impounded shall be delivered to the~~
38 ~~sheriff of the county in which the arrest was made and shall be~~
39 ~~retained by the sheriff. Such equipment may not be returned to the~~
40 ~~owner until the case has been finally disposed of. All equipment,~~
41 ~~including, but not limited to, vehicles, boats, motors, trailers,~~
42 ~~harvesting equipment, weapons, spotlights, bags, boxes, or tools,~~
43 ~~used or in any other manner involved in a second, third, or~~

1 subsequent offense of harvesting shellfish in any polluted area, shall
2 be confiscated. All such confiscated equipment shall be sold at
3 auction by the sheriff of the county in which such second, third, or
4 subsequent offense took place and by a representative of the State
5 Department of Health and Environmental Control, except for
6 weapons, which, following confiscation, shall be disposed of in the
7 manner set forth in Sections 16-23-50, 16-23-460, and 16-23-500.

8
9 Section 44-1-152. Notwithstanding any other provision of law, all
10 revenue from any fine or any forfeiture of bond for any violation of
11 any shellfish law or regulation provided by this title must be
12 deposited monthly with the treasurer of the county in which the
13 arrest for such violation was made. One third of such revenue must
14 be retained by the county treasurer to be used for the general
15 operating needs of the county pursuant to the direction of the
16 governing body of the county. Two thirds of such revenue must be
17 remitted quarterly to the state Department of Health and
18 Environmental Control of which one half is to be used in enforcing
19 shellfish laws and regulations and one half of such revenue must be
20 remitted quarterly to the state's general fund. All monies derived
21 from auction sales of confiscated equipment pursuant to Section
22 44-1-151 must be deposited, retained, remitted, and used in the same
23 manner as provided in this section for all revenue derived from any
24 fine or any violation of any shellfish law or regulation. A report of
25 fines for forfeitures of bonds regarding shellfish violations must be
26 sent to the state Department of Health and Environmental Control
27 monthly by each magistrate and clerk of court in this State. A report
28 of monies derived from auction of sales of confiscated equipment
29 must be sent to the state Department of Health and Environmental
30 Control monthly by each sheriff.

31
32 Section 44-1-155. When any person is apprehended by a shellfish
33 patrolman upon a charge of violating the health and sanitary aspects
34 of shellfish, crab, and shrimp laws or regulations, such person upon
35 being served with a summons by the patrolman may in lieu of being
36 immediately brought before the proper judicial officer enter into a
37 formal recognizance or deposit a proper sum of money in lieu of a
38 recognizance or incarceration with the patrolman as bail which shall
39 be not less than the minimum nor more than the maximum fine, but
40 in no case to exceed one hundred dollars. The bail shall be turned
41 over to the proper judicial officer. A receipt for the sum so deposited
42 shall be given to the person by the patrolman. The summons duly
43 served shall give the judicial officer jurisdiction to dispose of the

1 matter. Upon receipt of bail the patrolman shall release the person
2 so charged and he may appear in court at the time stated in and
3 required by the summons.

4
5 Section 44-1-160. Nothing contained in Section 44-1-140 shall in
6 any way ~~abridge or limit~~ abridges or limits the right of any a person
7 to maintain or prosecute any ~~proceedings, civil or criminal,~~ a civil
8 or criminal proceeding against a person maintaining a nuisance.

9
10 Section 44-1-165. (A) ~~There is established within the~~
11 ~~Department of Health and Environmental Control the Expedited~~
12 ~~Review Program to provide an expedited process for permit~~
13 ~~application review. Participation in this program is voluntary and~~
14 ~~the program must be supported by expedited review fees~~
15 ~~promulgated in regulation pursuant to subsection (B)(1). The~~
16 ~~department shall determine the project applications to review, and~~
17 ~~the process may be applied to any one or all of the permit programs~~
18 ~~administered by the department.~~

19 (B)(1) ~~Before January 1, 2009, the department shall promulgate~~
20 ~~regulations necessary to carry out the provisions of this Section. The~~
21 ~~regulations shall include, but are not limited to, definitions of~~
22 ~~'completeness' for applications submitted, consideration of joint~~
23 ~~federal state permitting activities, standards for applications~~
24 ~~submitted that advance environmental protection, and expedited~~
25 ~~process application review fees.~~

26 (2) ~~Regulations promulgated pursuant to this Section must not~~
27 ~~alter public notice requirements for any permits, certifications, or~~
28 ~~licenses issued by the department.~~

29 (C) ~~Until such time as regulations are promulgated pursuant to~~
30 ~~subsection (B), the department shall conduct a pilot expedited~~
31 ~~review program to determine the most environmentally sound, cost~~
32 ~~efficient, and economically beneficial process for implementation~~
33 ~~of a statewide expedited review program. The department shall~~
34 ~~determine which permit programs, or subcomponents of a program,~~
35 ~~to include in the pilot program and also may establish pilot program~~
36 ~~expedited process application fees.~~

37 (D) ~~There is created the Expedited Review Fund that is separate~~
38 ~~and distinct from the general fund of the State and all other funds.~~
39 ~~Fees established in regulation pursuant to subsection (B)(1) and~~
40 ~~assessed pursuant to subsection (C) must be credited to the fund and~~
41 ~~used for the costs of implementing the expedited review program.~~
42 ~~Interest accruing to the fund must be retained by the fund and used~~
43 ~~for the same purposes. Revenue in the fund not expended during a~~

1 fiscal year, including fees generated pursuant to subsection (C),
2 must be carried forward to the succeeding fiscal year and must be
3 used for the same purposes.

4 (E) ~~No later than January 1, 2008, the department shall report to~~
5 ~~the Board of Health and Environmental Control the department's~~
6 ~~findings on the implementation of the pilot expedited review~~
7 ~~program provided for in subsection (C).~~

8

9 Section 44-1-170. The ~~Department of Health and Environmental~~
10 ~~Control~~ Division of Public Health may direct and supervise the
11 action of the local boards of health in incorporated cities and towns
12 and in all townships in all matters pertaining to ~~such~~ these local
13 boards.

14

15 Section 44-1-180. The Department of ~~Health and Environmental~~
16 ~~Control~~ Behavioral and Public Health may establish charges for
17 maintenance and medical care for all persons served in state health
18 centers and other health facilities under the jurisdiction of the
19 department and by personnel of the department and of the health
20 units under its jurisdiction in homes and any other places where
21 health services are needed. The terms 'medical care' and 'health
22 services' include the services of physicians, dentists, optometrists,
23 nurses, sanitarians, physical therapists, medical social workers,
24 occupational therapists, health aides, speech therapists, X-ray
25 technologists, dietitians, nutritionists, laboratory technicians, and
26 other professional and subprofessional health workers. The charges,
27 which may be adjusted from time to time, ~~shall~~ must be reasonable
28 and based on the total costs of the services rendered, including
29 operating costs, depreciation costs, and all other elements of costs.

30

31 Section 44-1-190. The Department of ~~Health and Environmental~~
32 ~~Control~~ Behavioral and Public Health shall make such
33 investigations as it deems necessary to determine which persons or
34 which of the parents, guardians, trustees, committees, or other
35 persons or agencies legally responsible therefor are financially able
36 to pay the expenses of the care and treatment, and may contract with
37 any person or agency for the care and treatment of any person to the
38 extent permitted by the resources available to the department. The
39 department may require any county or state agency to furnish
40 information which would be helpful to it in making the
41 investigations. In arriving at the amount to be charged, the
42 department shall have due regard for the financial condition and
43 estate of the person, his present and future needs and the present and

1 future needs of his lawful dependents, and whenever considered
2 necessary to protect him or his dependents, may agree to accept a
3 sum less than the actual cost of services. ~~No~~ A person shall may not
4 be deprived of available health services solely because of inability
5 to pay. ~~No fees shall~~ A fee must not be charged for services which
6 in the judgment of the department should be made freely available
7 in order to protect and promote the public health.

8
9 Section 44-1-200. The Department of ~~Health and Environmental~~
10 ~~Control~~ Behavioral and Public Health may provide home health
11 services to those persons living in areas of the State in which
12 adequate home health services are not available and may charge fees
13 for such services. Home health services ~~shall~~ must include care of
14 the ill and disabled rendered at home including, but not limited to,
15 bedside care, treatment, and rehabilitation services. In order that it
16 may provide such services, the department may employ the
17 necessary personnel, including nurses, physical therapists, speech
18 therapists, occupational therapists, medical social workers, home
19 health aides, nutritionists, and supervisory personnel, and may
20 purchase equipment and materials necessary to maintain an
21 effective program. The department shall, wherever possible, assist
22 and advise nonprofit agencies or associations in the development of
23 home health services programs and may enter into agreements with
24 such agencies or associations specifying the type of assistance and
25 advice it will provide.

26
27 Section 44-1-210. All fees and charges collected pursuant to
28 Sections 44-1-180 to 44-1-200, including vital statistics fees as now
29 provided by law, shall be deposited in the State Treasury and shall
30 be used in the operation of the public health program of the bureau,
31 division, district health unit, or local county health department
32 which performed the services for which the fees and charges were
33 collected. An annual report shall be made to the State Fiscal
34 Accountability Authority, Executive Budget Office and the
35 Revenue and Fiscal Affairs Office of the receipts and expenditures
36 made under the provisions of Sections 44-1-180 to 44-1-200.

37
38 Section 44-1-215. Notwithstanding Section 13-7-85, the
39 Department of ~~Health and Environmental Control~~ Behavioral and
40 Public Health may retain all funds generated in excess of those funds
41 remitted to the general fund in ~~fiscal year~~ Fiscal Year 2000-2001
42 from fees listed in Regulation R61-64 Title B.

43

1 Section 44-1-220. All skilled and intermediate care nursing
2 facilities licensed by the Department of ~~Health and Environmental~~
3 ~~Control~~ Behavioral and Public Health must be required to
4 furnish an item-by-item billing for all charges to the patient or the
5 person paying ~~such~~ the bill, upon request by ~~such~~ the patient or
6 person. Items which remain unpaid are not required to be itemized
7 again. ~~Such requests~~ A request for itemized billing ~~shall remain~~
8 remains in effect until further notification by the patient or person
9 paying ~~such~~ the bill. Provided, that the provision herein ~~shall~~ does
10 not apply to the contracted amount of a state or federal agency. Any
11 amount above ~~such~~ a contract ~~shall~~ must be itemized as provided
12 herein.

13
14 Section 44-1-230. The Department of ~~Health and Environmental~~
15 ~~Control~~ Behavioral and Public Health shall give consideration to
16 any benefits available to an individual, including private, group, or
17 other insurance benefits, to meet, in whole or in part, the cost of any
18 medical or health services. ~~Such benefits shall~~ Benefits must be
19 utilized insofar as possible; provided, however, the availability of
20 ~~such~~ benefits ~~shall~~ must not be the sole basis for determining
21 eligibility for program services of the department. Insurance carriers
22 ~~shall~~ must not deny payment of benefits otherwise available to the
23 insured solely on the basis that an individual has applied for, or has
24 been deemed eligible to receive, or has received, services, or on the
25 basis that payments have been made for services by the department.

26
27 Section 44-1-260. Upon conducting an early periodic screening,
28 diagnosis, and treatment screening (EPSDT), or another physical
29 examination of a child from which it is determined that the child
30 may benefit from the use of assistive technology, the department or
31 person conducting the screening or examination may refer the child
32 to an appropriate agency for an assistive technology evaluation. For
33 purposes of this section, 'assistive technology' means a device or
34 service which is used to increase, maintain, or improve the
35 functional capacities of an individual with a disability. An 'assistive
36 technology device' is means an item, piece of equipment, or product
37 system, whether acquired commercially, off the shelf, modified, or
38 customized that is used to increase, maintain, or improve the
39 functional capacities of an individual with a disability including, but
40 not limited to, aids for daily living, augmentative communication
41 devices, wheelchairs, and mobility aids, seating and positioning
42 aids, computer aids, environmental controls, home and workplace
43 modifications, prosthetics and orthotics, or aids for vision or hearing

1 impairments. An 'assistive technology service' is means a service
2 that directly assists an individual with a disability in the selection,
3 acquisition, or use of an assistive technology device.

4 ~~Section 44-1-280. The Board and Department of Health and~~
5 ~~Environmental Control Department of Behavioral and Public Health~~
6 in establishing priorities and funding for programs and services
7 which impact on children and families during the first years of a
8 child's life, within the powers and duties granted to it, must support,
9 as appropriate, the South Carolina First Steps to School Readiness
10 initiative, as established in ~~Title 59, Chapter 152~~ Chapter 152, Title
11 59, at the state and local levels.

12
13 ~~Section 44-1-290. A corporation or person whose only purpose~~
14 ~~is furnishing, supplying, marketing, or selling treated effluent for~~
15 ~~irrigation purposes, shall not be considered a public utility for~~
16 ~~purposes of Title 58 by virtue of the furnishing, supplying,~~
17 ~~marketing, or selling of the treated effluent, provided that the~~
18 ~~effluent has not been permitted for consumption by the department~~
19 ~~or other regulatory agency.~~

20
21 ~~Section 44-1-300. The department shall not use any funds~~
22 ~~appropriated or authorized to the department to enforce Regulation~~
23 ~~61-25 to the extent that its enforcement would prohibit a church or~~
24 ~~charitable organization from preparing and serving food to the~~
25 ~~public on their own premises at not more than one function a month~~
26 ~~or not more than twelve functions a year.~~

27
28 Section 44-1-310. (A) The Department of Behavioral and
29 Public Health and Environmental Control shall establish a Maternal
30 Morbidity and Mortality Review Committee to review maternal
31 deaths and to develop strategies for the prevention of maternal
32 deaths. The committee must be multidisciplinary and composed of
33 members deemed appropriate by the department. The committee
34 also may review severe maternal morbidity. The department may
35 contract with an external organization to assist in collecting,
36 analyzing, and disseminating maternal mortality information,
37 organizing and convening meetings of the committee, and
38 performing other tasks as may be incident to these activities,
39 including providing the necessary data, information, and resources
40 to ensure successful completion of the ongoing review required by
41 this section.

42 (B) The State Registrar shall provide the following necessary
43 data from death certificates of women who died within a year of

1 pregnancy to the department staff for review to assist in identifying
2 maternal death information:

- 3 (1) name;
- 4 (2) date and time of death;
- 5 (3) state and county of residence;
- 6 (4) date of birth;
- 7 (5) marital status;
- 8 (6) citizenship status;
- 9 (7) United States armed forces veteran status;
- 10 (8) educational background;
- 11 (9) race and ethnicity;
- 12 (10) date and time of injury;
- 13 (11) place of injury;
- 14 (12) location where injury occurred;
- 15 (13) place of death (facility name and/or address);
- 16 (14) manner of death;
- 17 (15) whether an autopsy was performed and findings available
18 as to the cause of death;
- 19 (16) whether tobacco contributed to death;
- 20 (17) primary and contributing causes of death.

21 (C) The State Registrar shall provide the following necessary
22 data from birth certificates or fetal death reports linked to the woman
23 for whom data from the death certificate was provided pursuant to
24 subsection (B), where available, to department staff for review to
25 assist in identifying maternal death information:

- 26 (1) medical record number;
- 27 (2) date of delivery;
- 28 (3) location of event;
- 29 (4) name of mother;
- 30 (5) mother's date of birth;
- 31 (6) mother's race and ethnicity;
- 32 (7) mother's pregnancy history;
- 33 (8) mother's height and weight;
- 34 (9) date of last normal menstrual period;
- 35 (10) date of first prenatal visit;
- 36 (11) number of prenatal visits;
- 37 (12) plurality;
- 38 (13) use of WIC during pregnancy;
- 39 (14) delivery payment method;
- 40 (15) cigarette smoking before and during pregnancy;
- 41 (16) risk factors during pregnancy;
- 42 (17) infections present or treated during pregnancy;
- 43 (18) onset of labor;

1 (19) obstetric procedures;

2 (20) characteristics of labor and delivery;

3 (21) maternal morbidity.

4 (D) The department must not disclose any information collected
5 under this section that would identify the mother or baby with
6 anyone outside the department, including the committee.
7 Identifying information includes, but may not be limited to, names,
8 addresses more specific than the county of residence, medical record
9 numbers, and dates and times of birth or death.

10 (E) The department, or its representatives, on behalf of the
11 committee, shall:

12 (1) extract necessary data elements from death certificates
13 and birth certificates or fetal death reports, as applicable, and
14 provide de-identified information to the committee for its review
15 and consideration;

16 (2) review and abstract medical records and other relevant
17 data;

18 (3) contact family members and other affected or involved
19 persons to collect additional data.

20 (F) The committee shall:

21 (1) review information and records provided by the
22 department;

23 (2) determine whether maternal death cases reviewed are
24 pregnancy related, as defined as a death within one year of the
25 pregnancy with a direct or indirect causation related to the
26 pregnancy or postpartum period;

27 (3) consult with relevant experts to evaluate the records and
28 data;

29 (4) make determinations regarding the preventability of
30 maternal deaths;

31 (5) develop recommendations for the prevention of maternal
32 deaths; and

33 (6) disseminate findings and recommendations pursuant to
34 subsection (J).

35 (G)(1) Health care providers and pharmacies licensed pursuant to
36 Title 40 shall provide reasonable access to the department and its
37 representatives, on behalf of the committee, to all relevant medical
38 records associated with a case under review by the committee.

39 (2) A health care provider, health care facility, or pharmacy
40 providing access to medical records pursuant to this subsection are
41 not liable for civil damages or subject to criminal or disciplinary
42 action for good faith efforts in providing the records.

1 (3) Coroners and law enforcement shall provide reasonable
2 access to the department and its representatives, on behalf of the
3 committee, to all relevant records associated with a case under
4 review by the committee.

5 (H)(1) Information, records, reports, statements, notes,
6 memoranda, or other data collected pursuant to this section are not
7 admissible as evidence in any action of any kind in any court or
8 before another tribunal, board, agency, or person. The information,
9 records, reports, statements, notes, memoranda, or other data must
10 not be exhibited nor their contents disclosed, in whole or in part, by
11 an officer or a representative of the department or another person,
12 except as necessary for the purpose of furthering the review of the
13 committee of the case to which they relate. A person participating
14 in a review may not disclose the information obtained except in
15 strict conformity with the review project.

16 (2) All information, records of interviews, written reports,
17 statements, notes, memoranda, or other data obtained by the
18 department, the committee, and other persons, agencies, or
19 organizations authorized by the department pursuant to this section
20 are confidential.

21 (I)(1) All proceedings and activities of the committee, opinions
22 of members of the committee formed as a result of the proceedings
23 and activities, and records obtained, created, or maintained pursuant
24 to this section, including records of interviews, written reports, and
25 statements procured by the department or another person, agency,
26 or organization acting jointly or under contract with the department
27 in connection with the requirements of this section, are confidential
28 and are not subject to the provisions of Chapter 4, Title 30 relating
29 to open meetings or public records, or subject to subpoena,
30 discovery or introduction into evidence in any civil or criminal
31 proceeding. However, this section must not be construed to limit or
32 restrict the right to discover or use in any civil or criminal
33 proceeding anything that is available from another source and
34 entirely independent of the committee's proceedings.

35 (2) Members of the committee must not be questioned in a
36 civil or criminal proceeding regarding the information presented in
37 or opinions formed as a result of a meeting or communication of the
38 committee. However, this section must not be construed to prevent
39 a member of the committee from testifying to information obtained
40 independently of the committee or which is public information.

41 (J) Reports of aggregated nonindividually identifiable data for
42 the previous calendar year must be compiled and disseminated by
43 March first of the following year in an effort to further study the

1 causes and problems associated with maternal deaths. Reports must
2 be distributed to the General Assembly, the Director of the
3 Department of Behavioral and Public Health and Environmental
4 Control, health care providers and facilities, key governmental
5 agencies, and others necessary to reduce the maternal death rate.

6 (K) Members shall serve without compensation, and are
7 ineligible for the usual mileage, subsistence, and per diem allowed
8 by law for members of state boards, committees, and commissions.

9 (L) The department shall apply for and use any available federal
10 or private monies to help fund the costs associated with
11 implementing the provisions of this section.

12
13 ~~Section 44-1-315. (A) For purposes of the section, "impacted~~
14 ~~location" means any facility issued or otherwise subject to a permit,~~
15 ~~license, or approval from the North Carolina Department of~~
16 ~~Environment and Natural Resources that has now been determined~~
17 ~~to be located within the jurisdiction of the South Carolina~~
18 ~~Department of Health and Environmental Control as a result of the~~
19 ~~amendments to Section 1-1-10, effective January 1, 2017.~~

20 ~~(B) Notwithstanding any other provision of law, the South~~
21 ~~Carolina Department of Health and Environmental Control, in~~
22 ~~issuing any environmental permit, license, or approval to an~~
23 ~~impacted location shall provide a schedule of compliance that~~
24 ~~allows the permittee a reasonable period of time to be no greater~~
25 ~~than five years to come into compliance with any South Carolina~~
26 ~~environmental rule, regulation, or standard established by the~~
27 ~~department or by law that has no corresponding rule, regulation, or~~
28 ~~standard under North Carolina law or regulation, or is more stringent~~
29 ~~than the corresponding rule, regulation, or standard established~~
30 ~~under North Carolina law or regulation. The department may~~
31 ~~include increments of progress applicable in each year of the~~
32 ~~schedule established under this subsection, and may shorten the~~
33 ~~period of compliance as necessary to prevent an imminent threat to~~
34 ~~the public health and environment. The department may extend a~~
35 ~~permittee's compliance schedule under this section beyond five~~
36 ~~years upon written application by the permittee only if the~~
37 ~~department determines that circumstances reasonably require such~~
38 ~~an extension, and the extension of time would pose no threat to~~
39 ~~public health or the environment."~~

40
41 SECTION 3. Chapter 9, Title 44 of the 1976 Code is amended to
42 read:

43

1
2
3 "CHAPTER 9
4

5
6 State Department Division of Mental Health,
7 Department of Behavioral and Public Health

8 Section 44-9-10. There is hereby created the State Department
9 Division of Mental Health within the Department of Behavioral and
10 Public Health which ~~shall have~~ has jurisdiction over all of the state's
11 mental hospitals, clinics and centers, joint state and community
12 sponsored mental health clinics and centers, and facilities for the
13 treatment and care of alcohol and drug addicts, including the
14 authority to name each facility.

15 Section 44-9-20. All the powers and duties vested in the South
16 Carolina Mental Health Commission immediately ~~prior to~~ before
17 March 26, 1964, are hereby transferred to and vested in the Division
18 of Mental Health, Department of Mental Health Behavioral and
19 Public Health. All records, files, and other papers belonging to the
20 South Carolina Mental Health Commission ~~shall~~ must be continued
21 as part of the records and files of the Department Division of Mental
22 Health, Department of Behavioral and Public Health.

23 Section 44-9-30. (A)(1) ~~There is created the governing board for~~
24 ~~the State Department of Mental Health known as the South Carolina~~
25 ~~Mental Health Commission. The commission shall consist of seven~~
26 ~~members, one from each congressional district, appointed by the~~
27 ~~Governor, upon the advice and consent of the Senate.~~

28 (2) ~~The Governor shall consider consumer and family~~
29 ~~representation when appointing members.~~

30 (B) ~~The members serve for terms of five years and until their~~
31 ~~successors are appointed and qualify. The terms of no more than~~
32 ~~two members may expire in one year. The Governor may remove a~~
33 ~~member pursuant to the provisions of Section 1-3-240. A vacancy~~
34 ~~must be filled by the Governor for the unexpired portion of the term.~~

35 (C) ~~The commission shall determine policies and promulgate~~
36 ~~regulations governing the operation of the department and the~~
37 ~~employment of professional and staff personnel.~~

38 (D) ~~The members shall receive the same subsistence, mileage,~~
39 ~~and per diem provided by law for members of state boards,~~
40 ~~committees, and commissions.~~

41
42 Section 44-9-40. The Mental Health Commission Director of the
43 Department of Behavioral and Public Health shall appoint and

1 remove a state director of Mental Health, who is chief executive of
2 the State Department of Mental Health the Director of the Division
3 of Mental Health. Subject to the supervision and control of the
4 Mental Health Commission, The state division director shall
5 administer the policies and regulations established by the
6 commission of the department. The division director must be a
7 person of proven executive and administrative ability with
8 appropriate education and substantial experience in the field of
9 mental illness treatment. The director must appoint and remove all
10 other officers and employees of the Department of Mental Health,
11 subject to the approval of the Mental Health Commission.
12

13 Section 44-9-50. The ~~Department~~ Division of Mental Health may
14 be divided into such ~~divisions~~ subdivisions as may be authorized by
15 the Director of ~~Mental Health~~ and approved by the ~~commission~~ the
16 Department of Behavioral and Public Health. One of the ~~divisions~~
17 must be a Division on Alcohol and Drug Addiction which shall have
18 primary responsibility in the State for treatment of alcohol and drug
19 addicts. One of the ~~divisions~~ subdivisions must be a ~~Division~~ the
20 Office for Long Term Care which ~~shall have~~ has primary
21 responsibility for care and treatment of elderly persons with mental
22 and physical disabilities to the extent that their needs are not met in
23 other facilities either public or private.
24

25 Section 44-9-60. The ~~director of the Department of Mental Health~~
26 Director of the Division of Mental Health may appoint a director of
27 each hospital. Each director must be knowledgeable in the treatment
28 of the mentally ill and in hospital administration. The director of
29 each hospital under the jurisdiction of the Department of ~~Mental~~
30 Health Behavioral and Public Health is responsible for the
31 employment of all personnel at the hospital, subject to the approval
32 of the director of the department. The director of the ~~department~~
33 division may serve as director of one or more hospitals or other
34 mental health facilities.
35

36 Section 44-9-70. The ~~State department of Mental Health~~
37 Department of Behavioral and Public Health is hereby designated as
38 the state's mental health authority for purposes of administering
39 federal funds allotted to South Carolina under the provisions of the
40 National Mental Health Act, as amended. The ~~State department~~
41 Division of Mental Health is further designated as the state ~~agency~~
42 entity authorized to administer minimum standards and
43 requirements for mental health clinics as conditions for participation

1 in federal-state grants-in-aid under the provisions of the National
2 Mental Health Act, as amended, and is authorized to promote and
3 develop community mental health outpatient clinics. Provided, that
4 nothing in this article shall may be construed to prohibit the
5 operation of outpatient mental health clinics by the ~~South Carolina~~
6 ~~Medical College~~ Medical University of South Carolina Hospital in
7 Charleston. ~~Provided, further, that nothing herein shall be construed~~
8 ~~to include any of the functions or responsibilities now granted the~~
9 ~~Department of Health and Environmental Control, or the~~
10 ~~administration of the State Hospital Construction Act (Hill-Burton~~
11 ~~Act), as provided in the 1976 Code of Laws and amendments~~
12 ~~thereto.~~

13
14 Section 44-9-80. Payments made to a mental health facility which
15 are derived in whole or in part from federal funds which become
16 available after June 30, 1967, and which are provided with the
17 stipulation that they be used to improve services to patients ~~shall~~ are
18 ~~not be considered fees from paying patients under the terms of Act~~
19 ~~No. 1100 of 1964 but may be utilized by the State department~~
20 Division of Mental Health to improve South Carolina's
21 comprehensive mental health program.

22
23 Section 44-9-90. ~~The commission~~ Division of Mental Health
24 shall:

25 ~~(1) form a body corporate in deed and in law with all the powers~~
26 ~~incident to corporations;~~

27 ~~(2)(1)~~ cooperate with persons in charge of penal correctional
28 institutions in this State for the purpose of providing proper care and
29 treatment for mental patients confined in ~~penal~~ these institutions
30 because of emergency;

31 ~~(3)(2)~~ inaugurate and maintain an appropriate mental health
32 education and public relations program;

33 ~~(4)(3)~~ collect statistics bearing on mental illness, drug addiction,
34 and alcoholism;

35 ~~(5)(4)~~ provide vocational training and medical treatment which
36 must tend to the mental and physical betterment of patients and
37 which is designed to lessen the increase of mental illness, drug
38 addiction, and alcoholism;

39 ~~(6)(5)~~ encourage the directors of hospitals and their medical
40 staffs in the investigation and study of these subjects and of mental
41 health treatment in general; and

42 ~~(7)(6)~~ provide a statewide system for the delivery of mental
43 health services to treat, care for, reduce, and prevent mental illness

1 and provide mental health services for citizens of this State, whether
2 or not in a hospital. The system must include services to prevent or
3 postpone the commitment or recommitment of citizens to hospitals.

4 Section 44-9-100. The ~~commission~~ Division of Mental Health
5 may:

6 (1) prescribe the form of and information to be contained in
7 applications, records, reports, and medical certificates provided for
8 under this chapter, Chapter 11, Chapter 13, Article 1 of Chapter 15,
9 Chapter 17, Chapter 22, Chapter 23, Chapter 24, Chapter 27,
10 Chapter 48, and Chapter 52;

11 (2) require reports from the director of a state hospital relating
12 to the admission, examination, diagnosis, discharge, or conditional
13 discharge of a patient;

14 (3) investigate complaints made by a patient or by a person on
15 behalf of a patient;

16 (4) adopt regulations not inconsistent with this chapter, Chapter
17 11, Chapter 13, Article 1-~~of~~, Chapter 15, Chapter 17, Chapter 22,
18 Chapter 23, Chapter 24, Chapter 27, Chapter 48, and Chapter 52 as
19 it may find to be reasonably necessary for the government of all
20 institutions over which it has authority and of state mental health
21 facilities and the proper and efficient treatment of persons with a
22 mental illness or substance abuse disorder;

23 (5) take appropriate action to initiate and develop relationships
24 and agreements with state, local, federal, and private agencies,
25 hospitals, and clinics as the ~~commission~~ director considers
26 necessary to increase and enhance the accessibility and delivery of
27 emergency and all other types of mental health services.

28
29 Section 44-9-110. The ~~Mental Health Commission~~ director may
30 accept on behalf of the Department of ~~Mental Health~~ Behavioral and
31 Public Health or any of its facilities or services, gifts, bequests,
32 devises, grants, donations of money or real and personal property of
33 whatever kind, but ~~no such a gift or grant shall~~ may not be accepted
34 upon the condition that it shall diminish an obligation due the
35 department. The ~~Commission~~ director may refuse to accept ~~any~~
36 ~~such~~ this gift or grant and the acceptance of ~~any such this~~ gift or
37 grant shall may not incur ~~any an~~ obligation on the part of the State.
38 ~~Any A~~ gift or grant given to a specific facility or service shall must
39 be used for that facility or service only, or to its successor. The
40 ~~Commission~~ department may promulgate ~~rules and~~ regulations
41 governing the disposition of ~~such these~~ gifts and grants.

42

1 Section 44-9-120. The ~~Commission~~ director shall submit an
2 annual report to the Governor ~~before the eleventh day of~~ by January
3 eleventh of each year setting forth its activities, the financial affairs,
4 and the state and condition of the state mental health facilities and
5 ~~any~~ other statistical information which is usually required of
6 facilities of the type over which it has charge. The report shall
7 include ~~any~~ recommendations ~~which~~ that in the opinion of the
8 ~~Commission~~ director will improve the mental health program of the
9 State. A copy of the report shall ~~also~~ must be submitted to the
10 General Assembly.

11
12 Section 44-9-160. ~~Wherever in~~ In the 1976 Code ~~when~~ reference
13 is made to the State Hospital, it shall ~~mean~~ means a state hospital;
14 wherever reference is made requiring the signature of the
15 superintendent of any mental health facility, it shall ~~mean~~ means the
16 director or superintendent or his designee; and wherever reference
17 is made to the State Commissioner of Mental Health, it shall ~~mean~~
18 means the State Director of the Department of Mental Health
19 Behavioral and Public Health."

20
21 SECTION 4. Chapter 49, Title 44 of the 1976 Code is amended to
22 read:

23
24 "CHAPTER 49

25
26 Department Division of Alcohol and Other Drug Abuse Services,
27 Department of Behavioral and Public Health

28
29 Section 44-49-10. (A) There is established the Department
30 Division of Alcohol and Other Drug Abuse Services within the
31 Department of Behavioral and Public Health. The ~~department shall~~
32 ~~be~~ Division of Alcohol and Other Drug Abuse Services is vested
33 with all the functions, powers, and duties, of the ~~South Carolina~~
34 ~~Commission on Alcoholism and the South Carolina Commission on~~
35 ~~Alcohol and Drug Abuse~~ Department of Alcohol and Other Drug
36 Abuse Services related to the delivery of services and shall have full
37 authority for formulating, coordinating, and administering the state
38 plans for controlling narcotics and controlled substances and alcohol
39 abuse and for providing treatment to people with alcohol and drug
40 addictions.

41 (B) All functions, powers, and duties of the former
42 commissioner of the narcotics and controlled substances section of
43 the former State Planning and Grants Division (Division of

1 Administration in the Office of the Governor) are hereby transferred
2 to the ~~department~~ division, except those powers and duties related
3 to the traffic of narcotics and controlled substances as defined in
4 Section 44-53-130 which ~~shall be~~ are vested in the State Law
5 Enforcement Division.

6 (C) All ~~rules and regulations promulgated by the commissioner~~
7 ~~of narcotics and controlled substances~~ Department of Alcohol and
8 Other Drug Abuse Services shall remain in effect until changed by
9 the ~~department~~ Department of Behavioral and Public Health.

10 (D) The ~~department~~ Department of Behavioral and Public Health
11 is authorized to establish a block grant mechanism to provide such
12 monies as may be ~~appropriated by the Legislature~~ disbursed to the
13 department for this purpose to each of the agencies designated under
14 Section 61-12-20(a). The distribution of these monies must be on a
15 per capita basis according to the most recent United States Census.
16 The agencies designated under Section 61-12-20(a) must expend
17 any funds received through this mechanism in accordance with the
18 county plans required under Section 61-12-20(b).

19 (E) The department is authorized to develop ~~such~~ rules and
20 regulations not inconsistent with the provisions of this chapter as it
21 may find to be reasonably appropriate for the government of the
22 county plans called for in Section 61-12-20(b), and the financial and
23 programmatic accountability of funds provided under this section
24 and all other funds provided by the department to agencies
25 designated under Section 61-12-20(a).

26
27 Section 44-49-20. The ~~Department~~ Division of Alcohol and
28 Other Drug Abuse Services shall must be headed by a director
29 appointed by the Governor, ~~upon the advice and consent of the~~
30 ~~Senate. The director is subject to removal by the Governor pursuant~~
31 ~~to the provisions of Section 1-3-240~~ Director of the Department of
32 Behavioral and Public Health.

33
34 Section 44-49-40. (A) The ~~department~~ division shall arrange
35 for the exchange of information between governmental officials
36 concerning the use and abuse of controlled substances.

37 (B) ~~Results, information, and evidence received from the~~
38 ~~Department of Health and Environmental Control relating to the~~
39 ~~regulatory functions of this chapter and Article 3 of Chapter 53,~~
40 ~~including results of inspections conducted by such department, may~~
41 ~~be relied upon and acted upon by the department in conformance~~
42 ~~with its administration and coordinating duties under this Chapter~~
43 ~~and Article 3 of Chapter 53.~~

1 ~~(C)~~~~(1)~~~~(B)~~ The department division shall:

2 (1) plan, coordinate and cooperate in educational programs
3 for schools, communities, and general public designed to prevent
4 and deter misuse and abuse of controlled substances;

5 (2) promote better recognition of the problems of misuse and
6 abuse of controlled substances within the regulated industry and
7 among interested groups and organizations;

8 (3) assist the regulated industry, interested groups and
9 organizations in contributing to the reduction of misuse and abuse
10 of controlled substances;

11 (4) consult with interested groups and organizations to aid
12 them in solving administrative and organizational problems;

13 (5) evaluate procedures, projects, techniques, and controls
14 conducted or proposed as part of educational programs on misuse
15 and abuse of controlled substances;

16 (6) disseminate the results of research on misuse and abuse of
17 controlled substances to promote a better public understanding of
18 what problems exist and what can be done to combat them;

19 (7) assist in the education and training of state and local law
20 enforcement officials in their efforts to control misuse and abuse of
21 controlled substances;

22 (8) encourage research on misuse and abuse of controlled
23 substances;

24 (9) cooperate in establishing methods to assess accurately the
25 effects of controlled substances and to identify and characterize
26 controlled substances with potential for abuse;

27 (10) cooperate in making studies and in undertaking programs
28 of research to:

29 (a) develop new or improved approaches, techniques,
30 systems, equipment, and devices to strengthen the enforcement of
31 this section, Sections 44-49-10, ~~44-49-40~~ and 44-49-50, and Article
32 ~~3-of~~ Chapter 53;

33 (b) determine patterns of misuse and abuse of controlled
34 substances and the social effects thereof; and

35 (c) improve methods for preventing, predicting,
36 understanding, and dealing with the misuse and abuse of controlled
37 substances.

38 ~~(D)~~~~(C)~~ The department may enter into contracts with public
39 agencies, institutions of higher education, and private organizations
40 or individuals for the purpose of conducting research,
41 demonstrations, or special projects which bear directly on misuse
42 and abuse of controlled substances.

1 ~~(E)~~(D) The department may enter into contracts for educational
2 and research activities without performance bonds.

3 ~~(F)~~(E) The department is authorized to accept gifts, bequests,
4 devises, contributions, and grants, public or private, including
5 federal funds, or funds from any other source for use in furthering
6 the purpose of the department. The department is authorized to
7 administer the grants and contracts arising from the federal program
8 entitled the Drug-Free Schools and Communities Act of 1986, P.L.
9 99-570.

10

11 Section 44-49-50. It ~~shall be~~ is the duty of all departments,
12 officers, agencies, and employees of the State to cooperate with the
13 ~~Department~~ Division of Alcohol and Other Drug Abuse Services in
14 carrying out its functions. The Attorney General shall furnish ~~such~~
15 legal services as are necessary to the division.

16

17 Section 44-49-60. The ~~department~~ division shall appoint a
18 supervisor of adult education for the prevention of alcoholism, who
19 ~~shall be~~ is responsible for activating and implementing an adequate
20 alcoholic education program for the citizens of this State above high
21 school age. The program ~~shall~~ must be designed to prevent or reduce
22 alcoholism in this State and to create a recognition and
23 understanding of the problem.

24 ~~In carrying out the provisions of this section the department and~~
25 ~~the supervisor of adult education for the prevention of alcoholism~~
26 ~~may consult and work in conjunction with groups such as~~
27 ~~Alcoholics Anonymous, the Yale Center of Alcohol Studies of Yale~~
28 ~~University, the Research Council on Problems of Alcohol of the~~
29 ~~American Association for the Advancement of Science, the South~~
30 ~~Carolina Medical Association, the department of Mental Health, the~~
31 ~~Christian Action Council, the Committee on Alcoholism of the~~
32 ~~South Carolina Conference of Social Work and other groups or~~
33 ~~agencies that are able to assist in the study, prevention, treatment~~
34 ~~and rehabilitation of alcoholics and in a scientific educational~~
35 ~~program on the problems of alcohol.~~

36

37 Section 44-49-70. The ~~department~~ division shall furnish the
38 supervisor of adult education for the prevention of alcoholism
39 adequate ways and means to accomplish an effective educational
40 program for the prevention of alcoholism in this State.

41

42 Section 44-49-80. The ~~department~~ division shall establish a
43 program to provide alcohol and drug abuse intervention, prevention,

1 and treatment services for the public schools of the State. The
2 ~~department~~ division shall provide staff and support necessary to
3 administer the program. Funds for this program must be annually
4 appropriated by the General Assembly from the Education
5 Improvement Act of 1984 Fund as it determines appropriate. The
6 appropriated funds must be forwarded to the ~~South Carolina~~
7 Department of Behavioral and Public Health for disbursal to the
8 Division of Alcohol and Other Drug Abuse Services from the
9 Education Improvement Act of 1984 Fund in the manner the State
10 Treasurer shall direct.”

11
12 SECTION 5. Chapter 11, Title 25 of the 1976 Code is amended by
13 adding:

14
15 “Article 7

16
17 South Carolina Veteran Homes

18
19 Section 25-11-710. The Department of Veterans’ Affairs, in
20 mutual agreement with the authorities of the United States Veterans
21 Administration, may establish and operate South Carolina veterans
22 homes to provide treatment for South Carolina veterans who require
23 long-term nursing care. The Department of Veterans’ Affairs is
24 designated as the agency of the State to apply for and to accept gifts,
25 grants, and other contributions from the federal government or from
26 any other governmental unit for the operation and construction of
27 South Carolina veterans homes. The Department of Veterans’
28 Affairs may consult with the Department of Behavioral and Public
29 Health and the Office of the Governor concerning the policies,
30 management, and operation of the South Carolina veterans homes.

31
32 Section 25-11-720. For the purpose of Section 25-11-710, ‘South
33 Carolina veterans’ means any ex-service South Carolina citizen who
34 was discharged under other than dishonorable conditions and who
35 served in any branch of the military or naval service of the United
36 States.”

37
38 SECTION 6.A. Section 44-11-10(1) of the 1976 Code is amended
39 to read:

40
41 “(1) those inpatient facilities as authorized by the Department
42 of ~~Mental~~ Behavioral and Public Health and funded by legislative
43 appropriations, including facilities for the evaluation and treatment

1 of mentally ill persons, facilities for the evaluation and treatment of
2 chemically dependent persons, and long-term care facilities; and”

3 B. Section 44-11-60 of the 1976 Code is amended to read:

4

5 “Section 44-11-60. The ~~Mental Health Commission~~ Department
6 of Behavioral and Public Health shall establish mental health clinics
7 throughout the State and shall supervise them.”

8

9 C. Section 44-11-70 of the 1976 Code is amended to read:

10

11 “Section 44-11-70. The Department of ~~Mental~~ Behavioral and
12 Public Health may employ law enforcement officers as may be
13 necessary to maintain the security of state mental health facilities.
14 The law enforcement officers must be vested with all the powers
15 and charged with all the duties of police officers generally. They
16 may, without warrant, arrest persons guilty of disorderly conduct or
17 of trespass on state mental health facilities and have them tried in
18 any court of competent jurisdiction.”

19

20 SECTION 7.A. Section 44-13-20 of the 1976 Code is amended to
21 read:

22

23 “Section 44-13-20. Any individual, legally a resident of this
24 State, ordered to be admitted to any mental health facility under the
25 laws of any other state, may be admitted, upon satisfactory proof of
26 residence, to care and treatment in any state mental health facility of
27 this State. The orders of any court of competent jurisdiction of
28 another state or of the District of Columbia authorizing admittance
29 of such individual to a mental health facility shall have the same
30 force and effect upon his transfer to this State as a lawful order of
31 any court of competent jurisdiction in this State. A certified copy of
32 such order shall be furnished the Department of ~~Mental~~ Behavioral
33 and Public Health prior to the issuance by the department of ~~Mental~~
34 ~~Health~~ of any authorization of transfer of such patient. Jurisdiction
35 in all further matters relating to such mentally ill person shall vest
36 in the judge of probate of the county in which the mental health
37 facility, to which such person is admitted, is located, during his
38 confinement therein, or the judge of probate of the county in which
39 he is legally resident.”

40

41 B. Section 44-13-30 of the 1976 Code is amended to read:

42

1 "Section 44-13-30. Unless he was admitted pursuant to the
2 Interstate Compact on Mental Health as set out in Section 44-25-20
3 or a supplementary agreement thereto, if any person admitted to a
4 State mental health facility is not a citizen of this State, the
5 superintendent of the facility concerned shall immediately notify the
6 Department of Mental Behavioral and Public Health, and the
7 department of ~~Mental Health~~ shall notify the mental health
8 commission or other appropriate agency of the state of which the
9 patient or trainee is a citizen. If the state of his citizenship fails to
10 provide for his removal within a reasonable time, the department of
11 ~~Mental Health~~ shall cause him to be delivered to the officials
12 authorized by law to care for similar persons pending their
13 commitment to state institutions of the state of his citizenship. The
14 cost of these proceedings and conveyance from this State shall be
15 borne by this State under reciprocity agreements made by the
16 department of ~~Mental Health~~ with the mental health authorities of
17 other states. In entering upon such reciprocal agreements with other
18 states, the department of ~~Mental Health~~ shall provide that the
19 requirements necessary to gain residence in this State shall not be
20 less than those required for the acquisition of residence in the other
21 contracting state. The department of ~~Mental Health~~ may, however,
22 in cases of undue hardship waive the requirements of residence, for
23 cause."

24
25 C. Section 44-13-40 of the 1976 Code is amended to read:
26

27 "Section 44-13-40. If any person admitted to a State mental
28 health facility is not a citizen of the United States, the superintendent
29 of the facility concerned shall immediately notify the Department of
30 Mental Behavioral and Public Health of the name of the person and
31 all ascertainable information as to race, nativity, date of last arrival
32 in the United States, the name of the vessel on which he arrived, the
33 port at which he landed and the name of the transporting company.
34 The department of ~~Mental Health~~ shall transmit this information to
35 the appropriate United States authorities and shall continue to
36 provide care and treatment for the patient or trainee pending
37 arrangements for his deportation."
38

39 D. Section 44-13-60 of the 1976 Code is amended to read:
40

41 "Section 44-13-60. The Department of Mental Behavioral and
42 Public Health shall investigate the case of each patient or trainee in
43 a State mental health facility who is simply mentally or physically

1 infirm or who is a harmless mental defective or harmless epileptic.
2 When, in the opinion of the department of ~~Mental Health~~, the
3 family, guardian, trustee, committee or other person legally
4 responsible for the person is financially able to provide for his care,
5 it shall, when in the opinion of the department of ~~Mental Health~~ this
6 is advisable, transfer the patient or trainee to the custody of that
7 person. If all persons legally responsible for the patient or trainee
8 are financially unable to provide for his care, the department of
9 ~~Mental Health~~ shall, when practicable, transfer the custody of the
10 person to the county health authorities of the county of which the
11 patient or trainee was a resident prior to admittance.”

12
13 SECTION 8.A. Section 44-15-10 of the 1976 Code is amended to
14 read:

15
16 “Section 44-15-10. Any county, city, town, political subdivision,
17 or any combination thereof, of over one hundred thousand
18 population, and upon consent of the South Carolina Department of
19 Mental Behavioral and Public Health, any city, county, town, or
20 political subdivision, or combination thereof, with less than one
21 hundred thousand population, may establish a community mental
22 health services program and may establish clinics and staff them
23 with persons specially trained in psychiatry and related fields. Such
24 programs and clinics may be administered by a county, city, town,
25 political subdivision or nonprofit corporation or a community
26 mental health board established pursuant to this article.”

27
28 B. The undesignated, introductory paragraph of Section 44-15-20 of
29 the 1976 Code is amended to read:

30
31 “The Department of ~~Mental~~ Behavioral and Public Health may,
32 when funds are available for such purposes, make grants to assist
33 counties, cities, towns, political subdivisions or any combinations
34 thereof, or any nonprofit corporation, in the establishment and
35 operation of local mental health programs to provide the following
36 services:”

37
38 C. Section 44-15-30 of the 1976 Code is amended to read:

39
40 “Section 44-15-30. Any county, city, town, political subdivision,
41 nonprofit corporation or community mental health board
42 administering a mental health services program may apply for the
43 assistance provided by this article by submitting annually to the

1 Department of Mental Behavioral and Public Health its plan and
2 budget for the next fiscal year together with the recommendations
3 of the community mental health board. No program shall be eligible
4 for such assistance unless its plan and budget have been approved
5 by the department.”

6

7 D. Section 44-15-60 of the 1976 Code is amended to read:

8

9 “Section 44-15-60. Every county, city, town, or political
10 subdivision, or combination of them, establishing a community
11 mental health services program, before it may come within this
12 article, shall establish a community mental health board to be made
13 up of not less than seven nor more than fifteen members.
14 Membership of the boards, so far as may be practicable, must be
15 representatives of local health departments, medical societies,
16 county welfare boards, hospital boards, and lay associations
17 concerned with mental health as well as labor, business, and civic
18 groups, and the general public. At least one member of the board
19 must be a medical doctor licensed to practice medicine in this State.
20 The members must be appointed by the Governor upon the
21 recommendation of a majority of the members of the legislative
22 delegations of the counties participating. The legislative delegations
23 and the Governor shall consider consumer and family
24 representation, including parents of emotionally disturbed children
25 and adolescents, when recommending and appointing members to
26 the board. By resolution a county legislative delegation may
27 delegate to the governing body of the county they represent the
28 authority to recommend board members to the Governor. The
29 resolution is not revocable, and copies of the resolution must be sent
30 to the Governor, the Department of Mental Behavioral and Public
31 Health, and the governing bodies of the counties concerned. The
32 number of members representing each county must be proportional
33 to its population. The term of office of each member of the
34 community mental health board is four years and until the member’s
35 successor is appointed. Vacancies must be filled for the unexpired
36 term in the same manner as original appointments. A member of a
37 board may be removed by the Governor pursuant to the provisions
38 of Section 1-3-240. A person may serve consecutive terms.”

39

40 E. The undesignated, introductory paragraph of Section 44-15-70 of
41 the 1976 Code is amended to read:

42

1 "Subject to the provisions of this article and the rules and
2 regulations of the Department of Mental Behavioral and Public
3 Health, each community mental health board shall:"

4
5 F. 1. The undesignated, introductory paragraph of Section 44-15-80
6 of the 1976 Code is amended to read:

7
8 "Section 44-15-80. In addition to the powers and duties already
9 conferred by law, the Department of Mental Behavioral and Public
10 Health shall:"

11
12 2. Section 44-15-80(8) of the 1976 Code is amended to read:

13
14 "(8) Employ personnel, certified by the merit system as classified
15 according to existing job classifications, including a State Director
16 of Community Mental Health Services, to be under the supervision
17 of the director of the department of Mental Health, to implement the
18 provisions of this article."

19
20 G. Section 44-15-90 of the 1976 Code is amended to read:

21
22 "Section 44-15-90. If any balances of appropriations for the
23 program authorized by this article are unexpended during any fiscal
24 year, the Department of Mental Behavioral and Public Health may
25 carry such balances forward to the next fiscal year; provided, that
26 not more than five per cent of the amount appropriated during any
27 fiscal year shall be carried forward."

28
29 SECTION 9.A. Section 44-17-450 of the 1976 Code is amended to
30 read:

31
32 "Section 44-17-450. The Department of Mental Behavioral and
33 Public Health, in conjunction with its local mental health centers
34 acting as the preadmission facilities, must develop and maintain a
35 preadmission screening and evaluation service for all psychiatric
36 emergencies at the local community level utilizing available local
37 resources for mentally ill persons. The preadmission screening
38 services must act as the public mental health system's entry point in
39 order (1) to provide to the examining physician information about
40 accessible crisis intervention, evaluation, and referral services in the
41 community; (2) to offer to mentally ill persons clinically appropriate
42 alternatives to inpatient care, if any; and when necessary (3) to
43 provide a means for involuntary commitment."

1

2 B. Section 44-17-460 of the 1976 Code is amended to read:

3

4 "Section 44-17-460. Prior to the emergency admission of any
5 person to a psychiatric facility of the Department of Mental
6 Behavioral and Public Health, the person must be examined by a
7 licensed physician. The physician must inform the mental health
8 center in the county where the person resides or where the
9 examination takes place of the mental and physical treatment needs
10 of the patient. The physician must consult with the center regarding
11 the commitment/admission process and the available treatment
12 options and alternatives in lieu of hospitalization at a state
13 psychiatric facility.

14 The examining physician must complete a statement that he has
15 consulted with the local mental health center prior to the admission
16 of the person to a state psychiatric facility. If the physician does not
17 consult with the center, he must state a clinical reason for his failure
18 to do so. The statement must accompany the physician's certificate
19 and written application for emergency commitment. The
20 department, in its discretion, may refuse to admit a patient to its
21 facility if the physician fails to complete the statement required by
22 this section."

23

24 C. Section 44-17-580(A)(2) of the 1976 Code is amended to read:

25

26 "(2) there is a likelihood of serious harm to himself or others, the
27 court shall order in-patient or out-patient treatment at a mental
28 health facility, public or private, designated by the Department of
29 Mental Behavioral and Public Health and may order out-patient
30 treatment following in-patient treatment. If the court finds that the
31 person is not mentally ill and not in need of involuntary treatment,
32 the court shall dismiss the proceedings."

33

34 D. Section 44-17-860 of the 1976 Code is amended to read:

35

36 "Section 44-17-860. It shall be unlawful for any person, without
37 prior authorization from the patient's attending physician, to take or
38 cause to be taken any patient away from the grounds of any facility
39 under the jurisdiction of the Department of Mental Behavioral and
40 Public Health. Any person violating the provisions of this section
41 shall be fined in a sum of not more than one thousand dollars or
42 imprisoned for not exceeding one year, or both."

43

1 E. Section 44-17-865 of the 1976 Code is amended to read:

2

3 “Section 44-17-865. If any person involuntarily committed to a
4 facility under the jurisdiction of the Department of ~~Mental~~
5 Behavioral and Public Health is absent without proper authorization,
6 the department shall immediately notify by telephone the
7 appropriate state and local law enforcement officials of such
8 absence. Such notice shall also be confirmed in writing and mailed
9 to such law enforcement officials within twenty-four hours after the
10 absence is discovered.”

11

12 F. Section 44-17-870 of the 1976 Code is amended to read:

13

14 “Section 44-17-870. If a patient involuntarily committed to a
15 facility under the jurisdiction of the State Department of ~~Mental~~
16 Behavioral and Public Health is absent without proper authorization,
17 a state or local law enforcement officer or employee of the
18 department appointed pursuant to Section 44-11-70, upon the
19 request of the facility superintendent or director or a designee and
20 without the necessity of a warrant or a court order, may take the
21 patient into custody and return the patient to a facility designated by
22 the department. No person may be reconfined pursuant to this
23 section after being continuously absent from the jurisdiction of the
24 department for at least one year unless criminal charges are still
25 pending against the patient or unless he was committed to a facility
26 of the department pursuant to Chapter 24, Title 17.”

27

28 SECTION 10.A. Section 44-22-10(2) and (4) of the 1976 Code is
29 amended to read:

30

31 “(2) ‘Director’ means the Director of the Department of ~~Mental~~
32 Behavioral and Public Health.

33

34 (4) ‘Department’ means the State Department of ~~Mental~~
35 Behavioral and Public Health.”

36

37 B. Section 44-22-110(C) of the 1976 Code is amended to read:

38

39 “(C) Patients and guardians denied access to medical records may
40 appeal the refusal to the Director of the Department of ~~Mental~~
41 Behavioral and Public Health. The director of the residential
42 program shall notify the patient or guardian of the right to appeal.”

43

1 SECTION 11.A. Section 44-23-10(3) and (5) of the 1976 Code is
2 amended to read:

3 “(3) ‘Department’ means the South Carolina Department of
4 Mental Behavioral and Public Health.

5
6 (5) ‘Director’ means the Director of the South Carolina
7 Department of Mental Behavioral and Public Health.”

8
9 B. Section 44-23-210 of the 1976 Code is amended to read:

10
11 “Section 44-23-210. A person confined in a state institution or a
12 person confined in a state or private mental health or intellectual
13 disability facility may be transferred to another mental health or
14 intellectual disability facility if:

15 (1) the director of a state institution not under the jurisdiction of
16 the Department of Behavioral and Public Health’s Division of
17 Mental Health requests the admission of a person confined there to
18 a state mental health facility if the person is suspected of having a
19 mental illness. If after full examination by two designated
20 examiners, one of whom must be a licensed physician, the director
21 of the mental health facility is of the opinion that the person has a
22 mental illness, the director shall notify the director of the institution
23 or the facility to which the person was admitted who shall
24 commence proceedings pursuant to Sections 44-17-510 through
25 44-17-610;

26 (2) the director of a facility in which the patient resides
27 determines that it would be consistent with the medical needs of the
28 person, the ~~department~~ Division of Mental Health may transfer or
29 authorize the transfer of the patient from one facility to another. If
30 the transfer is from a less restricted facility to a substantially more
31 secure facility and the patient objects to the transfer, a hearing to
32 give the patient a reasonable opportunity to contest the transfer must
33 be held pursuant to Sections 44-17-540 through 44-17-570. When a
34 patient is transferred, written notice must be given to the patient’s
35 legal guardian, attorney, parents, or spouse or, if none be known, to
36 the patient’s nearest known relative or friend. This section may not
37 be construed to apply to transfers of a patient within a mental health
38 facility; or

39 (3) the legal guardian, parent, spouse, relative, or friend of an
40 involuntary patient submits a request for the transfer of the patient
41 from one ~~department~~ Division of Mental Health facility to another
42 and the reasons for desiring the transfer and unless the ~~department~~
43 Division of Mental Health reasonably determines that it would be

1 inconsistent with the medical needs of the person, the transfer must
2 be made. If the transfer is from a less restricted to a substantially
3 more secure facility, item (2) governs.”

4
5 C. Section 44-23-220 of the 1976 Code is amended to read:

6
7 “Section 44-23-220. No person who is mentally ill or who has
8 an intellectual disability shall be confined for safekeeping in any
9 jail. If it appears to the officer in charge of the jail that such a person
10 is in prison, he shall immediately cause the person to be examined
11 by two examiners designated by the Department of Behavioral and
12 Public Health’s Division of Mental Health or the Department of
13 Disabilities and Special Needs, or both, and if in their opinion
14 admission to a mental health or intellectual disability facility is
15 warranted, the officer in charge of the jail shall commence
16 proceedings pursuant to Sections 44-17-510 through 44-17-610, or
17 Section 44-21-90. If hospitalization is ordered, the person shall be
18 discharged from the custody of the officer in charge of the jail and
19 shall be admitted to an appropriate mental health or intellectual
20 disability facility.”

21
22 D. Section 44-23-410 of the 1976 Code is amended to read:

23
24 “Section 44-23-410. (A) Whenever a judge of the circuit court
25 or family court has reason to believe that a person on trial before
26 him, charged with the commission of a criminal offense or civil
27 contempt, is not fit to stand trial because the person lacks the
28 capacity to understand the proceedings against him or to assist in his
29 own defense as a result of a lack of mental capacity, the judge shall:

30 (1) order examination of the person by two examiners
31 designated by the Department of Behavioral and Public Health’s
32 Division of Mental Health if the person is suspected of having a
33 mental illness or designated by the Department of Disabilities and
34 Special Needs if the person is suspected of having intellectual
35 disability or having a related disability or by both sets of examiners
36 if the person is suspected of having both mental illness and
37 intellectual disability or a related disability. The examination must
38 be made within thirty days after the receipt of the court’s order and
39 may be conducted in any suitable place unless otherwise designated
40 by the court; or

41 (2) order the person committed for examination and
42 observation to an appropriate facility of the ~~Department~~ Division of

1 Mental Health or the Department of Disabilities and Special Needs
2 for a period not to exceed fifteen days.

3 (B) Before the expiration of the examination period or the
4 examination and observation period, the ~~Department~~ Division of
5 Mental Health or the Department of Disabilities and Special Needs,
6 as appropriate, may apply to a judge designated by the Chief Justice
7 of the South Carolina Supreme Court for an extension of time up to
8 fifteen days to complete the examination or the examination and
9 observation.

10 (C) If the person or the person's counsel requests, the court may
11 authorize the person to be examined additionally by a designated
12 examiner of the person's choice. However, the court may prescribe
13 the time and conditions under which the independent examination
14 is conducted.

15 (D) If the examiners designated by the ~~Department~~ Division of
16 Mental Health find indications of intellectual disability or a related
17 disability but not mental illness, the ~~department~~ division shall not
18 render an evaluation on the person's mental capacity, but shall
19 inform the court that the person is 'not mentally ill' and recommend
20 that the person should be evaluated for competency to stand trial by
21 the Department of Disabilities and Special Needs. If the examiners
22 designated by the Department of Disabilities and Special Needs find
23 indications of mental illness but not intellectual disability or a
24 related disability, the department shall not render an evaluation on
25 the person's mental capacity, but shall inform the court that the
26 person does 'not have intellectual disability or a related disability'
27 and recommend that the person should be evaluated for competency
28 to stand trial by the ~~Department~~ Division of Mental Health. If either
29 the ~~Department~~ Division of Mental Health or the Department of
30 Disabilities and Special Needs finds a preliminary indication of a
31 dual diagnosis of mental illness and intellectual disability or a
32 related disability, this preliminary finding must be reported to the
33 court with the recommendation that one examiner from the
34 ~~Department~~ Division of Mental Health and one examiner from the
35 Department of Disabilities and Special Needs be designated to
36 further evaluate the person and render a final report on the person's
37 mental capacity."
38

39 E. Section 44-23-1080 of the 1976 Code is amended to read:
40

41 "Section 44-23-1080. No patient or prisoner under the
42 jurisdiction of the ~~South Carolina~~ Department of Behavioral and
43 Public Health's Division of Mental Health is allowed access to

1 alcoholic beverages, firearms, dangerous weapons, or controlled
2 substances as defined by Section 44-53-110. Any person who
3 intentionally or negligently allows patients or prisoners of the
4 department access to these items or who attempts to furnish these
5 items to patients or prisoners of the department is guilty:

6 (1) in the case of alcoholic beverages or controlled substances,
7 of a misdemeanor and, upon conviction, must be punished by a fine
8 of not less than one hundred dollars nor more than ten thousand
9 dollars or imprisonment for not less than thirty days nor more than
10 ten years, or both; and

11 (2) in the case of firearms or dangerous weapons, of a felony
12 and, upon conviction, must be punished by a fine of not less than
13 one thousand dollars nor more than ten thousand dollars or
14 imprisonment for not less than one year nor more than ten years, or
15 both.”

16
17 F. Section 44-23-1110 of the 1976 Code is amended to read:
18

19 “Section 44-23-1110. The Department of Behavioral and Public
20 Health’s Division of Mental Health shall establish the charges for
21 maintenance and medical care for patients, other than beneficiary,
22 of State mental health facilities. These charges shall be based upon
23 the per capita costs per day of the services rendered, which may
24 include costs of operation, costs of depreciation, and all other
25 elements of cost, which may be adjusted from time to time as the
26 ~~department of Mental Health~~ division considers advisable. It shall
27 establish a reasonable scale of fees to be charged patients, other than
28 beneficiary, served by the mental health clinics and shall retain these
29 fees for use in defraying the expenses of the clinics.”
30

31 G. Section 44-23-1120 of the 1976 Code is amended to read:
32

33 “Section 44-23-1120. Upon the death of a person who is or has
34 been a patient or trainee of a State mental health facility the executor
35 or administrator and the judge of probate shall notify the
36 Department of Behavioral and Public Health’s Division of Mental
37 Health in writing. If the decedent was cared for at the expense of the
38 State during his confinement, the ~~department of Mental Health~~
39 division shall present a claim for the amount due, and this claim
40 shall be allowed and paid as other lawful claims against the estate.
41 The ~~department of Mental Health~~ division may waive the
42 presentation of any claim when, in its opinion, an otherwise
43 dependent person would be directly benefited by waiver.”

1

2 H. Section 44-23-1130 of the 1976 Code is amended to read:

3 “Section 44-23-1130. The Department of Behavioral and Public
4 Health’s Division of Mental Health shall make investigations and
5 ascertain which of the patients or trainees of State mental health
6 facilities or which of the parents, guardians, trustees, committees or
7 other persons legally responsible therefor are financially able to pay
8 the expenses of the care and treatment, and it may contract with any
9 of these persons for a patient’s or trainee’s care and treatment. The
10 ~~department of Mental Health~~ division may require any county or
11 State agency which might have or might be able to obtain
12 information which would be helpful to it in making this
13 investigation to furnish this information upon request. In arriving at
14 the amount to be paid the ~~department of Mental Health~~ division shall
15 have due regard for the financial condition and estate of the patient
16 or trainee, his present and future needs and the present and future
17 needs of his lawful dependents, and whenever considered necessary
18 to protect him or his dependents may agree to accept a monthly sum
19 less than the actual per capita cost.”

20

21 I. Section 44-23-1140 of the 1976 Code is amended to read:

22

23 “Section 44-23-1140. There is hereby created a general lien upon
24 the real and personal property of any person who is receiving or who
25 has received care or treatment in a State mental health facility, to the
26 extent of the total expense to the State in providing the care, training
27 or treatment. The Department of Behavioral and Public Health’s
28 Division of Mental Health shall send to the clerk of court or the
29 register of deeds in those counties having such officer and the judge
30 of probate of the county of the patient’s or trainee’s known or last
31 known residence a statement showing the name of the patient or
32 trainee and the date upon which the lien attaches, which shall be
33 filed in the offices of the clerk of court or the register of deeds in
34 those counties having such officer and the judge of probate in each
35 county in which the patient or trainee then owns or thereafter
36 acquires property, real or personal, and no charge shall be made for
37 this filing. From the time of filing in either office, the statement shall
38 constitute due notice of the lien against all property then owned or
39 thereafter acquired by the patient or trainee. No action to enforce the
40 lien may be brought more than one year after the patient’s or
41 trainee’s death. This lien shall in no way affect the right of
42 homestead.”

43

1 SECTION 12. Section 44-24-10(7) of the 1976 Code is amended
2 to read:

3 “(7) ‘Department’ means the State Department of ~~Mental~~
4 Behavioral and Public Health.”

5
6 SECTION 13. Section 44-25-30 of the 1976 Code is amended to
7 read:

8
9 “Section 44-25-30. Pursuant to the compact, the ~~State~~ Directors
10 of the ~~Departments~~ Division of Mental Health and Department of
11 Disabilities and Special Needs shall be the compact administrators
12 for the mentally ill and persons with intellectual disability, or those
13 with a related disability, respectively, and, acting jointly with like
14 officers of other party states, shall have power to promulgate ~~rules~~
15 and regulations to carry out more effectively the terms of the
16 compact. The compact administrators shall cooperate with all
17 departments, agencies and officers of and in the government of this
18 State and its subdivisions in facilitating the proper administration of
19 the compact and any supplementary agreement or agreements
20 entered into by this State and thereunder.”

21
22 SECTION 14.A. Section 44-27-10 of the 1976 Code is amended
23 to read:

24
25 “Section 44-27-10. When the individual is admitted to any
26 institution operated by any agency of the United States within or
27 without this State, he shall be subject to the rules and regulations of
28 the agency. The superintendent of any institution operated by the
29 agency and in which the individual is confined shall, with respect to
30 the individual, be vested with the same powers as the
31 superintendents of institutions or the Department of ~~Mental~~
32 Behavioral and Public Health within this State with respect to
33 detention, custody, transfer, conditional discharge or discharge of
34 patients.”

35
36 B. Section 44-27-30 of the 1976 Code is amended to read:

37
38 “Section 44-27-30. Upon receipt of a certificate of an agency of
39 the United States that facilities are available for the care or treatment
40 of any individual confined pursuant to law in any State mental health
41 facility and that such individual is eligible for care or treatment in
42 an institution of the agency, the Department of ~~Mental~~ Behavioral
43 and Public Health may cause his transfer to the agency of the United

1 States for confinement. Upon effecting the transfer, the court
2 ordering confinement, the legal guardian, spouse and parents or, if
3 none be known, his nearest known relative or friend shall be notified
4 thereof immediately by the department of Mental Health. No person
5 shall be transferred to an agency of the United States if he be
6 confined pursuant to conviction of any felony or misdemeanor or if
7 he has been acquitted of the charge solely on the ground of mental
8 illness unless prior to transfer the court originally ordering his
9 confinement shall enter an order for transfer after appropriate
10 motion and hearing. Any person transferred as provided in this
11 section to an agency of the United States shall be deemed to be
12 confined by the agency pursuant to the original order of
13 confinement.”

14
15 SECTION 15.A. Section 44-28-20 of the 1976 Code is amended
16 to read:

17
18 “Section 44-28-20. For the purpose of this chapter ‘a
19 self-sufficiency trust’ means a trust created by a nonprofit
20 corporation exempt from federal income taxes pursuant to Section
21 501(c)(3) of the Internal Revenue Code of 1986 and organized for
22 purposes of providing care or treatment of one or more
23 developmentally disabled, mentally ill, or physically handicapped
24 persons eligible for services of the South Carolina Department of
25 Disabilities and Special Needs, ~~State Department~~ the Department of
26 Behavioral and Public Health’s Division of Mental Health, or the
27 State Agency of Vocational Rehabilitation.”

28
29 B. Section 44-28-40 of the 1976 Code is amended to read:

30
31 “Section 44-28-40. (A) The South Carolina Department of
32 Disabilities and Special Needs, ~~State Department~~ the Department of
33 Behavioral and Public Health’s Division of Mental Health, or the
34 State Agency of Vocational Rehabilitation must provide care or
35 treatment for a beneficiary from monies available from the
36 beneficiary’s account maintained in the Self-Sufficiency Trust
37 Fund.

38 (B) Upon proper certification by the South Carolina Department
39 of Disabilities and Special Needs, the ~~State Department~~ of
40 Behavioral and Public Health’s Division of Mental Health, or the
41 State Agency of Vocational Rehabilitation, the State Treasurer shall
42 process vouchers from the Self-Sufficiency Trust Fund accounts for
43 services provided pursuant to this section.”

1

2 C. Section 44-28-60 of the 1976 Code is amended to read:

3 "Section 44-28-60. If the State Treasurer after consultation with
4 the South Carolina Department of Disabilities and Special Needs,
5 the State Department of Behavioral and Public Health's Division of
6 Mental Health, or the State Agency of Vocational Rehabilitation
7 determines that the money in the account of a named beneficiary
8 cannot be used for supplemental care or treatment of the beneficiary
9 in a manner consistent with the agreement or upon request of the
10 trustee of the self-sufficiency trust, the remaining money in the
11 account and any accumulated interest promptly must be returned to
12 the self-sufficiency trust which deposited the money in the
13 Self-Sufficiency Trust Fund."

14

15 D. Section 44-28-80 of the 1976 Code is amended to read:

16

17 "Section 44-28-80. The South Carolina Department of
18 Disabilities and Special Needs, the State Department of Behavioral
19 and Public Health's Division of Mental Health, and the State
20 Agency of Vocational Rehabilitation shall promulgate regulations
21 necessary for the implementation and administration of the
22 Self-Sufficiency Trust Fund."

23

24 E. Section 44-28-360 of the 1976 Code is amended to read:

25

26 "Section 44-28-360. The South Carolina Department of
27 Disabilities and Special Needs, ~~State Department~~ the Department of
28 Behavioral and Public Health's Division of Mental Health, or the
29 State Agency of Vocational Rehabilitation must provide care or
30 treatment for the beneficiary from monies available from the
31 Disability Trust Fund. These agencies are responsible only for the
32 beneficiaries that meet their individual eligibility criteria."

33

34 F. Section 44-28-370 of the 1976 Code is amended to read:

35

36 "Section 44-28-370. The South Carolina Department of
37 Disabilities and Special Needs, the State Department of Behavioral
38 and Public Health's Division of Mental Health, and the State
39 Department of Vocational Rehabilitation shall promulgate
40 regulations necessary for the implementation and administration of
41 the Disability Trust Fund."

42

1 SECTION 16. Chapter 3, Title 49 of the 1976 Code is amended
2 to read:

3
4 "CHAPTER 3

5 ~~Water Resources Planning and Coordination Act~~ Department of
6 Environmental Services
7

8 ~~Section 49-3-10. This chapter may be cited as the South Carolina~~
9 ~~Water Resources Planning and Coordination Act.~~

10 ~~Section 49-3-20. As used in this chapter:~~

11 ~~(1) 'Board' means the governing body of the Department of~~
12 ~~Natural Resources.~~

13 ~~(2) 'Department' means the Department of Natural Resources.~~

14 ~~Section 49-3-30. The former Water Resources Commission~~
15 ~~without its regulatory functions is hereby transferred to the Water~~
16 ~~Resources Division of the Department of Natural Resources and is~~
17 ~~directly accountable to and subject to the board of the Department~~
18 ~~of Natural Resources. The Water Resources Division shall be~~
19 ~~directly accountable to and subject to the Department of Natural~~
20 ~~Resources. The regulatory functions of the former Water Resources~~
21 ~~Commission are transferred to the Department of Health and~~
22 ~~Environmental Control.~~

23
24 Section 49-3-10. (A) There is created the Department of
25 Environmental Services comprised of:

26 (1) the Bureau of Air Quality;

27 (2) the Bureau of Land and Waste Management;

28 (3) the Bureau of Water;

29 (4) the Bureau of Regional and Laboratory Services, which
30 includes the Division of Emergency Response and the Division of
31 Onsite Wastewater and Enforcement; and

32 (5) the Bureau of Coastal Management.

33 The Director of the Department of Environmental Services may
34 realign the bureaus, divisions, offices, and programs to gain
35 additional efficiencies or to better align resources with changes in
36 environmental statutes or regulation.

37 (B) The department is vested with all the functions, powers, and
38 duties of the environmental divisions, offices, and programs of the
39 Department of Health and Environmental Control on the effective
40 date of this act including, but not limited to, functions, powers, and
41 duties provided for in this chapter; in Chapters 2, 55, 56, 93, 95, and
42 96 of Title 44; in Chapters 2, 14, 18, 20, 21, 40, 41, 43, 46, 55, 56,
43 57, and 60 of Title 48; and in Chapter 5 of Title 49.

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Section 49-3-20. (A) The Governor shall appoint a Director of the Department of Environmental Services pursuant to Section 1-30-10(B)(1) with the advice and consent of the Senate who manages the department and who may appoint deputies for the divisions pursuant to Section 1-30-10(E).

(B) If a vacancy occurs in the department when the Senate is not in session, the Governor may appoint a director to fill the vacancy until the Senate acts on the appointment.

(C) The director is subject to removal by the Governor as provided for in Section 1-3-240.

Section 49-3-30. The director shall have all authority and duties as provided for in Chapter 30, Title 1.

Section 49-3-40. ~~(a)~~(A) The department shall advise and assist the Governor and the General Assembly in:

- (1) formulating and establishing a comprehensive water resources policy for the State, such as a State Water Plan, including coordination of policies and activities among the state departments and agencies;
 - (2) developing and establishing policies and proposals designed to meet and resolve special problems of water resource use and control within or affecting the State, including consideration of the requirements and problems of urban and rural areas;
 - (3) reviewing the actions and policies of state agencies with water resource responsibilities to determine the consistency of such actions and policies with the comprehensive water policy of the State and to recommend appropriate action where deemed necessary;
 - (4) reviewing any project, plan, or program of federal aid affecting the use or control of any waters within the State and to recommend appropriate action where deemed necessary;
 - (5) developing policies and recommendations to assure that the long range interests of all groups, urban, suburban, and rural, are provided for in the state's representation on interstate water issues;
 - (6) recommending to the General Assembly any changes of law or regulation required to implement the policy declared in this chapter; and
 - (7) such other water resources planning, policy formulation, and coordinating functions as the Governor and the General Assembly may designate.
- ~~(b)~~(B) The department is authorized to conduct or arrange for such studies, inquiries, surveys, or analyses as may be relevant to its

1 duties in assisting the Governor and the General Assembly in the
2 implementation of the policy declared in this chapter, and in
3 developing recommendations for the General Assembly. For these
4 purposes, the department shall have full access to the relevant
5 records of other state departments and agencies and political
6 subdivisions of the State, and may hold public hearings, and may
7 cooperate with or contract with any public or private agency,
8 including educational, civic, and research organizations. The
9 studies, inquiries, surveys, or analyses shall incorporate and
10 integrate, to the maximum extent feasible, plans, programs, reports,
11 research, and studies of federal, state, interstate, regional,
12 metropolitan, and local units, agencies, and departments of
13 government.

14 ~~(e)~~(C) In developing recommendations for the Governor and the
15 General Assembly relating to the use and control of the water
16 resources of the State, the department shall:

17 (1) coordinate its activities by distribution of copies of its
18 notices of meetings with agenda, minutes, and reports of all state
19 agencies concerned with water resources;

20 (2) consult with representatives of any federal, state,
21 interstate, or local units of government which would be affected by
22 such recommendations; and

23 (3) be authorized to appoint such interdepartmental and
24 public advisory boards as necessary to advise them in developing
25 policies for recommendations to the Governor and the General
26 Assembly.

27 ~~(d)~~(D) The department shall encourage, assist, and advise
28 regional, metropolitan, and local governmental agencies, officials,
29 or bodies responsible for planning in relation to water aspects of
30 their programs, and shall assist in coordinating local and regional
31 water resources activities, programs, and plans.

32 ~~(e)~~(E) The department may publish reports, including the results
33 of such studies, inquiries, surveys, and analyses as may be of general
34 interest, and shall make an annual report of its activities to the
35 Governor and the General Assembly within ten days after the
36 convening of each session of the General Assembly.

37 ~~(f)~~(F) The department may receive and expend grants, gifts, and
38 monies donated or given by any state, federal, or private agency,
39 person, corporation, water or sewer authority, or political
40 subdivision in connection with water resource investigations in
41 which the results of such investigations will be made publicly
42 available.

1 ~~(g)~~(G) The department is authorized and required to review and
2 approve the expenditure of funds derived from the United States
3 Army Corps of Engineers when any funds are authorized and
4 appropriated for any water resources related projects or purposes;
5 including but not limited to, the following:

- 6 (1) navigation,
- 7 (2) irrigation,
- 8 (3) water storage,
- 9 (4) aquatic weed management,
- 10 (5) flood control,
- 11 (6) salinity control,
- 12 (7) interstate water concerns, and
- 13 (8) any studies, surveys, or analyses performed by the Corps
14 of Engineers.

15 The review and approval required by this subsection is not
16 applicable to any Corps of Engineers funds which must be expended
17 in a different manner pursuant to express statutory direction.
18

19 Section 49-3-50. In exercising its responsibilities under this
20 chapter, the department shall take into consideration the need for:

21 ~~(a)~~(1) adequate supplies of surface and groundwaters of suitable
22 quality for all uses, including domestic, municipal, agricultural, and
23 industrial; ;

24 ~~(b)~~(2) water of suitable quality for all purposes; ;

25 ~~(c)~~(3) water availability for recreational and commercial needs;
26 ;

27 ~~(d)~~(4) hydroelectric power; ;

28 ~~(e)~~(5) flood damage control or prevention measures including
29 zoning to protect people, property, and productive lands from flood
30 losses; ;

31 ~~(f)~~(6) land stabilization measures; ;

32 ~~(g)~~(7) drainage measures, including salinity control; ;

33 ~~(h)~~(8) watershed protection and management measures; ;

34 ~~(i)~~(9) outdoor recreational and fish and wildlife opportunities; ;

35 ~~(j)~~(10) studies on saltwater intrusion into groundwater and
36 surface water; ;

37 ~~(k)~~(11) measures to protect the state's fisheries and other aquatic
38 resources; ; and

39 ~~(l)~~(12) any other means by which development of water and
40 related land resources can contribute to economic growth and
41 development, the long-term preservation of water resources, and the
42 general well-being of all the people of the State.
43

1 Section 49-3-60. (A) All decisions of the Department of
2 Environmental Services involving the issuance, denial, renewal,
3 suspension, or revocation of permits, licenses, certificates, or other
4 actions of the department which may give rise to a contested case,
5 except a decision to establish a baseline or setback line, must be
6 made using the procedures set forth in this section. A department
7 decision referenced in this subsection relating to a poultry facility or
8 another animal facility, except a swine facility, also must comply
9 with the provisions of Section 49-3-65.

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

15 (C) In making a decision about a permit, license, certification, or
16 other approval, the department shall take into consideration all
17 material comments received in response to the public notice in
18 determining whether to issue, deny or condition a permit, license,
19 certification, or other approval. At the time that a decision is made,
20 the department shall issue a written decision and shall base its
21 decision on the administrative record, which must consist of the
22 application and supporting exhibits, all public comments and
23 submissions, and other documents contained in the supporting file
24 for the permit, license, certification, or other approval. The
25 administrative record also may include material readily available at
26 the department, or published materials which are generally available
27 and need not be physically included in the same file as the rest of
28 the record as long as such materials are specifically referred to in the
29 department decision. The department is not required to issue a
30 written decision for issuance of routine permits for which the
31 department has not received adverse public comments.

32 (D)(1) The department shall send a notice of a decision by
33 certified mail, returned receipt requested to the applicant, permittee,
34 licensee, certificate holder, and affected persons who have requested
35 in writing to be notified. Affected persons may request in writing to
36 be notified by regular mail or electronic mail in lieu of certified mail.
37 Notice of decisions for which a written decision is not required
38 pursuant to subsection (C) must be provided by mail, delivery, or
39 other appropriate means to the applicant, permittee, licensee,
40 certificate holder, and affected persons who have requested in
41 writing to be notified.

42 (2) Within thirty calendar days after the receipt of the decision
43 pursuant to item (1) an applicant, permittee, licensee, certificate

1 holder, or affected person desiring to contest the agency decision
2 may request a contested case hearing before the Administrative Law
3 Court, in accordance with the Administrative Procedures Act. The
4 court shall give consideration to the provisions of Section 1-23-330
5 regarding the department's specialized knowledge.

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

10

11 Section 49-3-65. (A) In making a decision on a permit, license,
12 certification, or other approval of a poultry facility or another animal
13 facility, except a swine facility, pursuant to Section 49-3-60(C), the
14 department shall base its decision solely on whether the permit
15 complies with the applicable department regulations governing the
16 permitting of poultry and other animal facilities, other than swine
17 facilities.

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

21 (1) only an applicant, permittee, licensee, or affected person
22 may request a contested case hearing pursuant to Section
23 49-3-60(D)(2);

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

26 (3) only an applicant, permittee, licensee, or affected person
27 is entitled as of right to be admitted as a party pursuant to Section
28 1-23-310(5) of the Administrative Procedures Act.

29 (C)(1) In determining whether to issue a permit, license,
30 certification, or other approval of a poultry facility or another animal
31 facility, except a swine facility, the department only may take into
32 consideration the existing development on and use of property
33 owned or occupied by an affected person on the date the department
34 receives the applicant's complete application package as prescribed
35 by regulation. The department must not take into consideration any
36 changes to the development or use of property after receipt of the
37 application including, but not limited to, the construction of a
38 residence.

39 (2) If a property owner signs a setback waiver of the right to
40 contest the issuance of a permit, license, certification, or other
41 approval of a poultry facility or another animal facility, except a
42 swine facility, including waiver of the right to notice and a public
43 hearing on a permit, license, certification, or other approval and to

1 file a contested case or other action, then the affected person has
2 seventy-two hours to provide in writing a withdrawal or rescission
3 of the waiver.

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

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

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

25
26 Section 49-3-70. (A) The Department of Environmental
27 Services may make, adopt, promulgate, and enforce reasonable rules
28 and regulations from time to time requiring and providing for:

29 (1) the thorough sanitation and disinfection of all passenger
30 cars, sleeping cars, steamboats, and other vehicles of transportation
31 in this State and all correctional facilities, jails, hotels, schools, and
32 other places used by or open to the public;

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

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

36 (4) the regulation of the methods of disposition of garbage or
37 sewage and any like refuse matter in or near any village, town, or
38 city of the State, incorporated or unincorporated, and to abate
39 obnoxious and offensive odors caused or produced by septic tank
40 toilets by prosecution, injunction, or otherwise; and

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

1 (B) The department may make separate orders and rules to meet
2 any emergency not provided for by general rules and regulations,
3 for the purpose of suppressing nuisances dangerous to the
4 environment and public life and health.

5
6 Section 49-3-75. (A) There is established within the Department
7 of Environmental Services an Expedited Review Program to
8 provide an expedited process for permit application review.
9 Participation in this program is voluntary, and the program must be
10 supported by expedited review fees promulgated in regulation
11 pursuant to subsection (B)(1). The department shall determine the
12 project applications to review, and the process may be applied to
13 any one or all of the permit programs administered by the
14 department.

15 (B)(1) Before January 1, 2009, the Department of Health and
16 Environmental Control was directed to promulgate regulations
17 necessary to carry out the provisions of this section. The regulations
18 were to include, but are not limited to, definitions of 'completeness'
19 for applications submitted, consideration of joint federal-state
20 permitting activities, standards for applications submitted that
21 advance environmental protection, and expedited process
22 application review fees. Beginning the effective date of this act, the
23 Department of Environmental Services shall promulgate regulations
24 it determines necessary to carry out the purposes of this section.

25 (2) Regulations promulgated pursuant to this section must not
26 alter public notice requirements for permits, certifications, or
27 licenses issued by the Department of Environmental Services.

28 (C) Until the Department of Health and Environmental Control
29 promulgated regulations pursuant to subsection (B)(1), it was
30 directed to conduct a pilot expedited review program to determine
31 the most environmentally sound, cost efficient, and economically
32 beneficial process for implementation of a statewide expedited
33 review program and to determine which permit programs, or
34 subcomponents of a program, to include in the pilot program and
35 also was authorized to establish pilot program expedited process
36 application fees.

37 (D) There was created the Expedited Review Fund that is
38 separate and distinct from the general fund of the State and all other
39 funds. Fees established in regulation pursuant to subsection (B) and
40 assessed pursuant to subsection (C) must be credited to the fund and
41 used for the costs of implementing the Expedited Review Program.
42 Interest accruing to the fund must be retained by the fund and used
43 for the same purposes. Revenue in the fund not expended during a

1 fiscal year, including fees generated pursuant to subsection (C),
2 must be carried forward to the succeeding fiscal year and must be
3 used for the same purposes.

4
5 Section 49-3-80. A corporation or person whose only purpose is
6 furnishing, supplying, marketing, or selling treated effluent for
7 irrigation purposes, is not a public utility for purposes of Title 58 by
8 virtue of the furnishing, supplying, marketing, or selling of the
9 treated effluent, provided that the effluent has not been permitted for
10 consumption by the Department of Environmental Services or other
11 regulatory agency.

12
13 Section 49-3-85. (A) A person who after notice violates,
14 disobeys, or refuses, omits, or neglects to comply with a regulation
15 of the Department of Environmental Services, made by the
16 department pursuant to Section 49-3-70, is guilty of a misdemeanor
17 and, upon conviction, must be fined not more than two hundred
18 dollars or imprisoned for thirty days.

19 (B) A person who after notice violates a rule, regulation, permit,
20 permit condition, final determination, or order of the department
21 issued pursuant to Section 49-3-70 is subject to a civil penalty not
22 to exceed one thousand dollars a day for each violation.

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

26 (D) The term 'notice' as used in this section means either actual
27 notice or constructive notice.

28 (E) This section does not apply to fines levied pursuant to
29 Section 49-3-70(2) or any other areas regulated by the South
30 Carolina Occupational Health and Safety Act, Section 41-12-10, et
31 seq.

32
33 Section 49-3-90. Nothing contained in Section 49-3-70 in any
34 way abridges or limits the right of a person to maintain or prosecute
35 a civil or criminal proceeding against a person maintaining a
36 nuisance.

37
38 Section 49-3-95. (A) For purposes of the section, 'impacted
39 location' means any facility issued or otherwise subject to a permit,
40 license, or approval from the North Carolina Department of
41 Environment and Natural Resources that has now been determined
42 to be located within the jurisdiction of the South Carolina

1 Department of Environmental Services as a result of the
2 amendments to Section 1-1-10, effective January 1, 2017.

3 (B) Notwithstanding any other provision of law, the South
4 Carolina Department of Environmental Services, in issuing any
5 environmental permit, license, or approval to an impacted location
6 shall provide a schedule of compliance that allows the permittee a
7 reasonable period of time to be no greater than five years to come
8 into compliance with any South Carolina environmental rule,
9 regulation, or standard established by the department or by law that
10 has no corresponding rule, regulation, or standard under North
11 Carolina law or regulation, or is more stringent than the
12 corresponding rule, regulation, or standard established under North
13 Carolina law or regulation. The department may include increments
14 of progress applicable in each year of the schedule established under
15 this subsection, and may shorten the period of compliance as
16 necessary to prevent an imminent threat to the public health and
17 environment. The department may extend a permittee's compliance
18 schedule under this section beyond five years upon written
19 application by the permittee only if the department determines that
20 circumstances reasonably require such an extension, and the
21 extension of time would pose no threat to public health or the
22 environment.

23
24 Section 49-3-100. (A) Notwithstanding any other provision of
25 law, shellfish that is the subject of a violation of law, including
26 regulations, may be confiscated and disposed of at the discretion of
27 the arresting officer.

28 (B) A person convicted of a second offense of harvesting
29 shellfish in a polluted area, upon conviction, must be fined not less
30 than two hundred dollars and not more than five hundred dollars or
31 imprisoned for not less than thirty days and not more than sixty days.

32 (C) A person convicted of a third or subsequent offense of
33 harvesting shellfish in a polluted area, upon conviction, must be
34 fined not less than five hundred dollars and not more than one
35 thousand dollars or imprisoned for not less than sixty days and not
36 more than ninety days.

37 (D) All equipment including, but not limited to, vehicles, boats,
38 motors, trailers, harvesting equipment, weapons, spotlights, bags,
39 boxes, or tools, used or in any other manner involved in a first
40 offense of harvesting shellfish in any polluted area, may be
41 impounded at the discretion of the arresting officer. The equipment
42 impounded must be delivered to the sheriff of the county in which
43 the arrest was made and must be retained by the sheriff. The

1 equipment may not be returned to the owner until the case has been
2 finally disposed of. All equipment including, but not limited to,
3 vehicles, boats, motors, trailers, harvesting equipment, weapons,
4 spotlights, bags, boxes, or tools, used or in any other manner
5 involved in a second, third, or subsequent offense of harvesting
6 shellfish in a polluted area, must be confiscated. All confiscated
7 equipment must be sold at auction by the sheriff of the county in
8 which the second, third, or subsequent offense took place and by a
9 representative of the Department of Environmental Services, except
10 for weapons, which, following confiscation, must be disposed of in
11 the manner set forth in Sections 16-23-50, 16-23-460, and
12 16-23-500.

13
14 Section 49-3-105. Notwithstanding any other provision of law,
15 all revenue from a fine or a forfeiture of bond for a violation of a
16 shellfish law or regulation provided by this title must be deposited
17 monthly with the treasurer of the county in which the arrest for the
18 violation was made. One-third of the revenue must be retained by
19 the county treasurer to be used for the general operating needs of the
20 county pursuant to the direction of the governing body of the county.
21 Two-thirds of the revenue must be remitted quarterly to the
22 Department of Environmental Services of which one-half is to be
23 used in enforcing shellfish laws and regulations and one-half is to
24 be remitted quarterly to the state's general fund. All monies derived
25 from auction sales of confiscated equipment pursuant to Section
26 49-3-100 must be deposited, retained, remitted, and used in the same
27 manner as provided in this section for all revenue derived from a
28 fine or a violation of a shellfish law or regulation. A report of fines
29 for forfeitures of bonds regarding shellfish violations must be sent
30 to the department monthly by each magistrate and clerk of court in
31 this State. A report of monies derived from auction of sales of
32 confiscated equipment must be sent to the department monthly by
33 each sheriff.

34
35 Section 49-3-110. When a person is apprehended by a shellfish
36 patrolman upon a charge of violating the health and sanitary aspects
37 of shellfish, crab, and shrimp laws or regulations, the person upon
38 being served with a summons by the patrolman in lieu of being
39 immediately brought before the proper judicial officer may enter
40 into a formal recognizance or deposit a proper sum of money in lieu
41 of a recognizance or incarceration with the patrolman as bail which
42 must not be less than the minimum or more than the maximum fine,
43 but in no case exceed one hundred dollars. The bail must be turned

1 over to the proper judicial officer. A receipt for the sum deposited
2 must be given to the person by the patrolman. The summons duly
3 served must give the judicial officer jurisdiction to dispose of the
4 matter. Upon receipt of bail the patrolman shall release the person
5 so charged, and the person may appear in court at the time stated in
6 and required by the summons.”

7
8 SECTION 17.A. Section 44-2-20(3) and (5) of the 1976 Code is
9 amended to read:

10
11 “(3) ‘Committed funds’ means that portion of the Superb
12 Account reserved as a result of action by the Department of Health
13 and Environmental Control Services to approve costs for planned
14 site rehabilitation activities.

15
16 (5) ‘Department’ means the Department of Health and
17 Environmental Control Services.”

18
19 B. Section 44-2-40(A) of the 1976 Code is amended to read:

20
21 “(A) There is created within the state treasury two separate and
22 distinct accounts which are to be administered by the Department of
23 Health and Environmental Control Services. The ‘Superb Account’
24 and the ‘Superb Financial Responsibility Fund’ are created to assist
25 owners and operators of underground storage tanks containing
26 petroleum and petroleum products to the extent provided for in this
27 chapter but not to relieve the owner or operator of any liability that
28 cannot be satisfied by the provisions of this chapter.

29 The Superb Account must be used for payment of usual,
30 customary, and reasonable costs for site rehabilitation of releases
31 from underground storage tanks containing petroleum or petroleum
32 products.

33 The Superb Financial Responsibility Fund must be used for
34 compensating third parties for actual costs for bodily injury and
35 property damage caused by accidental releases from underground
36 storage tanks containing petroleum or petroleum products. The
37 Superb Financial Responsibility Fund must not be used for
38 reimbursing claims for punitive damages.

39 Except for releases reported before July 1, 1994, sites where the
40 underground storage tank, at the time of discovery and reporting of
41 the release to the department, is not in substantial compliance with
42 regulations promulgated pursuant to Section 44-2-50(A), are not
43 eligible for compensation from the Superb Account, and no third

1 party claims resulting from that release may be paid from the Superb
2 Financial Responsibility Fund.”

3

4 C. Section 44-2-60(C) of the 1976 Code is amended to read:

5 “(C) In addition to the inspection fee of one-fourth cent a gallon
6 imposed pursuant to Section 39-41-120, an environmental impact
7 fee of one-half cent a gallon is imposed which must be used by the
8 department for the purposes of carrying out the provisions of this
9 chapter. This one-half cent a gallon environmental impact fee must
10 be paid and collected in the same manner that the one-fourth cent a
11 gallon inspection fee is paid and collected except that the monies
12 generated from these environmental impact fees must be transmitted
13 by the Department of Agriculture to the Department of ~~Health and~~
14 ~~Environmental Control~~ Services which shall deposit the fees as
15 provided for in Section 44-2-40.”

16

17 D. Section 44-2-130(E)(1) of the 1976 Code is amended to read:

18

19 “(1) An owner or operator of an underground storage tank or
20 his agent seeking to qualify for compensation from the Superb
21 Account for site rehabilitation shall submit a written application to
22 the department. The written application must be on a form specified
23 by the department and include certification that site rehabilitation is
24 necessary, the tanks at the site have been registered in compliance
25 with applicable law and regulations, and all registration fees have
26 been paid. The department shall accept certification that the release
27 at the site is in need of rehabilitation if the certification is provided
28 jointly by the owner or operator and a South Carolina registered
29 professional geologist or engineer, and if the certification is
30 supported with geotechnical data which reasonably justifies the
31 claim. Upon final determination the department shall provide
32 written notice to the applicant of its findings including detailed
33 reasons for any denial. Any denial of an application must be
34 appealable to ~~the Board of Health and Environmental Control~~ a
35 court with appropriate jurisdiction pursuant to the Administrative
36 Procedures Act. The department is exempt from this time frame for
37 applications which are received within three months of the close of
38 the grace period allowed in Section 44-2-110.”

39

40 SECTION 18.A. Section 44-4-130(F), (I), and (W) of the 1976
41 Code is amended to read:

42

1 “(F) ‘~~Commissioner~~ Director’ means the ~~Commissioner~~ Director
2 of the Department of Behavioral and Public Health and
3 Environmental Control.

4

5 (I) ‘~~DHEC~~ Department’ means the Department of Behavioral
6 and Public Health and Environmental Control or any person
7 authorized to act on behalf of the Department of Behavioral and
8 Public Health and Environmental Control.

9

10 (W) ‘Trial court’ is the circuit court for the county in which the
11 isolation or quarantine is to occur or to the circuit court for the
12 county in which a public health emergency has been declared. If that
13 court is unable to function because of the isolation, quarantine, or
14 public health emergency, the trial court is a circuit court designated
15 by the Chief Justice upon petition and proper showing by the
16 Department of Behavioral and Public Health and Environmental
17 Control.”

18

19 B. Section 44-4-540(B)(1) of the 1976 Code is amended to read:

20

21 “(1) ~~DHEC~~ The department may temporarily isolate or
22 quarantine an individual or groups of individuals through an
23 emergency order signed by the ~~commissioner~~ director or his
24 designee, if delay in imposing the isolation or quarantine would
25 significantly jeopardize ~~DHEC’s~~ the department’s ability to prevent
26 or limit the transmission of a contagious or possibly contagious
27 disease to others.”

28

29 C. The Code Commissioner is directed to change all references to
30 ‘DHEC’ in Chapter 4, Title 44 of the 1976 Code to ‘the department’.

31

32 SECTION 19.A. Section 44-7-130(3) and (8) of the 1976 Code is
33 amended to read:

34

35 “(3) ‘~~Board~~’ means the ~~State Board of Health and Environmental~~
36 ~~Control~~ Reserved.

37 (8) ‘Department’ means the Department of Behavioral and
38 Public Health and Environmental Control.”

39

40 B. Section 44-7-150(3) of the 1976 Code is amended to read:

41

42 “(3) adopt in accordance with Article I of the Administrative
43 Procedures Act substantive and procedural regulations considered

1 necessary by the department ~~and approved by the board~~ to carry out
2 the department's licensure and Certificate of Need duties under this
3 article, including regulations to deal with competing applications;"

4
5 C. Section 44-7-180(A) and (C) of the 1976 Code is amended to
6 read:

7
8 "(A) There is created a health planning committee comprised of
9 fourteen members. The Governor shall appoint twelve members,
10 which must include at least one member from each congressional
11 district. In addition, each of the following groups must be
12 represented among the Governor's appointees: health care
13 consumers, health care financiers, including business and insurance,
14 and health care providers, including an administrator of a licensed
15 for-profit nursing home. ~~The chairman of the board~~ director of the
16 department shall appoint one member. The South Carolina
17 Consumer Advocate or the Consumer Advocate's designee is an ex
18 officio nonvoting member. Members appointed by the Governor are
19 appointed for four-year terms, and may serve only two consecutive
20 terms. Members of the health planning committee are allowed the
21 usual mileage and subsistence as provided for members of boards,
22 committees, and commissions. The committee shall elect from
23 among its members a chairman, vice chairman, and such other
24 officers as the committee considers necessary to serve a two-year
25 term in that office.

26
27 (C) Upon approval by the health planning committee, the South
28 Carolina Health Plan must be submitted at least once every two
29 years to the ~~board~~ department for final revision and adoption. Once
30 adopted by the ~~board~~ department, the plan may later be revised
31 through the same planning and approval process. The department
32 shall adopt by regulation a procedure to allow public review and
33 comment, including regional public hearings, before adoption or
34 revision of the plan."

35
36 D. Section 44-7-190(A) of the 1976 Code is amended to read:

37
38 "(A) The department shall adopt, ~~upon approval of the board,~~
39 Project Review Criteria which, at a minimum, must provide for the
40 determination of need for health care facilities, beds, services and
41 equipment, including demographic needs, appropriate distribution,
42 and utilization; accessibility to underserved groups; availability of
43 facilities and services without regard to ability to pay; absence of

1 less costly and more effective alternatives; appropriate financial
2 considerations, including method of financing, financial feasibility,
3 and cost containment; consideration of impact on health systems
4 resources; site and building suitability; consideration of quality of
5 care; and relevant special considerations as may be appropriate. The
6 Project Review Criteria must be adopted as a regulation pursuant to
7 the Administrative Procedures Act.

8

9 E. Section 44-7-200(C) of the 1976 Code is amended to read:

10

11 ~~“(C) Upon publication of this notice and until a contested case~~
12 ~~hearing is requested pursuant to Section 44-1-60(G):~~

13 ~~(1) members of the board and persons appointed by the board~~
14 ~~to hold a final review conference on staff decisions may not~~
15 ~~communicate directly or indirectly with any person in connection~~
16 ~~with the application; and~~

17 ~~(2) no person shall communicate, or cause another to~~
18 ~~communicate, as to the merits of the application with members of~~
19 ~~the board and persons appointed by the board to hold a final review~~
20 ~~conference on staff decisions.~~

21 ~~A person who violates this subsection is subject to the penalties~~
22 ~~provided in Section 1-23-360 Reserved.”~~

23

24 F. Section 44-7-210(C) - (E) of the 1976 Code is amended to read:

25

26 ~~“(C) On the basis of staff review of the application, the staff~~
27 ~~department shall make a staff department decision to grant or deny~~
28 ~~the Certificate of Need and the staff department shall issue a~~
29 ~~decision in accordance with Section 44-1-60(D) (C). Notice of the~~
30 ~~decision must be sent to the applicant and affected persons who have~~
31 ~~asked to be notified. The decision becomes the final agency decision~~
32 ~~unless a timely written request for a final review is filed with the~~
33 ~~department as provided for in Section 44-1-60(E).~~

34 ~~However, a person may not file a request for final review in~~
35 ~~opposition to the staff decision on a Certificate of Need unless the~~
36 ~~person provided written notice to the department during the staff~~
37 ~~review that he is an affected person and specifically states his~~
38 ~~opposition to the application under review.~~

39 ~~(D) The staff's decision is not the final agency decision until the~~
40 ~~completion of the final review process provided for in Section~~
41 ~~44-1-60(F).~~

42 ~~(E) A contested case hearing of the final agency decision must~~
43 ~~be requested in accordance with Section 44-1-60(G) (D). The issues~~

1 considered at the contested case hearing considering a Certificate of
2 Need are limited to those presented or considered during the staff
3 department review.”
4

5 G. Section 44-7-230(D) of the 1976 Code is amended to read:

6 “(D) A Certificate of Need is valid for one year from the date of
7 issuance. A Certificate of Need must be issued with a timetable
8 submitted by the applicant and approved by the department to be
9 followed for completion of the project. The holder of the Certificate
10 of Need shall submit periodic progress reports on meeting the
11 timetable as may be required by the department. Failure to meet the
12 timetable results in the revocation of the Certificate of Need by the
13 department unless the department determines that extenuating
14 circumstances beyond the control of the holder of the Certificate of
15 Need are the cause of the delay. The department may grant ~~two~~
16 extensions of up to nine months each upon evidence that substantial
17 progress has been made in accordance with procedures set forth in
18 regulations. ~~The board may grant further extensions of up to nine~~
19 ~~months each only if it determines that substantial progress has been~~
20 ~~made in accordance with the procedures set forth in regulations.”~~
21

22 H. Section 44-7-320(B) of the 1976 Code is amended to read:

23
24 “(B) Should the department determine to assess a penalty, deny,
25 suspend, or revoke a license, it shall send to the appropriate person
26 or facility, by certified mail, a notice setting forth the particular
27 reasons for the determination. The determination becomes final
28 thirty days after the mailing of the notice, unless the person or
29 facility, within such thirty-day period, requests in writing a
30 contested case hearing ~~before the board, or its designee,~~ pursuant to
31 the Administrative Procedures Act. On the basis of the contested
32 case hearing, the determination involved must be affirmed,
33 modified, or set aside. Judicial review may be sought in accordance
34 with the Administrative Procedures Act.”
35

36 I. Section 44-7-370 of the 1976 Code is amended to read:

37
38 “Section 44-7-370. (A) The South Carolina Department of
39 Behavioral and Public Health and Environmental Control shall
40 establish a Residential Care Committee to advise the department
41 regarding licensing and inspection of community residential care
42 facilities.

1 (1) The committee consists of the Long Term Care
2 Ombudsman, three operators of homes with ten beds or less, four
3 operators of homes with eleven beds or more, and three members to
4 represent the department appointed by the ~~commissioner~~ director for
5 terms of four years.

6 (2) The terms must be staggered and no member may serve
7 more than two consecutive terms. Any person may submit names to
8 the ~~commissioner~~ director for consideration. The advisory
9 committee shall meet at least once annually with representatives of
10 the department to evaluate current licensing regulations and
11 inspection practices. Members shall serve without compensation.

12 (B) The Department of Behavioral and Public Health and
13 ~~Environmental Control~~ shall appoint a Renal Dialysis Advisory
14 Council to advise the department regarding licensing and inspection
15 of renal dialysis centers. The council must be consulted and have
16 the opportunity to review all regulations promulgated by the ~~board~~
17 department affecting renal dialysis prior to submission of the
18 proposed regulations to the General Assembly.

19 (1) The council is composed of a minimum of fourteen
20 persons, one member recommended by the Palmetto Chapter of the
21 American Nephrology Nurses Association; one member
22 recommended by the South Carolina Chapter of the National
23 Association of Patients on Hemodialysis and Transplants; three
24 physicians specializing in nephrology recommended by the South
25 Carolina Renal Physicians Association; two administrators of
26 facilities certified for dialysis treatment or kidney transplant
27 services; one member recommended by the South Carolina Kidney
28 Foundation; one member recommended by the South Carolina
29 Hospital Association; one member recommended by the South
30 Carolina Medical Association; one member of the general public;
31 one member representing technicians working in renal dialysis
32 facilities; one member recommended by the Council of Nephrology
33 Social Workers; and one member recommended by the Council of
34 Renal Nutritionists. The directors of dialysis programs at the
35 Medical School of the University of South Carolina and the Medical
36 University of South Carolina, or their designees, are ex officio
37 members of the council.

38 (2) Members shall serve four-year terms and until their
39 successors are appointed and qualify. No member of council shall
40 serve more than two consecutive terms. The council shall meet as
41 frequently as the ~~board~~ department considers necessary, but not less
42 than twice each year. Members shall serve without compensation.”
43

1 J. Section 44-7-760 of the 1976 Code is amended to read:

2

3 “Section 44-7-760. Every person who is financially able shall pay
4 to the board of hospital trustees or such officers as it shall designate
5 for such county or public hospital or tuberculosis camp such
6 reasonable compensation as he is able to pay for occupying a bed in
7 such hospital or camp or being nursed, cared for or maintained
8 therein according to the rules and regulations of the ~~board~~
9 department.”

10

11 K. Section 44-7-2430(C)(1) of the 1976 Code is amended to read:

12

13 “(1) The ~~Board~~ Department of Behavioral and Public Health
14 ~~and Environmental Control~~ shall appoint an advisory committee that
15 must have an equal number of members representing all involved
16 parties. The ~~board~~ department shall seek recommendations for
17 appointments to the advisory committee from organizations that
18 represent the interests of hospitals, consumers, businesses,
19 purchasers of health care services, physicians, and other
20 professionals involved in the research and control of infections.”

21

22 SECTION 20.A. Section 44-29-10(D) of the 1976 Code is
23 amended to read:

24

25 “(D) The reports of conditions must be made in the form and
26 manner as prescribed by ~~DHEC~~ the department in regulations
27 concerning infectious diseases. The reports must be made to the
28 Bureau of Disease Control in the manner required in the regulations.
29 When available, clinical information supporting the diagnoses,
30 including results of specific diagnostic tests, must be included.”

31

32 B. Section 44-29-150 of the 1976 Code is amended to read:

33

34 “Section 44-29-150. No person will be initially hired to work in
35 any public or private school, kindergarten, nursery or day care
36 center for infants and children until appropriately evaluated for
37 tuberculosis according to guidelines approved by the ~~Board~~
38 Department of Behavioral and Public Health and Environmental
39 Control. Re-evaluation will not be required for employment in
40 consecutive years unless otherwise indicated by such guidelines.”

41

42 C. Section 44-29-210(A) of the 1976 Code is amended to read:

43

1 “(A) If the ~~Board of the Department of Health and Environmental~~
2 ~~Control~~ or the Director of the Department of Behavioral and Public
3 ~~Health and Environmental Control~~ approves in writing a mass
4 immunization project to be administered in any part of this State in
5 cooperation with an official or volunteer medical or health agency,
6 any authorized employee of the agency, any physician who does not
7 receive compensation for his services in the project, and any
8 licensed nurse who participates in the project, except as provided in
9 subsection (B), is not liable to any person for illness, reaction, or
10 adverse effect arising from or out of the use of any drug or vaccine
11 administered in the project by the employee, physician, or nurse.
12 ~~Neither the board nor~~ The director may not approve the project
13 unless either the department finds that the project conforms to good
14 medical and public health practice.

15 For purposes of this section, a person is considered to be an
16 authorized employee of an official or volunteer medical or health
17 agency if he has received the necessary training for and approval of
18 the department for participation in the project.”
19

20 SECTION 21.A. Section 44-53-160(C) of the 1976 Code, as last
21 amended by Act 216 of 2018, is further amended to read:
22

23 “(C) If a substance is added, deleted, or rescheduled as a
24 controlled substance pursuant to federal law or regulation, the
25 department shall, ~~at the first regular or special meeting of the South~~
26 ~~Carolina Board of Health and Environmental Control~~ within thirty
27 days after publication in the federal register of the final order
28 designating the substance as a controlled substance or rescheduling
29 or deleting the substance, add, delete, or reschedule the substance in
30 the appropriate schedule. The addition, deletion, or rescheduling of
31 a substance by the department pursuant to this subsection has the
32 full force of law unless overturned by the General Assembly. The
33 addition, deletion, or rescheduling of a substance by the department
34 pursuant to this subsection must be in substance identical with the
35 order published in the federal register effecting the change in federal
36 status of the substance. Upon the addition, deletion, or rescheduling
37 of a substance, the department shall forward copies of the change to
38 the Chairmen of the Medical Affairs Committee and the Judiciary
39 Committee of the Senate, the Chairman of the Medical, Military,
40 Public and Municipal Affairs Committee, the Chairman of the
41 Judiciary Committee of the House of Representatives, the Clerks of
42 the Senate and House, and the Code Commissioner, and shall post

1 the schedules on the department's website indicating the change and
2 specifying the effective date of the change.”

3

4 B. Section 44-53-280(C) and (D) of the 1976 Code, as last
5 amended by Act 216 of 2018, is further amended to read:

6

7 “(C) A class 20-28 registration, as provided for by the ~~board~~
8 department in regulation, expires October first of each year. The
9 registration of a registrant who fails to renew by October first is
10 canceled. However, registration may be reinstated upon payment of
11 the renewal fees due and a penalty of one hundred dollars if the
12 registrant is otherwise in good standing and presents a satisfactory
13 explanation for failure to renew.

14 (D) All registrations other than class 20-28, as provided for by
15 the ~~board~~ department in regulation, expire on April first of each
16 year. The registration of a registrant who fails to renew by April first
17 is canceled. However, registration may be reinstated upon payment
18 of the renewal fees due and a penalty of one hundred dollars if the
19 registrant is otherwise in good standing and presents a satisfactory
20 explanation for failure to renew.”

21

22 C. Section 44-53-290(i) of the 1976 Code, as last amended by Act
23 216 of 2018, is further amended to read:

24

25 “(i) Practitioners who dispense narcotic drugs to individuals for
26 maintenance treatment or detoxification treatment shall obtain
27 annually a separate registration for that purpose. The ~~board~~
28 department shall register an applicant to dispense but not prescribe
29 narcotic drugs to individuals for maintenance treatment or
30 detoxification treatment, or both:

31 (1) if the applicant is a practitioner who is otherwise qualified
32 to be registered under the provisions of this article to engage in the
33 treatment with respect to which registration has been sought;

34 (2) if the ~~board~~ department determines that the applicant will
35 comply with standards established by the ~~board~~ department
36 respecting security of stocks of narcotic drugs for such treatment,
37 and the maintenance of records in accordance with Section
38 44-53-340 and the rules issued by the ~~board~~ department on such
39 drugs; and

40 (3) if the ~~board~~ department determines that the applicant will
41 comply with standards established by the ~~board~~ department
42 respecting the quantities of narcotic drugs which may be provided
43 for unsupervised use by individuals in such treatment.”

1

2 D. Section 44-53-310(a) of the 1976 Code before the numbered
3 items is amended to read:

4

5 “(a) An application for a registration or a registration granted
6 pursuant to Section 44-53-300 to manufacture, distribute, or
7 dispense a controlled substance, may be denied, suspended, or
8 revoked by the Board department upon a finding that the registrant:”
9

10 E. Section 44-53-320(b) of the 1976 Code is amended to read:

11

12 “(b) The department, without an order to show cause, may
13 suspend any registration simultaneously with the institution of
14 proceedings under Section 44-53-310, or where renewal of
15 registration is refused if it finds that there is an imminent danger to
16 the public health or safety which warrants this action. A failure to
17 comply with a standard referred to in Section 44-53-290(i) may be
18 treated under this subsection as grounds for immediate suspension
19 of a registration granted under such section. The suspension shall
20 continue in effect until withdrawn by the Board department or
21 dissolved by a court of competent jurisdiction.”
22

23 F. Section 44-53-360(g) of the 1976 Code is amended to read:

24

25 “(g) The Board department shall, by rules and regulations,
26 specify the manner by which prescriptions are filed.”
27

28 G. Section 44-53-740 of the 1976 Code is amended to read:

29

30 “Section 44-53-740. The ~~Board of the Department of Behavioral~~
31 ~~and Public Health and Environmental Control~~ shall promulgate
32 regulations necessary to carry out the provisions of this article.”
33

34 SECTION 22.A. Section 44-55-20(1), (2), and (7) of the 1976
35 Code is amended to read:

36

37 “(1) ~~‘Board’ means the South Carolina Board of Health and~~
38 ~~Environmental Control which is charged with responsibility for~~
39 ~~implementation of the Safe Drinking Water Act Reserved.~~

40 (2) ~~‘Commissioner’~~ ‘Director’ means the ~~commissioner~~ director
41 of the department or his authorized agent.
42

1 (7) 'Department' means the South Carolina Department of
2 ~~Health and Environmental Control~~ Services, including personnel
3 authorized and empowered to act on behalf of the department or
4 board."

5
6 B. Section 44-55-30 of the 1976 Code is amended to read:
7

8 "Section 44-55-30. In general, the design and construction of any
9 public water system must be in accord with modern engineering
10 practices for these installations. The ~~board~~ department shall
11 establish regulations, procedures, or standards as may be necessary
12 to protect the health of the public and to ensure proper operation and
13 function of public water systems. These regulations may prescribe
14 minimum design criteria, the requirements for the issuance of
15 construction and operation permits, operation and maintenance
16 standards, and bacteriological, chemical, radiological, and physical
17 standards for public water systems, and other appropriate
18 regulations."

19
20 C. Section 44-55-40(G), (K), (L), and (O) of the 1976 Code is
21 amended to read:
22

23 "(G) The department may authorize variances or exemptions
24 from the regulations issued pursuant to this section under conditions
25 and in such manner as the ~~board~~ department considers necessary and
26 desirable; however, these variances or exemptions must be
27 permitted under conditions and in a manner which is not less
28 stringent than the conditions under, and the manner in which,
29 variances and exemptions may be granted under the Federal Safe
30 Drinking Water Act.

31 (K) The ~~Commissioner~~ Director of the Department of ~~Health and~~
32 ~~Environmental Control~~ Services shall classify all public water
33 system treatment facilities giving due regard to the size, type,
34 complexity, physical condition, source of supply, and treatment
35 process employed by the public water system treatment facility and
36 the skill, knowledge, and experience necessary for the operation of
37 these facilities. Each treatment facility must be classified at the
38 highest applicable level of the following classification system, with
39 Group VII Treatment being the highest classification level:

40 Group I Treatment. A facility which provides disinfection
41 treatment using a sodium hypochlorite or calcium hypochlorite
42 solution as the disinfectant.

1 Group II Treatment. A facility which provides disinfection
2 treatment using gaseous chlorine or chloramine disinfection or
3 includes sequestering, fluoridation, or corrosion control treatment.

4 Group III Treatment. A facility treating a groundwater source
5 which is not under the direct influence of surface water, utilizing
6 aeration, coagulation, sedimentation, lime softening, filtration,
7 chlorine dioxide, ozone, ~~ultra-violet~~ ultraviolet light disinfection,
8 powdered activated carbon addition, granular activated carbon
9 filtration or ion exchange, or membrane technology or that includes
10 sludge storage or a sludge dewatering process.

11 Group IV Treatment. A facility treating a surface water source or
12 a groundwater source which is under the direct influence of surface
13 water, utilizing aeration, coagulation, clarification with a minimum
14 detention time of two hours in the clarification unit, lime softening,
15 rapid rate gravity filtration (up to four gallons per minute per square
16 foot), slow sand filtration, chlorine dioxide, powdered activated
17 carbon addition, or granular activated carbon filtration or ion
18 exchange or that includes sludge storage or a sludge dewatering
19 process. This classification also includes any treatment facility
20 which does not provide filtration for a surface water source or a
21 groundwater source which is under the direct influence of surface
22 water.

23 Group V Treatment. A facility treating a surface water source or
24 a groundwater source which is under the direct influence of surface
25 water, utilizing high rate gravity filtration (greater than four gallons
26 per minute per square foot), clarification with a detention time of
27 less than two hours in the clarification unit, diatomaceous earth
28 filtration, or ultraviolet light disinfection.

29 Group VI Treatment. A facility treating a surface water source or
30 a groundwater source which is under the direct influence of surface
31 water, utilizing direct filtration, membrane technology, or ozone.

32 Group VII Treatment. Drinking water dispensing stations and
33 vending machines which utilize water from an approved public
34 water system or bottled water plants which treat water from the
35 distribution system of a public water system or from a groundwater
36 source which is not under the direct influence of surface water.

37 (L) ~~The Commissioner~~ Director of the Department of Health and
38 ~~Environmental Control Services~~ shall classify all public water
39 distribution systems giving due regard to the size, type, and
40 complexity of the public water distribution system and the skill,
41 knowledge, and experience necessary for the operation of these
42 systems. The classification must be based on:

1 Group I Distribution. Distribution systems associated with state
2 and transient noncommunity water systems.

3 Group II Distribution. Distribution systems associated with
4 community and nontransient noncommunity public water systems
5 which have a reliable production capacity not greater than six
6 hundred thousand gallons a day and which do not provide fire
7 protection.

8 Group III Distribution. Distribution systems associated with
9 community and nontransient noncommunity water systems which
10 have a reliable production capacity greater than six hundred
11 thousand gallons a day but not greater than six million gallons a day
12 (MGD) or have a reliable production capacity not greater than six
13 hundred thousand gallons a day and provide fire protection.

14 Group IV Distribution. Distribution systems associated with
15 community and nontransient noncommunity water systems which
16 have a reliable production capacity than six MGD, but not greater
17 than twenty MGD.

18 Group V Distribution. Distribution systems associated with
19 community and nontransient noncommunity water systems which
20 have a reliable production capacity greater than twenty MGD.

21
22 (O) The board department, to ensure that underground sources
23 of drinking water are not contaminated by improper well
24 construction and operation, may promulgate regulations as
25 developed by the Advisory Committee established pursuant to
26 Section 44-55-45, setting standards for the construction,
27 maintenance, operation, and abandonment of any well except for
28 wells where well construction, maintenance, and abandonment are
29 regulated by the Groundwater Use Act of 1969, Sections 49-5-10 et
30 seq.; the Oil and Gas Exploration, Drilling, Transportation, and
31 Production Act, Sections 48-43-10 et seq.; or the Water Use
32 Reporting and Coordination Act, Section 49-4-10 et seq. For these
33 excepted wells, the board department may promulgate regulations.
34 The board department shall further ensure that all wells are
35 constructed in accordance with the standards. The board department
36 shall make available educational training on the standards to well
37 drillers who desire this training.”

38
39 D. Section 44-55-45 of the 1976 Code is amended to read:
40

41 “Section 44-55-45. An advisory committee to the board
42 department must be appointed for the purpose of advising the board
43 department during development or subsequent amendment of

1 regulatory standards for the construction, maintenance, operation,
2 and abandonment of wells subject to the jurisdiction of the board.
3 The Advisory Committee is composed of eight members appointed
4 by the board. Five members must be active well drillers; one
5 member must be a registered professional engineer with experience
6 in well design and construction; one member must be a consulting
7 hydrogeologist with experience in well design and construction; and
8 one member must be engaged in farming and shall represent the
9 public at large. Three ex officio members shall also serve on the
10 Advisory Committee, one of whom must be an employee of the
11 Department of ~~Health and Environmental Control~~ Services, and
12 appointed by the ~~commissioner~~ director; and two of whom must be
13 employees of the South Carolina Department of Natural Resources
14 and appointed by the director.

15 The term of office of members of the Advisory Committee is for
16 four years and until their successors are appointed and qualify. No
17 member may serve more than two consecutive terms. The initial
18 terms of office must be staggered and any member may be removed
19 for cause after proper notification and an opportunity to be heard.”
20

21 E. Section 44-55-50(A) and (B) of the 1976 Code is amended to
22 read:

23

24 “(A) In establishing regulations, procedures, and standards
25 under Section 44-55-30 and in exercising supervisory powers under
26 Section 44-55-40 the ~~board or~~ department must not prohibit or fail
27 to include provisions for recreational activities including boating,
28 water skiing, fishing, and swimming in any reservoir without first
29 making and publishing specific findings that these recreational
30 activities would be injurious to the public health and assigning with
31 particularity the factual basis and reasons for these decisions.

32 (B) If the ~~board or~~ department determines that these recreational
33 activities would be injurious to the public health it shall cause to
34 have published at least once a week for six consecutive weeks in a
35 newspaper of general circulation in the county or area affected a
36 summary of its findings. Any citizen of this State who objects to the
37 findings of the ~~board or~~ department is entitled to request a public
38 hearing, which the ~~board or~~ department shall conduct within thirty
39 days after the request. The public hearing must be a formal
40 evidentiary hearing where testimony must be recorded. After the
41 hearing the ~~board or~~ department shall review its initial findings and
42 shall within thirty days after the hearing affirm or reevaluate its
43 findings in writing and give notice to known interested parties. The

1 findings of the ~~board~~ or department may be appealed to the circuit
2 court, which is empowered to modify or overrule the findings if the
3 court determines the findings to be arbitrary or unsupported by the
4 evidence. Notice of intention to appeal must be served on the ~~board~~
5 or department within fifteen days after it has affirmed or reevaluated
6 its initial findings and copies also must be served on known
7 interested parties.”

8
9 F. Section 44-55-60 of the 1976 Code is amended to read:

10
11 “Section 44-55-60. (A) An imminent hazard is considered to
12 exist when in the judgment of the ~~commissioner~~ director there is a
13 condition which may result in a serious immediate risk to public
14 health in a public water system.

15 (B) In order to eliminate an imminent hazard, the ~~commissioner~~
16 director may, without notice or hearing, issue an emergency order
17 requiring the water system to immediately take such action as is
18 required under the circumstances to protect the public health. A
19 copy of the emergency order must be served by certified mail or
20 other appropriate means. An emergency order issued by the
21 ~~commissioner~~ director must be effected immediately and binding
22 until the order is reviewed and modified by the ~~board~~ department or
23 modified or rescinded by a court of competent jurisdiction.”

24
25 G. The paragraph after the numbered items in Section 44-55-70 of
26 the 1976 Code is amended to read:

27
28 “The ~~board~~ department shall prescribe procedures for the public
29 notice, including procedures for notification by publication in a
30 newspaper of general circulation, notification to be given in the
31 water bills of the systems, as long as a condition of violation exists,
32 and other notification as is considered appropriate by the ~~board~~
33 department.”

34
35 H. Section 44-55-120(C) of the 1976 Code is amended to read:

36
37 “(C) There is established a Safe Drinking Water Advisory
38 Committee for the purpose of advising and providing an annual
39 review to the department and General Assembly on the fee schedule
40 and the use of revenues deposited in the Drinking Water Trust Fund.
41 The Governor shall appoint the advisory committee which must be
42 composed of one member representing water systems with fifty
43 thousand or more service connections, one member representing

1 water systems with at least twenty-five thousand but fewer than fifty
2 thousand service connections, one member representing water
3 systems with at least ten thousand but fewer than twenty-five
4 thousand water service connections, one member representing water
5 systems with at least one thousand but fewer than ten thousand
6 service connections, one member representing water systems with
7 fewer than one thousand service connections, and the Executive
8 Director of the Office of Regulatory Staff and the ~~Commissioner~~
9 Director of the Department of Health and Environmental Control
10 Services, or a designee.”

11
12 I. Section 44-55-690 of the 1976 Code is amended to read:

13
14 “Section 44-55-690. The county board of health may permit and
15 approve the installation of temporary septic tanks in the case of
16 unusual, temporary or emergency conditions. Such temporary septic
17 tank shall be constructed and installed in accordance with the
18 specifications, rules and regulations promulgated by the county
19 board of health relating to the use of such tanks, and the ~~board~~
20 department may determine the period of time for which such
21 temporary septic tank may be used.”

22
23 J. Section 44-55-860 of the 1976 Code is amended to read:

24
25 “Section 44-55-860. Whenever any lot or parcel of land without
26 improvement thereon upon which an owner intends to construct a
27 building or place a mobile home is not accessible to a sewer line for
28 a tap-on and the county board of health or other appropriate agency
29 in which the lot or parcel of land is situated certifies that such lot or
30 land is not suitable to accommodate a septic tank or other individual
31 sewage disposal system, the ~~board or agency~~ department shall state
32 in writing to the owner within thirty days following inspection of
33 the property the reason such septic tank or system cannot be used.
34 At the same time the ~~board or agency~~ department shall inform the
35 owner of the property in detail of any corrective measures that may
36 be taken to remedy the sewage problem.”

37
38 K. The Code Commissioner is directed to change all references to
39 the “Department of Health and Environmental Control” in Chapter
40 55, Title 44 of the 1976 Code to the “Department of Environmental
41 Services.”

42

1 SECTION 23.A. Section 44-56-20(1) and (3) of the 1976 Code is
2 amended to read:

3

4 “(1) ~~‘Board’ means the South Carolina Board of Health and~~
5 ~~Environmental Control which is charged with responsibility for~~
6 ~~implementation of the Hazardous Waste Management Act~~
7 Reserved.

8

9 (3) ‘Department’ means the Department of Health and
10 Environmental Control Services, including personnel thereof
11 authorized by the board to act on behalf of the department or board.”
12

13 B. Section 44-56-30 of the 1976 Code is amended to read:

14

15 “Section 44-56-30. The ~~board~~ department shall promulgate such
16 regulations, procedures or standards as may be necessary to protect
17 the health and safety of the public, the health of living organisms
18 and the environment from the effects of improper, inadequate, or
19 unsound management of hazardous wastes. Such regulations may
20 prescribe contingency plans; the criteria for the determination of
21 whether any waste or combination of wastes is hazardous; the
22 requirements for the issuance of permits required by this chapter;
23 standards for the transportation, containerization, and labeling of
24 hazardous wastes consistent with those issued by the United States
25 Department of Transportation; operation and maintenance
26 standards; reporting and record keeping requirements; and other
27 appropriate regulations.”

28

29 C. Section 44-56-60(a)(1) of the 1976 Code is amended to read:

30

31 “(1) In order to provide the General Assembly with the
32 information it needs to accomplish the above goals, the Department
33 of ~~Health and Environmental Control~~ Services shall evaluate
34 annually the effects of new and existing waste management
35 technologies, alternate methods of storage or disposal, recycling,
36 incineration, waste minimization laws and practices, and other
37 factors that tend to reduce the volume of hazardous waste. The
38 results of the department’s evaluation must be reported to the
39 General Assembly not later than February first of each year,
40 beginning in 1991, in a form that will permit the General Assembly
41 to determine whether or not hazardous waste landfill capacity in this
42 State should be reduced.”

43

1 D. Section 44-56-100 of the 1976 Code is amended to read:

2

3 “Section 44-56-100. The ~~board~~ department may issue, modify,
4 or revoke any order to prevent any violation of this chapter.”

5

6 E. Section 44-56-130(3) of the 1976 Code is amended to read:

7

8 “(3) It shall be unlawful for any person to fail to comply with this
9 chapter and rules and regulations promulgated pursuant to this
10 chapter; to fail to comply with any permit issued under this chapter;
11 or to fail to comply with any order issued by the ~~board~~, director, or
12 department.”

13

14 F. Section 44-56-160(A) of the 1976 Code is amended to read:

15

16 “(A)The Department of ~~Health and Environmental Control~~
17 Services is directed to establish a Hazardous Waste Contingency
18 Fund to ensure the availability of funds for response actions
19 necessary at permitted hazardous waste landfills and necessary from
20 accidents in the transportation of hazardous materials and to defray
21 the costs of governmental response actions at uncontrolled
22 hazardous waste sites. The contingency fund must be financed
23 through the imposition of fees provided in Sections 44-56-170 and
24 44-56-510 and annual appropriations which must be provided by the
25 General Assembly.”

26

27 G. Section 44-56-200(A) of the 1976 Code is amended to read:

28

29 “(A)The Department of ~~Health and Environmental Control~~
30 Services is empowered to implement and enforce the
31 Comprehensive Environmental Response, Compensation and
32 Liability Act of 1980 (Public Law 96-510), and subsequent
33 amendments to Public Law 96-510 as of the effective date of the
34 amendments.”

35

36 H. Section 44-56-210 of the 1976 Code is amended to read:

37

38 “Section 44-56-210. The Department of ~~Health and~~
39 Environmental Control Services, in its discretion, shall assign not
40 more than two full-time health inspectors to serve at each
41 commercial hazardous waste treatment, storage, and disposal
42 facility located in South Carolina for the purpose of assuring the
43 protection of the health and safety of the public by monitoring the

1 receipt and handling of hazardous waste at these sites. For any
2 facilities to which a full-time inspector is not assigned, there must
3 be one or more inspectors who shall monitor these facilities on a
4 rotating basis.

5 The department shall implement a fee schedule to cover the costs
6 of implementing this inspection program and the fees must be
7 collected by the facilities from the hazardous waste generators
8 utilizing these sites.”

9
10 I. Section 44-56-405 of the 1976 Code is amended to read:
11

12 “Section 44-56-405. The purpose of the South Carolina
13 Drycleaning Facility Restoration Trust Fund is to collect and
14 manage funds for the investigation and remediation of
15 environmental contamination arising from the operation of eligible
16 drycleaning facilities and eligible wholesale supply facilities. The
17 Department of Revenue shall collect, and enforce the payment of
18 surcharges and fees, which constitute the fund, as required by this
19 article. The Department of ~~Health and Environmental Control~~
20 Services shall administer the fund to ensure that the sites that pose
21 the greatest threat to human health and the environment are
22 remediated first and that the remediation is accomplished in
23 compliance with this article.”

24
25 J. Section 44-56-410(2) of the 1976 Code is amended to read:
26

27 “(2) ‘Department’ means the Department of ~~Health and~~
28 Environmental Control Services.”

29
30 K. Section 44-56-420(B) of the 1976 Code is amended to read:
31

32 “(B) ~~The board of the~~ Department of ~~Health and Environmental~~
33 Control Services shall establish a moratorium on administrative and
34 judicial actions by the department concerning drycleaning facilities
35 and wholesale supply facilities resulting from the release of
36 drycleaning solvent to soil or waters of the State. This moratorium
37 applies only to those sites deemed eligible as defined in Section
38 44-56-470. ~~The board~~ department may review and determine the
39 appropriateness of the moratorium as needed. The review by the
40 ~~board~~ department must include, but is not limited to, consideration
41 of these factors:

- 42 (1) the solvency of the fund as described in this article;
43 (2) prioritization of the sites;

- 1 (3) public health concerns related to the sites;
2 (4) eligibility of the sites; and
3 (5) corrective action plans submitted to the department. After
4 review, the ~~board~~ department may suspend all or a portion of the
5 moratorium if necessary.”
6

7 L. Section 44-56-495(C) of the 1976 Code is amended to read:
8

9 “(C) Members enumerated in subsections (B)(1) through (B)(3)
10 are appointed by the ~~board~~ of the Department of ~~Health and~~
11 ~~Environmental Control~~ Services and shall serve terms of two years
12 and until their successors are appointed. The chairman of the council
13 is elected by the members of the council at the first meeting of each
14 new term.”
15

16 M. Section 44-56-720(4) of the 1976 Code is amended to read:
17

18 “(4) ‘Department’ means the South Carolina Department of
19 ~~Health and Environmental Control~~ Services.”
20

21 N. Section 44-56-840(A)(6) of the 1976 Code is amended to read:
22

23 “(6) the Director of the Department of ~~Health and Environmental~~
24 ~~Control~~ Services or his designee;”
25

26 SECTION 24.A. Section 44-61-20(5) and (8) of the 1976 Code is
27 amended to read:
28

29 “(5) ~~‘Board’ means the governing body of the Department of~~
30 ~~Health and Environmental Control or its designated representative~~
31 Reserved.
32

33 (8) ‘Department’ means the administrative agency known as the
34 Department of Behavioral and Public Health and Environmental
35 Control.”
36

37 B. Section 44-61-30(A) and (C) of the 1976 Code is amended to
38 read:
39

40 “(A) The Department of Behavioral and Public Health and
41 ~~Environmental Control~~, with the advice of the Emergency Medical
42 Services Advisory Council and the State Medical Control Physician,
43 shall develop standards and promulgate regulations for the

1 improvement of emergency medical services (hereinafter referred to
2 as EMS) in the State. All administrative responsibility for this
3 program is vested in the department.
4

5 (C) An Emergency Medical Services Advisory Council must be
6 established composed of representatives of the Department of
7 ~~Behavioral and Public Health and Environmental Control~~, the South
8 Carolina Medical Association, the South Carolina Trauma Advisory
9 Council, the South Carolina Hospital Association, the South
10 Carolina Heart Association, Medical University of South Carolina,
11 University of South Carolina School of Medicine, South Carolina
12 College of Emergency Physicians, South Carolina Emergency
13 Nurses Association, Emergency Management Division of the Office
14 of the Adjutant General, South Carolina Emergency Medical
15 Services Association, State Board for Technical and Comprehensive
16 Education, Governor's Office of Highway Safety, Department of
17 Health and Human Services, four regional Emergency Medical
18 Services councils, and one EMT first responder agency.
19 Membership on the council must be by appointment by the ~~board~~
20 department. Three members of the advisory council must be
21 members of organized rescue squads operating in this State, three
22 members shall represent the private emergency services systems,
23 and three members shall represent the county emergency medical
24 services systems. The advisory council shall serve without
25 compensation, mileage, per diem, or subsistence."
26

27 C. Section 44-61-40(B) of the 1976 Code is amended to read:
28

29 "(B) Applicants shall file license applications with the
30 appropriate official of the department having authority over
31 emergency services. At a minimum, license applications shall
32 contain evidence of ability to conform to the standards and
33 regulations established by the ~~board~~ department and such other
34 information as may be required by the department. If the application
35 is approved, the license will be issued. If the application is
36 disapproved, the applicant may appeal in a manner pursuant to
37 Article 3, Chapter 23, Title 1."
38

39 D. Sections 44-61-50 and 44-61-60 of the 1976 Code are amended
40 to read:
41

42 "Section 44-61-50. A vehicle must not be operated as an
43 ambulance, unless its licensed owner applies for and receives an

1 ambulance permit issued by the department for that vehicle. Prior to
2 issuing an original permit for an ambulance, the vehicle for which
3 the permit is issued shall meet all requirements as to vehicle design,
4 construction, staffing, medical and communication equipment and
5 supplies, and sanitation as set forth in this article or in the standards
6 and regulations promulgated by the ~~board~~ department. Absent
7 revocation or suspension, permits issued for ambulances are valid
8 for a period not to exceed two years.

9
10 Section 44-61-60. (A) Such equipment as deemed necessary by
11 the department must be required of organizations applying for
12 ambulance permits. Each licensee of an ambulance shall comply
13 with regulations as may be promulgated by the ~~board~~ department
14 and shall maintain in each ambulance, when it is in use as such, all
15 equipment as may be prescribed by the ~~board~~ department.

16 (B) The transportation of patients and the provision of
17 emergency medical services shall conform to standards
18 promulgated by the ~~board~~ department.”

19
20 E. Section 44-61-70(C) of the 1976 Code is amended to read:

21
22 “(C) Whoever hinders, obstructs, or interferes with a duly
23 authorized agent of the department while in the performance of his
24 duties or violates a provision of this article or regulation of the ~~board~~
25 department promulgated pursuant to this article is guilty of a
26 misdemeanor and, upon conviction, must be punished by a fine of
27 not less than five hundred dollars and not more than five thousand
28 dollars or by imprisonment for not less than ten days nor more than
29 six months for each offense. Information pertaining to the license or
30 permit is admissible in evidence in all prosecutions under this article
31 if it is consistent with applicable statutory provisions.”

32
33 F. Section 44-61-80(G) of the 1976 Code is amended to read:

34
35 “(G) All instructors of emergency medical technician training
36 courses must be certified by the department pursuant to
37 requirements established by the ~~board~~ department; and all such
38 training courses shall be supervised by certified instructors.”

39
40 G. Section 44-61-130 of the 1976 Code is amended to read:

41
42 “Section 44-61-130. A certified emergency medical technician
43 may perform any function consistent with his certification,

1 according to guidelines and regulations that the ~~board~~ department
2 may prescribe. Emergency medical technicians, trained to provide
3 advanced life support and possessing current Department of
4 Behavioral and Public Health and Environmental Control
5 certification while on duty with a licensed service, are authorized to
6 possess limited quantities of drugs, including controlled substances,
7 as may be approved by the department of ~~Health and Environmental~~
8 ~~Control~~ for administration to patients during the regular course of
9 duties of emergency medical technicians, pursuant to the written or
10 verbal order of a physician possessing a valid license to practice
11 medicine in this State; however, the physician must be registered
12 pursuant to state and federal laws pertaining to controlled
13 substances.”

14
15 H. Section 44-61-310(3), (4), (5), and (9) of the 1976 Code is
16 amended to read:

17
18 “(3) ~~‘Board’ means the governing body of the Department of~~
19 ~~Health and Environmental Control or its designated representative~~
20 Reserved.

21 (4) ‘Department’ means the Division of Emergency Medical
22 Services and Trauma within the Department of Behavioral and
23 Public Health and Environmental Control.

24 (5) ‘Director’ means the Director of the Department of
25 Behavioral and Public Health and Environmental Control.

26
27 (9) ‘Manager’ means the person coordinating the EMSC
28 Program within the Department of Behavioral and Public Health and
29 Environmental Control.”

30
31 I. Section 44-61-350(B) of the 1976 Code is amended to read:

32
33 “(B) Committee members must be appointed by the ~~board~~
34 department.”

35
36 J. Section 44-61-720(19) of the 1976 Code, as added by Act 248 of
37 2018, is amended to read:

38
39 “(19) ‘State EMS authority’ means the ~~board~~ department, office,
40 or other agency with the legislative mandate to license EMS
41 personnel.”

42

1 K. Section 44-61-800(B)(1) of the 1976 Code, as added by Act
2 248 of 2018, is amended to read:

3
4 “(1) Each member state shall have and be limited to one
5 delegate. The responsible official of the state EMS authority or his
6 or her designee shall be the delegate to this compact for each
7 member state. Any delegate may be removed or suspended from
8 office as provided by the law of the state from which the delegate is
9 appointed. Any vacancy occurring in the Commission shall be filled
10 in accordance with the laws of the member state in which the
11 vacancy exists. In the event that more than one ~~board department,~~
12 office, or other agency with the legislative mandate to license EMS
13 personnel at and above the level of EMT exists, the Governor of the
14 state will determine which entity will be responsible for assigning
15 the delegate.”

16
17 SECTION 25. Section 44-63-110 of the 1976 Code is amended to
18 read:

19
20 “Section 44-63-110. For making, furnishing, or certifying any
21 card, certificate, or certified copy of the record, for filing a record
22 amendment according to the provisions of Section 44-63-60,
23 44-63-80, 44-63-90 or 44-63-100, or for searching the record, when
24 no card, certificate, or certified copy is made, a fee in an amount as
25 determined by the ~~Board of the Department of Behavioral and~~
26 Public Health and Environmental Control must be paid by the
27 applicant, except that the Department of Social Services or its
28 designee is not required to pay a fee when the information is needed
29 for the purpose of establishing paternity or establishing, modifying,
30 or enforcing a child support obligation. The amount of the fee
31 established by the ~~board department~~ may not exceed the cost of the
32 services performed and to the extent possible must be charged on a
33 uniform basis throughout the State. When verification of the facts
34 contained in these records is needed for Veterans Administration
35 purposes in connection with a claim, it must be furnished without
36 charge to the Veterans’ Affairs Department of the Governor’s Office
37 or to a county veterans affairs officer upon request and upon the
38 furnishing of satisfactory evidence that the request is for the purpose
39 authorized in this chapter.”

40
41 SECTION 26.A. Section 44-69-20(1) and (3) of the 1976 Code is
42 amended to read:

43

1 “(1) ~~‘Board’ shall mean the South Carolina Board of Health and~~
2 ~~Environmental Control Reserved.~~

3

4 “(3) ~~‘Department’ shall mean~~ means South Carolina Department
5 of Behavioral and Public Health and Environmental Control.”

6

7 B. Section 44-69-30 of the 1976 Code is amended to read:

8 “Section 44-69-30. No person, private or public organization,
9 political subdivision, or other governmental agency shall establish,
10 conduct, or maintain a home health agency or represent itself as
11 providing home health services without first obtaining a license
12 from the Department of Behavioral and Public Health and
13 ~~Environmental Control.~~ This license is effective for a twelve-month
14 period following the date of issue. A license issued under this
15 chapter is not assignable or transferable and is subject to suspension
16 or revocation at any time for failure to comply with this act. Subunits
17 of parent home health agencies must be separately licensed.

18 The department may enter into public and private joint
19 partnerships or enter into other appropriate cooperative agreements
20 or arrangements or negotiate and effect these partnerships and
21 agreements to include the sale of the entity and/or the transfer of
22 licenses held by the department or its subdivisions to other qualified
23 providers, if appropriate, when doing so would result in continued
24 high quality patient care, continued provision of services to indigent
25 patients, assurance of the employment of the department’s home
26 health employees, and provision of home care services adequate to
27 meet the needs of the State. The department may facilitate the
28 negotiation, contracting, or transfer of these activities through
29 licensure and without requirement of a Certificate of Need as set out
30 in Section 44-69-75 and without regard to the Procurement Code,
31 Section 11-35-10, et. seq. However, a sale of the entity is subject to
32 the provisions of the Procurement Code.

33 At least thirty days before entering any negotiations regarding a
34 contractual agreement or a public/private partnership concerning the
35 provision of home health services, the department shall place a
36 public notice in a newspaper of general circulation for a period of
37 no less than three consecutive days within the area where the
38 services will be performed.

39 The department may establish requirements and conditions upon
40 those entities joined in partnership or receiving transfer of the home
41 care services, licensing, and Certificate of Need including, but not
42 limited to, transfer of employees, coverage of indigent patients, and
43 payments or contributions to the department to continue the

1 provision of basic public health services as determined by the
2 department. ~~All agreements must be reviewed and approved by the~~
3 ~~board of the department.~~ The department may monitor and enforce
4 the contract or partnership provisions and/or conditions of transfer
5 or any other conditions or requirements of agreements entered into
6 pursuant to this section.

7 All funds paid to or received by the department pursuant to this
8 section must be deposited in an account separate and distinct from
9 the general fund entitled the Public Health Fund (PHF). The funds
10 deposited in this fund must be used solely by the department to
11 support basic public health services determined to be necessary by
12 the department. The appropriation of the funds must be through the
13 general appropriations act.

14 Notwithstanding any of the provisions of this section, the
15 department may continue to provide public health services in the
16 clinic, the home, and the community necessary to ensure the
17 protection and promotion of the public's health.”

18
19 C. Section 44-69-50 of the 1976 Code is amended to read:
20

21 “Section 44-69-50. Reasonable fees shall be established by the
22 ~~Board department.~~ Such fees shall be paid into the State Treasury or
23 refunded to the applicant if the license is denied. Governmental
24 home health agencies are exempt from payment of license fees.”

25
26 SECTION 27. Section 44-71-20(1) and (2) of the 1976 Code is
27 amended to read:
28

29 “(1) ~~‘Board’ means the South Carolina Board of Health and~~
30 ~~Environmental Control Reserved.~~

31 (2) ‘Department’ means the South Carolina Department of
32 Behavioral and Public Health and Environmental Control.”

33
34 SECTION 28.A. Section 44-75-20(c) and (d) of the 1976 Code is
35 amended to read:
36

37 “(c) ‘Department’ means the Department of Behavioral and
38 Public Health and Environmental Control.

39 (d) ~~‘Board’ means the Board of Health and Environmental~~
40 ~~Control Reserved.~~”

41
42 B. 1. Section 44-75-30(b) of the 1976 Code is amended to read:
43

1 “(b) An Athletic Trainers’ Advisory Committee is created
2 consisting of nine members appointed by the ~~board~~ department.
3 Two members must be from the department, one must be from the
4 State Board of Medical Examiners, four must be certified athletic
5 trainers, and two must be from the general public who are not
6 certified or licensed in any health care field and are not connected
7 in any way with athletic trainers.”

8
9 2. The undesignated paragraph immediately following Section
10 44-75-30(b) of the 1976 Code is amended to read:

11
12 “Membership on the committee is by appointment by the ~~board~~
13 department. The terms of the members are for four years or until
14 successors are appointed except that of those first appointed four are
15 appointed to a term of two years.”

16
17 C. Section 44-75-40(e) of the 1976 Code is amended to read:

18
19 “(e) Any person whose application is denied, suspended, or
20 revoked is entitled to a hearing before the ~~board~~ department if he
21 submits a written request to the ~~board~~ department. Proceedings for
22 denial, revocation, or suspension of a certificate must be conducted
23 consistent with Act 176 of 1977 (Administrative Procedures Act).”

24
25 SECTION 29. Section 44-89-30(2) and (4) of the 1976 Code is
26 amended to read:

27
28 “(2) ‘~~Board~~’ means the ~~South Carolina Board of Health and~~
29 ~~Environmental Control~~ Reserved.”

30
31 (4) ‘~~Department~~’ means the South Carolina Department of
32 Behavioral and Public Health and Environmental Control.”

33
34 SECTION 30.A. Section 44-93-20(C) and (F) of the 1976 Code
35 is amended to read:

36
37 “(C) ‘~~Board~~’ means the ~~South Carolina Board of Health and~~
38 ~~Environmental Control which is charged with responsibility for~~
39 ~~implementation of the Infectious Waste Management Act~~ Reserved.”

40
41 (F) ‘~~Department~~’ means the Department of ~~Health and~~
42 ~~Environmental Control~~ Services, including personnel of the

1 department authorized by the board to act on behalf of the
2 department or board.”

3

4 B. Section 44-93-150(A) of the 1976 Code is amended to read:

5

6 “(A) Whenever the department finds that a person is in violation
7 of a permit, regulation, standard, or requirement under this chapter,
8 the department may issue an order requiring the person to comply
9 with the permit, regulation, standard, or requirement or the
10 department may bring civil action for injunctive relief in the
11 appropriate court; or, the department may request that the Attorney
12 General bring civil or criminal enforcement action under subsection
13 (B) or (C) of this section. Violation of a court order issued pursuant
14 to this section is contempt of the issuing court and punishable as
15 provided by law. The department also may invoke civil penalties as
16 provided in this section for violations of the provisions of this
17 chapter, including an order, permit, regulation, or standard. After
18 exhaustion of administrative remedies, a person against whom a
19 civil penalty is invoked by the department may appeal the decision
20 of the department or board to the Court of Common Pleas.”

21

22 C. Section 44-93-160(B) of the 1976 Code before the numbered
23 items is amended to read:

24

25 “(B) The owner or operator of a facility required to be permitted
26 pursuant to this chapter treating infectious waste shall submit, not
27 later than the tenth day of each month, to the Department of Health
28 and Environmental Control Services.”

29

30 SECTION 31.A. Section 44-96-40(9), (24), (29), (51), and (55)
31 of the 1976 Code is amended to read:

32

33 “(9) ‘Department’ means the South Carolina Department of
34 Health and Environmental Control Services.

35

36 (24) ‘Lead-acid battery collection facility’ means a facility
37 authorized by the Department of Health and Environmental Control
38 Services to accept lead-acid batteries from the public for temporary
39 storage prior to recycling.

40

41 (29) ‘Office’ means the Office of Solid Waste Reduction and
42 Recycling established within the Department of Health and
43 Environmental Control Services pursuant to Section 44-96-110.

1
2 (51) 'Solid Waste Management Trust Fund' means the trust fund
3 established within the Department of ~~Health and Environmental~~
4 ~~Control~~ Services pursuant to Section 44-96-120.

5
6 (55) 'State solid waste management plan' means the plan which
7 the Department of ~~Health and Environmental Control~~ Services is
8 required to submit to the General Assembly and to the Governor
9 pursuant to Section 44-96-60."

10
11 B. Section 44-96-60(C)(3) of the 1976 Code is amended to read:

12
13 "(3) one member to represent the Department of ~~Health and~~
14 ~~Environmental Control~~ Services;"

15
16 C. Section 44-96-85(A) of the 1976 Code, as added by Act 170 of
17 2018, is amended before the numbered items to read:

18
19 "(A) There is established a Solid Waste Emergency Fund to be
20 administered by the Department of ~~Health and Environmental~~
21 ~~Control~~ Services."

22
23 D. Section 44-96-100(A) of the 1976 Code is amended to read:

24
25 "(A) Whenever the department determines that a person is in
26 violation of a regulation promulgated pursuant to this article
27 regarding Sections 44-96-160(X) (Used Oil), 44-96-170(H) (Waste
28 Tires), or 44-96-190(A) (Yard trash, compost), the department may
29 issue an order requiring the person to comply with the regulation or
30 the department may bring civil action for injunctive relief in the
31 appropriate court or the department may request that the Attorney
32 General bring civil or criminal enforcement action under this
33 section. The department also may impose reasonable civil penalties
34 not to exceed ten thousand dollars, for each day of violation, for
35 violations of the regulations promulgated pursuant to this article
36 regarding Sections 44-96-160(X), 44-96-170(H), or 44-96-190(A).
37 After exhaustion of administrative remedies, a person against whom
38 a civil penalty is invoked by the department may appeal the decision
39 of the department ~~or board of~~ to the court of common pleas, pursuant
40 to the Administrative Procedures Act."

41
42 E. Section 44-96-120(C) of the 1976 Code is amended to read:

1 “(C) The department shall report on a quarterly basis to the State
2 Solid Waste Advisory Council, House Ways and Means Committee,
3 Senate Finance Committee, and the Joint Legislative Committee on
4 Energy on the condition of the Solid Waste Management Trust Fund
5 and on the use of all funds allocated from the Solid Waste
6 Management Trust Fund. Quarterly reports shall be made not later
7 than sixty days after the last day of each fiscal quarter beginning
8 with the first full quarter after this chapter is effective.
9 Notwithstanding Chapter 39 of Title 11, the Department of Health
10 and Environmental ~~Control~~ Services, through the Office of Solid
11 Waste Reduction and Recycling, shall make decisions on the
12 allocation of oil overcharge funds transferred to the Solid Waste
13 Management Trust Fund pursuant to Section 44-96-120(B)(9). The
14 department’s decisions shall be made upon the approval of the
15 statewide Solid Waste Advisory Council and after consultation with
16 the Governor’s Office and the Joint Legislative Committee on
17 Energy to ensure that the funds are administered according to
18 decisions of the federal courts and requirements of the United States
19 Department of Energy. If all oil overcharge funds transferred to the
20 Solid Waste Management Trust Fund are not committed for projects
21 or programs authorized by this chapter five years from the date this
22 chapter is effective, they shall be returned to the Governor’s Office.”
23

24 F. Section 44-96-165 of the 1976 Code is amended to read:
25

26 “Section 44-96-165. The Department of Health—~~and~~
27 Environmental ~~Control~~ Services, with the approval of the State
28 Auditor, shall contract with one or more qualified, independent
29 certified public accountants on a one-year basis to audit revenues
30 and disbursements from the Solid Waste Management Trust Fund
31 and the Waste Tire Trust Fund established pursuant to Section
32 44-96-120 and from the Petroleum Fund established pursuant to
33 Section 44-96-160(V). The auditors may audit relevant records of a
34 public or private entity that has submitted, kept, handled, or tracked
35 monies for any of the three funds. This contract must be funded by
36 the Solid Waste Management Trust Fund, the Petroleum Fund, and
37 the Waste Tire Trust Fund.”
38

39 G.1. In the fourth undesignated paragraph of Section
40 44-96-170(N) of the 1976 Code is amended to read:
41

42 “The remaining portion of the tire recycling fee is to be credited
43 to the Solid Waste Management Trust Fund by the State Treasurer

1 for the Waste Tire Grant Trust Fund, established under the
2 administration of the South Carolina Department of ~~Health and~~
3 ~~Environmental Control Services.~~ Services.”
4

5 2. Section 44-96-170(P) of the 1976 Code is amended to read:
6 “(P) The Office of Solid Waste Reduction and Recycling of the
7 Department of ~~Health and Environmental Control~~ Services may
8 provide grants from the Waste Tire Trust Fund to counties which
9 have exhausted all funds remitted to counties under Section
10 44-96-170(N), to regions applying on behalf of those counties and
11 to local governments within those counties to assist in the following:

- 12 (1) constructing, operating, or contracting with waste tire
13 processing or recycling facilities;
- 14 (2) removing or contracting for the removal of waste tires for
15 processing or recycling;
- 16 (3) performing or contracting for the performance of research
17 designed to facilitate waste tire recycling; or
- 18 (4) the purchase or use of recycled products or materials made
19 from waste tires generated in this State.”
20

21 3. Section 44-96-170(Q)(4) of the 1976 Code is amended to read:
22

23 “(4) the South Carolina Department of ~~Health and~~
24 ~~Environmental Control~~ Services,”
25

26 H. Section 44-96-250(B)(4) of the 1976 Code is amended to read:
27

28 “(4) ‘Director’ means the Director of the South Carolina
29 Department of ~~Health and Environmental Control~~ Services.”
30

31 I. Section 44-96-440(C) of the 1976 Code is amended to read:
32

33 “(C) It shall be unlawful for any person to fail to comply with this
34 article and any regulations promulgated pursuant to this article, or
35 to fail to comply with any permit issued under this article, or to fail
36 to comply with any order issued by the ~~board, commissioner,~~
37 director or department.”
38

39 J. Section 44-96-450(A) of the 1976 Code is amended to read:
40

41 “(A) Whenever the department finds that a person is in violation
42 of a permit, regulation, standard, or requirement under this article,
43 the department may issue an order requiring the person to comply

1 with the permit, regulation, standard, or requirement, or the
2 department may bring civil action for injunctive relief in the
3 appropriate court, or the department may request that the Attorney
4 General bring civil or criminal enforcement action under this
5 section. The department also may impose reasonable civil penalties
6 established by regulation, not to exceed ten thousand dollars for
7 each day of violation, for violations of the provisions of this article,
8 including any order, permit, regulation, or standard. After
9 exhaustion of administrative remedies, a person against whom a
10 civil penalty is invoked by the department may appeal the decision
11 of the department ~~or board~~ to the court of common pleas.”
12

13 SECTION 32. Title 46 of the 1976 Code is amended by adding:
14

15 “CHAPTER 57

16 Food Safety
17

18 Section 46-57-10. (A) For the purposes of this section:
19

20 (1) ‘Home-based food production operation’ means an
21 individual, operating out of the individual’s dwelling, who prepares,
22 processes, packages, stores, and distributes nonpotentially
23 hazardous foods for sale directly to a person.

24 (2) ‘Nonpotentially hazardous foods’ means candy and baked
25 goods that are not potentially hazardous foods.

26 (3) ‘Person’ means an individual consumer.

27 (4) ‘Potentially hazardous foods’ means:

28 (a) an animal food that is raw or heat-treated, a plant food
29 that is heat-treated or consists of raw seed sprouts, cut melons, cut
30 leafy greens, cut tomatoes or mixtures of cut tomatoes not modified
31 to prevent microorganism growth or toxin formation, or garlic-in-oil
32 mixtures not modified to prevent microorganism growth or toxin
33 formation;

34 (b) certain foods that are designated as Product Assessment
35 Required (PA) because of the interaction of the pH and Aw values
36 in these foods. Below is a table indicating the interaction of pH and
37 Aw for control of spores in food heat-treated to destroy vegetative
38 cells and subsequently packaged:
39

	Aw values		pH values	
		4.6 or less	>4.6--5.6	>5.6
42 (1)	<0.92	non-PHF	non-PHF	non-PHF
43 (2)	>0.92--0.95	non-PHF	non-PHF	PHF

1 (3) >0.95 non-PHF PHF PHF
2

3 Foods in item (2) with a pH value greater than 5.6 and foods in item
4 (3) with a pH value greater than 4.6 are considered potentially
5 hazardous unless a product assessment is conducted pursuant to the
6 2009 Federal Drug Administration Food Code.

7 (B) The operator of the home-based food production operation
8 must take all reasonable steps to protect food items intended for sale
9 from contamination while preparing, processing, packaging,
10 storing, and distributing the items including, but not limited to:

11 (1) maintaining direct supervision of any person, other than
12 the operator, engaged in the processing, preparing, packaging, or
13 handling of food intended for sale;

14 (2) prohibiting all animals, including pets, from entering the
15 area in the dwelling in which the home-based food production
16 operation is located while food items are being prepared, processed,
17 or packaged and prohibiting these animals from having access to or
18 coming in contact with stored food items and food items being
19 assembled for distribution;

20 (3) prohibiting all domestic activities in the kitchen while the
21 home-based food production operation is processing, preparing,
22 packaging, or handling food intended for sale;

23 (4) prohibiting any person who is infected with a
24 communicable disease that can be transmitted by food, who is a
25 carrier of organisms that can cause a communicable disease that can
26 be transmitted by food, who has an infected wound, or who has an
27 acute respiratory infection from processing, preparing, packaging,
28 or handling food intended for sale by the home-based food
29 production operation; and

30 (5) ensuring that all people engaged in processing, preparing,
31 packaging, or handling food intended for sale by the home-based
32 food production operation are knowledgeable of and follow safe
33 food handling practices.

34 (C) Each home-based food production operation shall maintain
35 a clean and sanitary facility to produce nonpotentially hazardous
36 foods including, but not limited to:

37 (1) department-approved water supply;

38 (2) a separate storage place for ingredients used in foods
39 intended for sale;

40 (3) a properly functioning refrigeration unit;

41 (4) adequate facilities, including a sink with an adequate hot
42 water supply to meet the demand for the cleaning and sanitization
43 of all utensils and equipment;

1 (5) adequate facilities for the storage of utensils and
2 equipment;

3 (6) adequate hand washing facilities separate from the utensil
4 and equipment cleaning facilities;

5 (7) a properly functioning toilet facility;

6 (8) no evidence of insect or rodent activity; and

7 (9) department-approved sewage disposal, either on-site
8 treatment or publicly provided.

9 (D) All food items packaged at the operation for sale must be
10 properly labeled. The label must comply with federal laws and
11 regulations and must include:

12 (1) the name and address of the home-based food production
13 operation;

14 (2) the name of the product being sold;

15 (3) the ingredients used to make the product in descending
16 order of predominance by weight; and

17 (4) a conspicuous statement printed in all capital letters and in
18 a color that provides a clear contrast to the background that reads:
19 'NOT FOR RESALE - PROCESSED AND PREPARED BY A
20 HOME-BASED FOOD PRODUCTION OPERATION THAT IS
21 NOT SUBJECT TO SOUTH CAROLINA'S FOOD SAFETY
22 REGULATIONS.'

23 (E) Home-based food operations only may sell, or offer to sell,
24 food items directly to a person for his own use and not for resale. A
25 home-based food operation may not sell, or offer to sell, food items
26 at wholesale. Food produced from a home-based food production
27 operation must not be considered to be from an approved source, as
28 required of a retail food establishment pursuant to Regulation 61.25.

29 (F) A home-based food production operation is not a retail food
30 establishment and is not subject to regulation by the department
31 pursuant to Regulation 61.25.

32 (G) The provisions of this section do not apply to an operation
33 with net earnings of less than five hundred dollars annually but that
34 would otherwise meet the definition of a home-based food operation
35 provided in subsection (A)(1).
36

37 Section 46-57-20. (A) Notwithstanding any other provision of
38 law, ground beef or any food containing ground beef prepared by a
39 food service provider for public consumption must be cooked to
40 heat all parts of the food to at least one hundred fifty-five degrees
41 Fahrenheit, or sixty-eight degrees Celsius, unless otherwise ordered
42 by the immediate consumer.

1 (B) The food service provider, its business or its employees or
2 agents, are not liable for any adverse effects to the purchaser or
3 anyone else for providing a ground beef product cooked at an
4 internal temperature less than one hundred fifty-five degrees
5 Fahrenheit, or sixty-eight degrees Celsius, if providing the product
6 is at the request of the purchaser and if the food service provider has
7 notified the purchaser in advance that a possible health risk may
8 exist by eating the product. The notice must state that a possible
9 health risk may exist in eating undercooked ground beef at an
10 internal temperature less than one hundred fifty-five degrees
11 Fahrenheit, or sixty-eight degrees Celsius, and be given to the
12 purchaser:

- 13 (1) in writing;
- 14 (2) as stated on the menu; or
- 15 (3) by visible sign warning.

16 (C) In order for an immediate consumer or purchaser, as used in
17 this section, to request or order ground beef to be cooked to a
18 temperature less than one hundred fifty-five degrees Fahrenheit
19 (sixty-eight degrees Celsius), the individual must be eighteen years
20 of age or older.

21
22 Section 46-57-30. Fresh meat or fresh meat products sold to a
23 consumer may not be offered to the public for resale for human
24 consumption if the fresh meat or fresh meat products have been
25 returned by the consumer.

26
27 Section 46-57-35. The Department of Agriculture may make,
28 adopt, promulgate, and enforce reasonable rules and regulations
29 from time to time requiring and providing for:

- 30 (1) the sanitation of hotels, restaurants, cafes, drugstores, hot
31 dog and hamburger stands, all other places or establishments
32 providing eating or drinking facilities, and all other places known as
33 private nursing homes or places of similar nature, operated for gain
34 or profit; and
- 35 (2) the production, storing, labeling, transportation, and selling
36 of milk and milk products, filled milk and filled milk products,
37 imitation milk and imitation milk products, synthetic milk and
38 synthetic milk products, milk derivatives, and any other products
39 made in semblance for milk or milk products.

40
41 Section 46-57-40. The department may not use any funds
42 appropriated or authorized to the department to enforce Regulation
43 61-25 to the extent that its enforcement would prohibit a church or

1 charitable organization from preparing and serving food to the
2 public on their own premises at not more than one function a month
3 or not more than twelve functions a year.

4
5 Section 46-57-45. (A) Except as provided in Section 46-57-50,
6 a person who after notice violates, disobeys, or refuses, omits, or
7 neglects to comply with a regulation of the Department of
8 Agriculture promulgated pursuant to this chapter, is guilty of a
9 misdemeanor and, upon conviction, must be fined not more than two
10 hundred dollars or imprisoned for thirty days.

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

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

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

20
21 SECTION 33. Section 47-5-20(2) of the 1976 Code is amended
22 to read:

23
24 “(2) ‘Department’ means the South Carolina Department of
25 ~~Health and Environmental Control, including county health~~
26 ~~departments~~ Environmental Services.”

27
28 SECTION 34.A. Section 48-1-10(9) of the 1976 Code is amended
29 to read:

30
31 “(9) ‘Department’ means the Department of ~~Health and~~
32 ~~Environmental Control~~ Environmental Services;”

33
34 B. Section 48-1-20 of the 1976 Code is amended to read:

35
36 “Section 48-1-20. It is declared to be the public policy of the
37 State to maintain reasonable standards of purity of the air and water
38 resources of the State, consistent with the public health, safety and
39 welfare of its citizens, maximum employment, the industrial
40 development of the State, the propagation and protection of
41 terrestrial and marine flora and fauna, and the protection of physical
42 property and other resources. It is further declared that to secure
43 these purposes and the enforcement of the provisions of this chapter,

1 the Department of ~~Health and Environmental Control~~
2 Environmental Services shall have authority to abate, control and
3 prevent pollution.”

4

5 C. Section 48-1-55 of the 1976 Code is amended to read:

6

7 “Section 48-1-55. On any navigable river in this State where an
8 oyster factory is located, the Department of ~~Health and~~
9 ~~Environmental Control~~ Environmental Services may utilize
10 qualified personnel of the county or municipality in whose
11 jurisdiction the factory operates to assist with the monitoring of
12 water quality and other environmental standards the department is
13 required to enforce. The assistance may be provided at the request
14 of the department and upon the consent of the county or
15 municipality concerned.”

16

17 D. Section 48-1-85(D) of the 1976 Code is amended to read:

18 “(D)Houseboat holding tanks may be emptied only by a
19 pump-out system permitted by the South Carolina Department of
20 ~~Health and Environmental Control~~ Environmental Services.”

21

22 E. Section 48-1-95(A)(4) of the 1976 Code is amended to read:

23

24 “(4) ‘Department’ means the Department of ~~Health and~~
25 ~~Environmental Control~~ Environmental Services.”

26

27 F. Section 48-1-100(B) and (C) of the 1976 Code is amended to
28 read:

29

30 “(B)The Department of ~~Health and Environmental Control~~
31 Environmental Services is the agency of state government having
32 jurisdiction over the quality of the air and waters of the State of
33 South Carolina. It shall develop and enforce standards as may be
34 necessary governing emissions or discharges into the air, streams,
35 lakes, or coastal waters of the State, including waste water
36 discharges.

37 (C) The Department of ~~Health and Environmental Control~~
38 Environmental Services is the agency of state government having
39 jurisdiction over those matters involving real or potential threats to
40 the health of the people of South Carolina, including the handling
41 and disposal of garbage and refuse; septic tanks; and individual or
42 ~~privately owned~~ privately owned systems for the disposal of offal
43 and human or animal wastes.”

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G. Section 48-1-130 of the 1976 Code is amended to read:

“Section 48-1-130. A person discharging sewage, industrial waste, or other waste or air contaminant into the environment of the State, in such manner or quantity as to cause pollution, without regard to the time that the discharge began or whether or not the continued discharge has been by virtue of a permit issued by the department, shall discontinue the discharge upon receipt of an order of the department. An order is subject to review pursuant to Section ~~44-1-60~~ 49-3-60 and the Administrative Procedures Act. This section does not abrogate any of the department’s emergency powers.”

H. Section 48-1-280 of the 1976 Code is amended to read:

“Section 48-1-280. Nothing herein contained shall be construed to postpone, stay or abrogate the enforcement of the provisions of the public health laws of this State and ~~rules and regulations~~ promulgated hereunder in respect to discharges causing actual or potential hazards to public health nor to prevent the Department of ~~Health and Environmental Control~~ Environmental Services from exercising its right to prevent or abate nuisances.”

SECTION 35. A. Section 48-2-20(2) of the 1976 Code is amended to read:

“(2) ‘Department’ means the South Carolina Department of ~~Health and Environmental Control~~ Environmental Services.”

B. Section 48-2-70 of the 1976 Code is amended to read:

“Section 48-2-70. Under each program for which a permit processing fee is established pursuant to this article, the promulgating authority also shall establish by regulation a schedule for timely action by the Department of ~~Health and Environmental Control~~ Environmental Services on permit applications under that program. These schedules shall contain criteria for determining in a timely manner when an application is complete and the maximum length of time necessary and appropriate for a thorough and prompt review of each category of permit applications and shall take into account the nature and complexity of permit application review required by the act under which the permit is sought. If the

1 department fails to grant or deny the permit within the time frame
2 established by regulation, the department shall refund the permit
3 processing fee to the permit applicant.”

4 C. Section 48-2-320(1), (2), and (3) of the 1976 Code is amended
5 to read:

6
7 “(1) ~~‘Commissioner’~~ ‘Director’ means the ~~Commissioner~~
8 director of the Department of ~~Health and Environmental Control~~
9 Environmental Services.

10 (2) ~~‘Department’~~ means the Department of ~~Health and~~
11 ~~Environmental Control~~ Environmental Services.

12 (3) ~~‘Environmental emergency’~~ means a situation, to be
13 determined by the ~~commissioner~~ director, that constitutes an
14 immediate threat to the environment or public health, or both, and
15 providing immediate, but temporary relief to the situation may
16 require the expenditure of funds to effect a solution, provide
17 temporary relief, or retain the services of appropriate technical
18 personnel or contractors.”

19
20 D. Section 48-2-330(A) of the 1976 Code is amended to read:

21
22 “(A) There is created within the Department of ~~Health and~~
23 ~~Environmental Control~~ Environmental Services a restricted account
24 to be known as the Environmental Emergency Fund.”

25
26 E. Section 48-2-340(A) of the 1976 Code is amended to read:

27
28 “(A) The department, through the ~~commissioner~~ director or the
29 ~~commissioner’s~~ director’s designee, shall certify that funding for a
30 specific emergency was necessary to protect the environment or
31 public health, or both. Annually, the department shall prepare an
32 independent accounting of all revenue in the fund. The report must
33 be submitted to the ~~chairman of the Board of the Department of~~
34 ~~Health and Environmental Control~~ Governor and must be made
35 available to the public upon request.”

36
37 SECTION 36. A. Section 48-3-10(6) of the 1976 Code is
38 amended to read:

39 “(6) ~~‘Department’~~ shall mean the Department of ~~Health and~~
40 ~~Environmental Control~~ Environmental Services of South Carolina.”

41
42 B. Section 48-3-140(A)(2) of the 1976 Code is amended to read:

43

1 “(2) a statement setting forth the action taken by the Department
2 of ~~Health and Environmental Control~~ Environmental Services in
3 connection with the pollution control facilities;”

4 SECTION 37. Section 48-4-10 of the 1976 Code is amended to
5 read:

6
7 “Section 48-4-10. (A) The South Carolina Department of
8 Natural Resources ~~is created to~~ shall administer and enforce the laws
9 of this State relating to wildlife, marine resources, and natural
10 resources and other laws specifically assigned to it. The department
11 must be comprised of a Natural Resources Enforcement Division, a
12 Wildlife and Freshwater Fisheries Division, a Marine Resources
13 Division, ~~a Water Resources Division,~~ and a Land Resources and
14 Conservation Districts Division. Each division of the department
15 must have the functions and powers provided by law.

16 (B) ~~All functions, powers, and duties provided by law to the~~
17 ~~South Carolina Wildlife and Marine Resources Department, the~~
18 ~~Geological Survey Division of the Budget and Control Board, to~~
19 ~~include the State Geologist, and the South Carolina Migratory~~
20 ~~Waterfowl Committee are transferred to the Department of Natural~~
21 ~~Resources. All nonregulatory functions, powers, and duties~~
22 ~~provided by law to the South Carolina Water Resources~~
23 ~~Commission and the State Land Resources Conservation~~
24 ~~Commission are transferred to the Department of Natural~~
25 ~~Resources. All rules, regulations, standards, orders, or other actions~~
26 ~~of these entities remain in effect unless specifically changed or~~
27 ~~voided by the department in accordance with the Administrative~~
28 ~~Procedures Act.~~

29 (C) All divisions are directly accountable to and subject to the
30 Department of Natural Resources.

31 (D) ~~The Wildlife and Marine Resources Commission, the Land~~
32 ~~Resources Conservation Commission, and the Water Resources~~
33 ~~Commission are abolished.”~~

34
35 SECTION 38. Section 48-5-20(6) of the 1976 Code is amended
36 to read:

37
38 “(6) ‘Department’ means the South Carolina Department of
39 ~~Health and Environmental Control~~ Environmental Services.”

40
41 SECTION 39. Section 48-14-20(1) and (6) of the 1976 Code is
42 amended to read:

43

1 “(1) ‘Department’ means the South Carolina Department of
2 ~~Health and Environmental Control~~ Environmental Services.

3

4 (6) ‘Designated Watershed’ means a watershed designated by a
5 local government and approved by the Department of ~~Health and~~
6 ~~Environmental Control~~ Environmental Services and identified as
7 having an existing or potential stormwater, sediment control, or
8 nonpoint source pollution problem.”

9

10 SECTION 40.A. Section 48-18-20(8) and (11) of the 1976
11 Code is amended to read:

12

13 “(8) ‘Department’ means the South Carolina Department of
14 ~~Health and Environmental Control~~ Environmental Services.

15

16 ~~(11) ‘Board’ means the board of the department.”~~

17

18 B. Section 48-18-50(1) of the 1976 Code is amended to read:

19

20 “(1) A State Advisory Council on Erosion and Sediment
21 Reduction (State Advisory Council), which may include, but not be
22 limited to, a representative of each of the following, must be
23 appointed by the Governor upon the advice of the following
24 agencies and organizations:

25 South Carolina Association of Counties

26 South Carolina Municipal Association

27 South Carolina Association of Conservation Districts

28 South Carolina Home Builders Association

29 Associated General Contractors, Inc.

30 South Carolina Association of Realtors

31 South Carolina Chapter, American Society of Landscape

32 Architects

33 South Carolina Chapter, American Society of Civil Engineers

34 Council of Governments Executive Director’s Committee

35 South Carolina Farm Bureau

36 South Carolina State Grange

37 Office of the Governor

38 USDA-Soil Conservation Service

39 Clemson University

40 South Carolina Department of ~~Health and Environmental~~

41 ~~Control~~ Environmental Services

42 South Carolina Forestry Commission

43 South Carolina Forestry Association

1 South Carolina Chapter
2 American Institute of Architects”
3

4 SECTION 41.A. Section 48-20-30 of the 1976 Code is amended
5 to read:
6

7 “Section 48-20-30. The South Carolina Department of ~~Health and~~
8 ~~Environmental Control~~ Environmental Services is responsible for
9 administering the provisions and requirements of this chapter. This
10 includes the process and issuance of mining permits, review and
11 approval of reclamation plans, collection of reclamation
12 performance bonds, conduct of environmental appraisals, technical
13 assistance to mine operators and the public, implementation of
14 research and demonstration projects, and inspections of all mining
15 operations and reclamation as set forth in this chapter. Proper
16 execution of these responsibilities may necessitate that the
17 department seek comment from other relevant state agencies
18 regarding matters within their respective areas of statutory
19 responsibility or primary interests. The department has ultimate
20 authority, subject to the appeal provisions of this chapter, over all
21 mining, as defined in this chapter, and the provisions of this chapter
22 regulating and controlling such activity.”
23

24 B. Section 48-20-40(3) of the 1976 Code is amended to read:
25

26 “(3) ‘Department’ means the South Carolina Department of
27 ~~Health and Environmental Control~~ Environmental Services.
28 Whenever in this chapter the department is assigned duties, they
29 may be performed by the director or by subordinates as he
30 designates.”
31

32 C. Section 48-20-70(3) of the 1976 Code is amended to read:
33

34 “(3) the operation will violate standards of air quality, surface
35 water quality, or groundwater quality which have been promulgated
36 by the South Carolina Department of ~~Health and Environmental~~
37 ~~Control~~ Environmental Services.”
38

39 SECTION 42. Section 48-21-20(b) and (c) of the 1976 Code is
40 amended to read:
41

42 “(b) The council shall be composed of eleven members. One
43 member shall be the State Geologist and one member shall be the

1 Secretary of Commerce or his designee. Three members, appointed
2 by the Governor, shall be representatives of mining industries; three
3 members, appointed by the Governor, shall be representatives of
4 nongovernmental conservation interests; two members, appointed
5 by the Governor, shall be representatives of the Department of
6 ~~Health and Environmental Control~~ Environmental Services who
7 shall be knowledgeable in the principles of water and air resources
8 management; and one member, appointed by the Governor, shall be
9 his official representative to the Interstate Mining Compact
10 Commission. Any public official appointed to the council shall
11 serve ex officio. The term of office for the Secretary of Commerce
12 or his designee and the Governor's official representative to the
13 Interstate Mining Compact Commission shall be coterminous with
14 that of the Governor. Of the remaining eight members appointed by
15 the Governor, six shall be appointed for terms of six years, two shall
16 be appointed for terms of two years and beginning July 1, 1976, the
17 term of office for all new appointments and reappointments to these
18 eight positions shall be for four years. The term of each member of
19 the council shall expire on June thirtieth of the year in which his
20 term expires. Any vacancy occurring on the council by death,
21 resignation, or otherwise shall be filled for the unexpired term of the
22 person creating the vacancy by the Governor.

23 (c) In accordance with Article V (i) of the compact, the
24 commission shall file copies of its bylaws and any amendments
25 thereto with the Director of the Department of ~~Health and~~
26 ~~Environmental Control~~ Environmental Services.”

27
28 SECTION 43. Section 48-34-40(B)(3) of the 1976 Code is
29 amended to read:

30
31 “(3) are considered in the public interest and do not constitute
32 a public or private nuisance when conducted pursuant to the South
33 Carolina Smoke Management Guidelines, Chapters 1 and 35, Title
34 48, and Chapter 2, Title 50; prescribed fires that are purposefully set
35 in accordance with these chapters and the South Carolina Smoke
36 Management Guidelines are exempt from the open fire prohibition
37 pursuant to R. 61-62.2 and are acceptable to the Department of
38 ~~Health and Environmental Control~~ Environmental Services if the
39 fire is for:

- 40 (a) burning forest lands for specific management practices;
41 (b) agricultural control of diseases, weeds, and pests and
42 for other specific agricultural purposes;

1 (c) open burning of trees, brush, grass, and other vegetable
2 matter for game management purposes;”

3

4 SECTION 44.A. Section 48-39-10(C), (V), and (W) of the 1976
5 Code is amended to read:

6

7 “(C) ‘Division’ means the Coastal Division of the South Carolina
8 Department of ~~Health and Environmental Control~~ Environmental
9 Services.

10

11 (V) ‘Department’ means the South Carolina Department of
12 ~~Health and Environmental Control~~ Environmental Services.

13 (W) ‘~~Board~~’ means the board of the department Reserved.”

14 B. Section 48-39-35 of the 1976 Code is amended to read:

15

16 “Section 48-39-35. The Coastal Division of the Department of
17 Health and Environmental Control is created July 1, 1994. The
18 division is transferred to the Department of Environmental Services
19 the effective date of this act.”

20

21 C.1. The undesignated, introductory paragraph of Section 48-39-50
22 of the 1976 Code is amended to read:

23

24 “The South Carolina Department of ~~Health and Environmental~~
25 ~~Control~~ Environmental Services shall have the following powers
26 and duties:”

27

28 2. Section 48-39-50(S) of the 1976 Code is amended to read:

29

30 “(S) To monitor, in coordination with the South Carolina
31 Department of Natural Resources, the waters of the State for oil
32 spills. If such department observes an oil spill in such waters, it shall
33 immediately report ~~such~~ the spill to the South Carolina Department
34 of ~~Health and Environmental Control~~ Environmental Services, the
35 United States Coast Guard, and the Environmental Protection
36 Agency. This in no way negates the responsibility of the spiller to
37 report a spill.”

38

39 D. Section 48-39-270(3) of the 1976 Code is amended to read:

40

41 “(3) ‘Department’ means the Department of ~~Health and~~
42 ~~Environmental Control~~ Environmental Services.”

43

1 E. Section 48-39-280(F) of the 1976 Code, as last amended by Act
2 173 of 2018, is further amended to read:

3

4 ~~“(F)(1) A landowner claiming ownership of property adversely~~
5 ~~affected by the establishment of a baseline or setback line, upon~~
6 ~~submittal of substantiating evidence, must be granted a review of~~
7 ~~the baseline or setback line. Alternatively, the municipality or~~
8 ~~county in which the property is situated, acting on behalf of the~~
9 ~~landowner with his written authorization, or an organization acting~~
10 ~~on behalf of the landowner with his written authorization, upon~~
11 ~~submittal of substantiating evidence, must be granted a review of~~
12 ~~the baseline and setback line. A review is initiated by filing a request~~
13 ~~for a review conference with the department board via certified mail~~
14 ~~within one year of the establishment of the baseline or setback line~~
15 ~~and must include a one hundred dollar review fee per property.~~

16 ~~(2) The initial decision to establish a baseline or setback line~~
17 ~~must be a department staff decision.~~

18 ~~(3) No later than sixty calendar days after the receipt of a~~
19 ~~request for review, the board must:~~

20 ~~(a) decline to schedule a review conference in writing; or~~

21 ~~(b) conduct a review conference in accordance with the~~
22 ~~provisions of item (4).~~

23 ~~(4) A review conference may be conducted by the board, its~~
24 ~~designee, or a committee of three members of the board appointed~~
25 ~~by the chair. The board shall set the place, date, and time for the~~
26 ~~conference; give twenty calendar days' written notice of the~~
27 ~~conference; and advise the landowner or the county, municipality,~~
28 ~~or organization acting on behalf of the landowner that evidence may~~
29 ~~be presented at the conference. The review conference must be held~~
30 ~~as follows:~~

31 ~~(a) Review conferences are open to the public; however,~~
32 ~~the officers conducting the conference may meet in closed session~~
33 ~~to deliberate on the evidence presented at the conference. The~~
34 ~~burden of proof in a conference is upon the landowner or the county,~~
35 ~~municipality, or organization acting on behalf of the landowner.~~
36 ~~During the course of the review conference, the staff must explain~~
37 ~~the staff decision and the materials relied upon to support its~~
38 ~~decision. The landowner or the county, municipality, or~~
39 ~~organization acting on behalf of the landowner shall state the~~
40 ~~reasons for contesting the staff decision and may provide evidence~~
41 ~~to support amending the staff decision. The staff may rebut~~
42 ~~information and arguments presented by the landowner or the~~
43 ~~county, municipality, or organization acting on behalf of the~~

1 landowner, and the landowner or the county, municipality, or
2 organization acting on behalf of the landowner may rebut
3 information and arguments presented by the staff. Any review
4 conference officer may request additional information and may
5 question the landowner or the county, municipality, or organization
6 acting on behalf of the landowner and the staff.

7 (b) After the review conference, the board, its designee, or a
8 committee of three members of the board appointed by the chair
9 shall issue, based upon the evidence presented, a written decision to
10 the landowner or the county, municipality, or organization acting on
11 behalf of the landowner via certified mail no later than thirty
12 calendar days after the date of the review conference. The written
13 decision must explain the basis for the decision and inform the
14 landowner or the county, municipality, or organization acting on
15 behalf of the landowner of the right to request a contested case
16 hearing before the Administrative Law Court.

17 (5) The landowner or the county, municipality, or organization
18 acting on behalf of the landowner may file a request with the
19 Administrative Law Court, in accordance with Chapter 23, Title 1,
20 for a contested case hearing within thirty calendar days after:

21 (a) written notice is received by the landowner or the county,
22 municipality, or organization acting on behalf of the landowner that
23 the board declines to hold a review conference;

24 (b) the sixty calendar day deadline to hold the review
25 conference has lapsed and no conference has been held; or

26 (c) the final agency decision resulting from the review
27 conference is received by the landowner or the county, municipality,
28 or organization acting on behalf of the landowner. A landowner who
29 claims ownership of property adversely affected by the
30 establishment of a baseline or setback line may file a request with
31 the Administrative Law Court, in accordance with Chapter 23, Title
32 1 for a contested case hearing within one year of the establishment
33 of the baseline or setback line. Alternatively, the municipality or
34 county in which the property is situated, acting on behalf of the
35 landowner with his written authorization, or an organization acting
36 on behalf of the landowner with his written authorization, may file
37 a request with the Administrative Law Court, in accordance with
38 Chapter 23, Title 1 for a contested case hearing within one year of
39 the establishment of the baseline or setback line.”

40
41 F. Section 48-39-320(C) of the 1976 Code is amended to read:
42

1 “(C) Notwithstanding any other provision of law contained in this
2 chapter, ~~the board, or the Office of Ocean and Coastal Resource~~ the
3 Bureau of Coastal Management; may allow the use in a pilot project
4 of any technology, methodology, or structure, whether or not
5 referenced in this chapter, if it is reasonably anticipated that the use
6 will be successful in addressing an erosional issue in a beach or dune
7 area. If success is demonstrated, ~~the board, or the Office of Ocean~~
8 ~~and Coastal Resource~~ the Bureau of Coastal Management; may
9 allow the continued use of the technology, methodology, or
10 structure used in the pilot project location and additional locations.”

11

12 SECTION 45.A. Section 48-40-20(2) of the 1976 Code is
13 amended to read:

14

15 “(2) ‘~~Office Bureau~~’ means the ~~Office of Ocean and Coastal~~
16 ~~Resource~~ Bureau of Coastal Management of the Department of
17 ~~Health and Environmental Control~~ Environmental Services.”

18

19 B. Section 48-40-40(B) of the 1976 Code is amended to read:

20

21 “(B) The trust fund must be administered by the ~~Office of Ocean~~
22 ~~and Coastal Resource~~ Bureau of Coastal Management of the
23 Department of ~~Health and Environmental Control~~ Environmental
24 Services pursuant to this chapter and its regulations governing
25 application, review, ranking, and approval procedures for grants.”

26

27 SECTION 46. A. Section 48-43-10(B), (W), and (X) of the 1976
28 Code is amended to read:

29

30 “(B) ‘Department’ means the South Carolina Department of
31 ~~Health and Environmental Control~~ Environmental Services.

32

33 (W) ‘Sanitary landfill’ means a solid waste disposal facility
34 regulated by the Department of ~~Health and Environmental Control~~
35 Environmental Services.

36 ~~(X) ‘Board’ means board of the department.~~”

37

38 B. Section 48-43-30(B)(5) and (B)(6)(ii) of the 1976 Code is
39 amended to read:

40

41 “(5) To promulgate, after hearing and notice as hereinafter
42 provided, such rules and regulations, and issue such orders
43 reasonably necessary to prevent waste and oil discharges from

1 drilling and production platforms, pipelines, gathering systems,
2 processing facilities, storage facilities, refineries, port facilities,
3 tankers, and other facilities and vessels that may be a source of oil
4 spills and to protect correlative rights, to govern the practice and
5 procedure before the ~~board~~ department, and to fulfill its duties and
6 the purposes of this chapter.

7 (ii) furnish proof of insurance with the State of South
8 Carolina as beneficiary. Before the issuance of drilling permits for
9 methane gas recovery from sanitary landfills, the department must
10 certify that the proposed activity is consistent with the Department
11 of ~~Health and Environmental Control~~ Environmental Services
12 regulations governing the operation, monitoring, and maintenance
13 of the landfills and applicable permit conditions.”

14
15 C. Section 48-43-40(D) of the 1976 Code is amended to read:
16

17 “(D) All rules, regulations and orders made by the Department of
18 ~~Health and Environmental Control~~ Environmental Services shall be
19 in writing, shall be entered in full and indexed in books to be kept
20 by the department for that purpose, and shall be public records open
21 for inspection at all times during office hours. In addition, all rules
22 and regulations shall be filed with the Secretary of State. A copy of
23 any rule, regulation or order, certified by any member of the
24 department or the department, under its seal, shall be received in
25 evidence in all courts of this State with the same effect as the
26 original.”

27
28 D. Section 48-43-50 of the 1976 Code is amended to read:
29

30 “Section 48-43-50. (A) The ~~board~~ department or an
31 Administrative Law Judge shall have the power to conduct hearings,
32 to summon witnesses, to administer oaths and to require the
33 production of records, books and documents for examination at any
34 hearing or investigation.

35 (B) Upon failure or refusal on the part of any person to comply
36 with a subpoena issued by the ~~board~~ department pursuant to this
37 section, or upon the refusal of any witness to testify as to any matter
38 regarding which he may be interrogated and which is pertinent to
39 the hearing or investigation, any circuit court in the State, upon the
40 application of the ~~board~~ department, may issue an order to compel
41 such person to comply with such subpoena, and to attend before the
42 ~~board~~ department and produce such records, books and documents
43 for examination, and to give his testimony. Such court shall have the

1 power to punish for contempt as in the case of disobedience to a like
2 subpoena issued by the court, or for refusal to testify therein.”

3

4 E. Section 48-43-60 of the 1976 Code is amended to read:

5 “Section 48-43-60. Any person, who is aggrieved and has a direct
6 interest in the subject matter of any final order issued by the ~~board~~
7 department, may appeal such order to the circuit court.”

8

9 F. Section 48-43-100 of the 1976 Code is amended to read:

10

11 “Section 48-43-100. All rules and regulations adopted by the
12 Department of ~~Health and Environmental Control~~ Environmental
13 Services, as provided for in this chapter, must be approved by the
14 General Assembly before they shall be effective; provided,
15 however, no regulation approved by the General Assembly shall
16 conflict, at the time of approval, with any requirement or be in
17 excess of any statute, rule or regulation of the Federal Government
18 or any department or agency thereof.”

19

20 G. Section 48-43-390(A) of the 1976 Code is amended to read:

21

22 “(A) The South Carolina State Fiscal Accountability Authority,
23 upon review by the Joint Bond Review Committee as necessary,
24 hereinafter referred to as the authority, is hereby designated as the
25 State Agency with the authority, responsibility and power to lease
26 all State lands to persons for the purpose of drilling for and
27 producing oil and gas. The Department of ~~Health and~~
28 ~~Environmental Control~~ Environmental Services is hereby
29 designated as the exclusive agent for the authority in selecting lands
30 to be leased, administering the competitive bidding for leases,
31 administering the leases, receiving and compiling comments from
32 other state agencies concerning the desirability of leasing the state
33 lands proposed for leasing and such other activities that pertain to
34 oil and gas leases as may be included herein as responsibilities of
35 the authority.”

36

37 H. Section 48-43-510 (1) and (13) of the 1976 Code is amended
38 to read:

39

40 “(1) ‘Department’ means the Department of ~~Health and~~
41 ~~Environmental Control~~ Environmental Services.

42

1 (13) ~~'Board'~~ means the Department of Health and Environmental
2 Control Reserved."

3

4 I. Section 48-43-520(4) of the 1976 Code before the numbered
5 items is amended to read:

6 "(4) The General Assembly intends by the enactment of this
7 article to exercise the police power of the State by conferring upon
8 the Department of Health and Environmental Control
9 Environmental Services power to:"

10

11 J. Section 48-43-570(a) of the 1976 Code is amended to read:

12

13 "(a) The Department of Transportation, the Department of
14 Natural Resources, and any other agency of this State, shall
15 cooperate with and lend assistance to the Department of Health and
16 ~~Environmental Control~~ Environmental Services by assigning, upon
17 request, personnel, equipment and material to be utilized in any
18 project or activity related to the containment, collection, dispersal or
19 removal of oil discharged upon the land or into the waters of this
20 State."

21

22 SECTION 47.A. Section 48-46-30(7), (10), (19), and (22) of the
23 1976 Code is amended to read:

24

25 "(7) 'Extended care maintenance fund' means the 'escrow fund
26 for perpetual care' that is used for custodial, surveillance, and
27 maintenance costs during the period of institutional control and any
28 post-closure observation period specified by the Department of
29 ~~Health and Environmental Control~~ Environmental Services and for
30 activities associated with closure of the site as provided for in
31 Section 13-7-30(4).

32

33 (10) 'Maintenance' means active maintenance activities as
34 specified by the Department of ~~Health and Environmental Control~~
35 Environmental Services, including pumping and treatment of
36 groundwater and the repair and replacement of disposal unit covers.

37

38 (19) 'Regional waste' means waste generated within a member
39 state of the Atlantic Compact. Consistent with the regulatory
40 position of the Department of ~~Health and Environmental Control~~
41 Environmental Services, Bureau of Radiological Health, dated May
42 1, 1986, some waste byproducts shipped for disposal that are
43 derived from wastes generated within the Atlantic Compact region,

1 such as residues from recycling, processing, compacting,
2 incineration, collection, and brokering facilities located outside the
3 Atlantic Compact region may also be considered regional waste.

4

5 (22) 'Waste' means Class A, B, or C low-level radioactive waste,
6 as defined in Title I of Public Law 99-240 and Department of Health
7 ~~and Environmental Control~~ Environmental Services Regulation
8 61-63, 7.2.22, that is eligible for acceptance for disposal at a
9 regional disposal facility."

10

11 B. Section 48-46-40(B)(7)(a) and (9) of the 1976 Code is
12 amended to read:

13

14 "(a) If the office, upon the advice of the compact commission or
15 the site operator, concludes based on information provided to the
16 office, that the volume of waste to be disposed during a forthcoming
17 period of time does not appear sufficient to generate receipts that
18 will be adequate to reimburse the site operator for its costs of
19 operating the facility and its operating margin, then the office shall
20 direct the site operator to propose to the compact commission plans
21 including, but not necessarily limited to, a proposal for
22 discontinuing acceptance of waste until such time as there is
23 sufficient waste to cover the site operator's operating costs and
24 operating margin. Any proposal to suspend operations must detail
25 plans of the site operator to minimize its costs during the suspension
26 of operations. Any such proposal to suspend operations must be
27 approved by the Department of ~~Health and Environmental Control~~
28 Environmental Services with respect to safety and environmental
29 protection.

30

31 (9) In all proceedings held pursuant to this section, the office
32 shall participate as a party representing the interests of the State of
33 South Carolina, and the compact commission may participate as a
34 party representing the interests of the compact states. The Executive
35 Director of the Office of Regulatory Staff and the Attorney General
36 of the State of South Carolina shall be parties to any such
37 proceeding. Representatives from the Department of ~~Health and~~
38 ~~Environmental Control~~ Environmental Services shall participate in
39 proceedings where necessary to determine or define the activities
40 that a site operator must conduct in order to comply with the
41 regulations and license conditions imposed by the department. Other
42 parties may participate in the PSC's proceedings upon satisfaction
43 of standing requirements and compliance with the PSC's

1 procedures. Any site operator submitting records and information to
2 the PSC may request that the PSC treat such records and information
3 as confidential and not subject to disclosure in accordance with the
4 PSC's procedures."

5 C. Section 48-46-50(A) of the 1976 Code is amended to read:
6

7 "(A) The Governor shall appoint two commissioners to the
8 Atlantic Compact Commission and may appoint up to two alternate
9 commissioners. These alternate commissioners may participate in
10 meetings of the compact commission in lieu of and upon the request
11 of a South Carolina commissioner. Technical representatives from
12 the Department of ~~Health and Environmental Control~~
13 Environmental Services, the office, the PSC, and other state
14 agencies may participate in relevant portions of meetings of the
15 compact commission upon the request of a commissioner, alternate
16 commissioner, or staff of the compact commission, or as called for
17 in the compact commission bylaws."
18

19 D. Section 48-46-80 of the 1976 Code is amended to read:
20

21 "Section 48-46-80. Pursuant to Section 48-2-10 et seq., the
22 Department of ~~Health and Environmental Control~~ Environmental
23 Services may adjust the radioactive materials license fee for
24 Low-Level Radioactive Waste Shallow Land Disposal in
25 Regulation 61-30 in an amount that will offset changes to its annual
26 operating budget caused by projected increases or decreases in the
27 number of permittees expected to pay fees for Radioactive Waste
28 Transport Permits under the same regulation for shipment of
29 low-level radioactive waste for disposal within the State."
30

31 E. Section 48-46-90 of the 1976 Code is amended to read:
32

33 "Section 48-46-90. (A) In accordance with Section 13-7-30, the
34 office, or its designee, is responsible for extended custody and
35 maintenance of the Barnwell site following closure and license
36 transfer from the facility operator. The Department of ~~Health and~~
37 ~~Environmental Control~~ Environmental Services is responsible for
38 continued site monitoring.

39 (B) Nothing in this chapter may be construed to alter or diminish
40 the existing statutory authority of the Department of ~~Health and~~
41 ~~Environmental Control~~ Environmental Services to regulate
42 activities involving radioactive materials and radioactive wastes."
43

1 SECTION 48.A. Section 48-52-810(10)(b)(v) of the 1976 Code
2 is amended to read:

3

4 “(v) a building project funded by the Department of Health
5 and Environmental Control Environmental Services in which the
6 primary purpose of the building project is for the storage of archived
7 documents.”

8

9 B. Section 48-52-865(A)(1)(c) of the 1976 Code is amended to read:

10

11 “(c) the Director of the Department of Health and Environmental
12 Control Environmental Services, or his designee;”

13

14 SECTION 49. Section 48-55-10(A)(1) and (7) of the 1976 Code
15 is amended to read:

16

17 “(1) South Carolina Department of Health and Environmental
18 Control Environmental Services by its ~~commissioner~~ director;

19

20 (7) Coastal Division of the Department of Health and
21 Environmental Control Environmental Services by the department’s
22 director division’s chief;

23

24 SECTION 50. Section 48-56-20(3) of the 1976 Code is amended
25 to read:

26

27 “(3) ‘Department’ means the South Carolina Department of
28 Health and Environmental Control Environmental Services.”

29

30 SECTION 51. Section 48-57-20(1) of the 1976 Code is amended
31 to read:

32

33 “(1) ‘Department’ means the South Carolina Department of
34 Health and Environmental Control Environmental Services.”

35

36 SECTION 52.A. Section 48-60-20(10) of the 1976 Code is
37 amended to read:

38

39 “(10) ‘Department’ means the South Carolina Department of
40 Health and Environmental Control Environmental Services.”

41

42 B. Section 48-60-55(E)(2) of the 1976 Code is amended to read:

43

1 “(2) If the department disapproves a plan submitted pursuant
2 to item (1), and the representative organization chooses not to
3 submit a revised plan or the department disapproves the revised
4 plan, the representative organization shall have the right to appeal
5 pursuant to Section 44-1-60 ~~49-3-60~~.”

6
7 SECTION 53.A. Section 49-1-15(A) and (B) of the 1976 Code is
8 amended to read:

9
10 “Section 49-1-15. (A) Except as otherwise provided herein, no
11 person may erect, construct, or build any structure or works in order
12 to dam or impound the waters of a navigable stream or any waters
13 which are tributary to a navigable stream for the purpose of
14 generating hydroelectricity without securing a permit from the
15 Department of ~~Health and Environmental Control~~ Environmental
16 Services. Any projects that are subject to Chapter 33, of Title 58 of
17 the Utility Facility Siting and Environmental Protection Act are
18 exempted from this section. Further exempted are projects where the
19 project developer without exercising condemnation authority is the
20 existing owner of the property upon which the project is to be
21 constructed and projects which do not exceed sixty acres including
22 in both cases inundated land.

23 (B) The Department of ~~Health and Environmental Control~~
24 Environmental Services may issue a permit for the projects in this
25 subsection after a thorough review of the proposed project and a
26 finding that it meets any regulations of the ~~board~~ department and
27 the following standards:

28 (1) The proposed project does not halt or prevent navigation
29 by watercraft of the type ordinarily frequenting the reach of the
30 watercourse in question.

31 (2) The projects proposed for shoaled areas of the
32 watercourse provide a means of portage or bypass of the project
33 structure.

34 (3) The need for the proposed project far outweighs the
35 historical and current uses of the stream in question.

36 (4) The impact of the proposed project will not threaten or
37 endanger plant or animal life.

38 (5) The recreational and aesthetic benefits or detriments
39 caused by the proposed project do not alter the watercourse or
40 damage riparian lands.”

41
42 B. Section 49-1-16 of the 1976 Code is amended to read:

43

1 “Section 49-1-16. The Department of ~~Health and Environmental~~
2 ~~Control~~ Environmental Services may charge a fee to an applicant
3 for a permit for any construction, alteration, dredging, filling, or
4 other activity in navigable waters of the State. If the project is
5 commercial or industrial and is in support of operations that charge
6 for the production, distribution, or sale of goods or services, a fee of
7 five hundred dollars must be charged, except if the aerial crossing
8 of navigable waters by conductors or other wires supported solely
9 by structures outside the navigable waters the fee shall be one
10 hundred dollars. If the work is noncommercial in nature and
11 provides personal benefits that have no connection with a
12 commercial enterprise the fee must be fifty dollars. The department
13 shall remit the fees to the State Treasurer and shall be issued a credit
14 for any portion of the fees necessary to offset its costs in processing,
15 investigating and taking final action on each permit application. Any
16 remaining portion shall be credited to the general fund of the State.”
17

18 C. Section 49-1-18 of the 1976 Code is amended to read:
19

20 “Section 49-1-18. The General Assembly, pursuant to Section 7,
21 Article I of the South Carolina Constitution, 1895, suspends the
22 authority of the South Carolina Department of ~~Health and~~
23 ~~Environmental Control~~ Environmental Services, hereinafter the
24 department, for all decisions subsequent to 2007 related to all
25 matters pertaining to the navigability, depth, dredging, wastewater
26 and sludge disposal, and related collateral issues in regard to the use
27 of the Savannah River as a waterway for ocean-going container or
28 commerce vessels, in particular the approval by the department of
29 the application of the United States Army Corps of Engineers for a
30 Construction in Navigable Waters Permit for the dredging of the
31 South Carolina portion of the Savannah River, because the authority
32 of the Savannah River Maritime Commission, hereinafter the
33 Maritime Commission, superseded the responsibilities of the
34 department for such approval, as established by Act 56 of 2007, and
35 the approval by the department could present imminent and
36 irreversible public health and environmental concerns for the South
37 Carolina portion of the Savannah River. Until the effective date of
38 this act, the Department of ~~Health and Environmental Control~~
39 Environmental Services retains authority for all matters pertaining
40 to the Savannah River unrelated to the navigability, depth, dredging,
41 wastewater and sludge disposal, and related collateral issues in
42 regard to the use of the Savannah River as a waterway for
43 ocean-going container or commerce vessels. Beginning the effective

1 date of this act, the authority for all matters pertaining to the
2 Savannah River unrelated to the navigability, depth, dredging,
3 wastewater and sludge disposal, and related collateral issues in
4 regard to the use of the Savannah River as a waterway for
5 ocean-going container or commerce vessels are transferred to and
6 devolved upon the Department of Environmental Services.”
7

8 SECTION 54.A. Section 49-4-20(5) of the 1976 Code is amended
9 to read:

10

11 “(5) ‘Department’ means the Department of Health—and
12 ~~Environmental Control~~ Environmental Services.”

13

14 B. Section 49-4-170(B)(1) of the 1976 Code is amended to read:

15

16 “(1) The department may, in consultation with the Department of
17 Natural Resources, negotiate agreements, accords, or compacts on
18 behalf of and in the name of the State with other states or the United
19 States, or both, with any agency, department, or commission of
20 either, or both, relating to transfers of water that impact waters of
21 this State, or are connected to or flowing into waters of this State.
22 Any agreements, accords, or compacts made by the ~~board~~
23 department pursuant to this section must be approved by concurrent
24 resolution of the General Assembly prior to being implemented. The
25 department also may represent the State in connection with water
26 withdrawals, diversions, or transfers occurring in other states which
27 may affect this State. The provisions in this section do not apply to
28 the Office of Attorney General or any pending or future criminal or
29 civil actions, lawsuits, or causes in which the State is a party or
30 interested.”

31

32 SECTION 55.A. Section 49-5-30(3)and (5) of the 1976 Code is
33 amended to read:

34

35 “(3) ‘Board’ ~~means the Board of the Department of Health and~~
36 ~~Environmental Control.~~ Reserved.

37

38 (5) ‘Department’ means the Department of Health—and
39 ~~Environmental Control~~ Environmental Services.”

40

41 B. Section 49-5-60 of the 1976 Code is amended to read:

42

1 "Section 49-5-60. (A) In the State where excessive
2 groundwater withdrawal presents potential adverse effects to the
3 natural resources or poses a threat to public health, safety, or
4 economic welfare or where conditions pose a significant threat to
5 the long-term integrity of a groundwater source, including salt water
6 intrusion, the ~~board~~ department, after notice and public hearing, in
7 accordance with the Administrative Procedures Act, shall designate
8 a capacity use area. The department, local government authorities,
9 other government agencies, or groundwater withdrawers may
10 initiate the capacity use area designation process. The notice and
11 public hearing must be conducted such that local government
12 authorities, groundwater withdrawers, or the general public may
13 provide comments concerning the capacity use area designation
14 process. A capacity use area must be designated by the ~~board~~
15 department based on scientific studies and evaluation of
16 groundwater resources and may or may not conform to political
17 boundaries.

18 (B) After notice and public hearing, the department shall
19 coordinate with the affected governing bodies and groundwater
20 withdrawers to develop a groundwater management plan to achieve
21 goals and objectives stated in Section 49-5-20. In those areas where
22 the affected governing bodies and withdrawers are unable to
23 develop a plan, the department shall take action to develop the plan.
24 ~~The plan must be approved by the board before the department may~~
25 ~~issue groundwater withdrawal permits for the area.~~

26 (C) Once the ~~board approves~~ the groundwater management plan
27 for a designated capacity use area is developed in accordance with
28 subsection (A), each groundwater withdrawer shall make
29 application for a groundwater withdrawal permit. The department
30 shall issue groundwater withdrawal permits in accordance with the
31 approved plan.

32 (D) A person or entity affected may appeal a decision of the
33 ~~board~~ department on a capacity use area designation within thirty
34 days after the filing of the decision to the court of common pleas of
35 any county which is included in whole or in part within the disputed
36 capacity use area. The department shall certify to the court the
37 record in the hearing. The court shall review the record and the
38 regularity and the justification for the decision. The court may not
39 substitute its judgment for that of the agency as to the weight of the
40 evidence on questions of fact. The court may affirm the decision of
41 the agency or remand the case for further proceedings. The court
42 may reverse or modify the decision if substantial rights of the

1 appellant have been prejudiced because the administrative findings,
2 inferences, conclusions, or decisions are:
3 (1) in violation of constitutional or statutory provisions;
4 (2) in excess of the statutory authority of the agency;
5 (3) made upon unlawful procedure;
6 (4) affected by other error of law;
7 (5) clearly erroneous in view of the reliable, probative, and
8 substantial evidence on the record; or
9 (6) arbitrary or capricious or characterized by abuse of
10 discretion or clearly unwarranted exercise of discretion.”

11
12 SECTION 56. A. Section 43-6-10 of the 1976 Code is amended to
13 read:

14
15 “Section 49-6-10. There is hereby created the South Carolina
16 Aquatic Plant Management Program for the purpose of preventing,
17 identifying, investigating, managing, and monitoring aquatic plant
18 problems in public waters of South Carolina. The program will
19 coordinate the receipt and distribution of available federal, state, and
20 local funds for aquatic plant management activities and research in
21 public waters.

22 The Department of ~~Natural Resources~~ Environmental Services
23 (department) is designated as the state agency to administer the
24 Aquatic Plant Management Program and to apply for and receive
25 grants and loans from the federal government or such other public
26 and private sources as may be available for the Aquatic Plant
27 Management Program and to coordinate the expenditure of such
28 funds.”

29
30 B. Section 49-6-30 of the 1976 Code is amended to read:

31
32 “Section 49-6-30. There is hereby established the South
33 Carolina Aquatic Plant Management Council, hereinafter referred to
34 as the council, which shall be composed of ten members as follows:

35 1. ~~(1)~~ The council shall include one representative from each of the
36 following agencies, to be appointed by the chief executive officer of
37 each agency:

38 (a) Water Resources Division of the Department of ~~Natural~~
39 ~~Resources~~ Environmental Services;

40 (b) ~~South Carolina Department of Health and Environmental~~
41 ~~Control~~;

42 (c) Wildlife and Freshwater ~~Fish~~ Fisheries Division of the
43 Department of Natural Resources;

- 1 ~~(d)~~(c) South Carolina Department of Agriculture;
2 ~~(e)~~(d) Coastal Division of the Department of ~~Health and~~
3 ~~Environmental Control~~ Environmental Services;
4 ~~(f)~~(e) South Carolina Public Service Authority;
5 ~~(g)~~(f) Land ~~Resources~~ and Conservation Districts Division of
6 the Department of Natural Resources;
7 ~~(h)~~(g) South Carolina Department of Parks, Recreation and
8 Tourism;
9 ~~(i)~~(h) Clemson University, Department of Fertilizer and
10 Pesticide Control.

11 ~~2-~~(2) The council shall include one representative from the
12 Governor's Office, to be appointed by the Governor.

13 ~~3-~~(3) The representative of the Water Resources Division of the
14 Department of ~~Natural Resources~~ Environmental Services shall
15 serve as chairman of the council and shall be a voting member of
16 the council.

17 The council shall provide interagency coordination and serve as
18 the principal advisory body to the department on all aspects of
19 aquatic plant management and research. The council shall establish
20 management policies, approve all management plans, and advise the
21 department on research priorities.”

22
23 SECTION 57.A. Section 49-11-120(3) of the 1976 Code is
24 amended to read:

25
26 “(3) ‘Department’ means the South Carolina Department of
27 ~~Health and Environmental Control~~ Environmental Services or its
28 staff or agents.”

29
30 B. Section 49-11-170(E) of the 1976 Code is amended to read:

31
32 “(E) The owner of a dam or reservoir determined through a
33 preliminary inspection not to be maintained in good repair or
34 operating condition or to be unsafe and a danger to life or property
35 may request a hearing before ~~the board~~ of the department within
36 thirty days after notice of the findings are delivered. The owner may
37 submit written or present oral evidence which must be considered
38 by ~~the board~~ of the department in the issuance of the order.”

39
40 C. Section 49-11-260(D) of the 1976 Code is amended to read:

41
42 “(D) A person against whom a final order or decision has been
43 made, except for emergencies specified in Section 49-11-190, may

1 appeal to the board circuit court under the Administrative
2 Procedures Act. The burden of proof is on the party attacking an
3 order or a decision of the department to show that the order is
4 unlawful or unreasonable.”

5 SECTION 58. A. Section 13-7-10(11) and (12) of the 1976 Code
6 is amended to read:

7

8 “(11) ‘Extended care maintenance fund’ means the ‘escrow fund
9 for perpetual care’ that is used for custodial, surveillance, and
10 maintenance costs during the period of institutional control and any
11 post-closure observation period specified by the Department of
12 ~~Health and Environmental Control~~ Environmental Services, and for
13 activities associated with closure of the site as provided for in
14 Section 13-7-30(4).

15 (12) ‘Maintenance’ means active maintenance activities as
16 specified by the Department of ~~Health and Environmental Control~~
17 Environmental Services including pumping and treatment of
18 groundwater and the repair and replacement of disposal unit
19 covers.”

20

21 B. The undesignated paragraph after Section 13-7-30(4) of the 1976
22 Code is amended to read:

23

24 “In order to finance such extended custody and maintenance as
25 the board may undertake, the board may collect fees from private or
26 public parties holding radioactive materials for custodial purposes.
27 These fees must be sufficient in each individual case to defray the
28 estimated cost of the board’s custodial management activities for
29 that individual case. The fees collected for such custodial
30 management activities shall also be sufficient to provide additional
31 funds for the purchase of insurance which shall be purchased for the
32 protection of the State and the general public for the period such
33 radioactive material considering its isotope and curie content
34 together with other factors may present a possible danger to the
35 general public in the event of migration or dispersal of such
36 radioactivity. All such fees, when received by the board, must be
37 transmitted to the State Treasurer. The Treasurer must place the
38 money in a special account, in the nature of a revolving trust fund,
39 which may be designated ‘extended care maintenance fund’, to be
40 disbursed on authorization of the board. Monies in the extended care
41 maintenance funds must be invested by the board in the manner as
42 other state monies. However, any interest accruing as a result of
43 investment must accrue to this extended care maintenance fund.

1 Except as authorized in Section 48-46-40(B)(7)(b) and (D)(2), the
2 extended care maintenance fund must be used exclusively for
3 custodial, surveillance, and maintenance costs during the period of
4 institutional control and during any post-closure and observation
5 period specified by the Department of ~~Health and Environmental~~
6 ~~Control~~ Environmental Services, and for activities associated with
7 closure of the site. Funds from the extended care maintenance fund
8 shall not be used for site closure activities or for custodial,
9 surveillance, and maintenance performed during the post-closure
10 observation period until all funds in the decommissioning trust
11 account are exhausted.”

12

13 C. Section 13-7-40(A) of the 1976 Code is amended to read:

14

15 “(A) The Department of ~~Health and Environmental Control~~
16 Environmental Services is designated as the agency of the State
17 which is responsible for the control and regulation of radiation
18 sources but, notwithstanding anything in this article, does not have
19 the power to regulate, license, or control nuclear reactors of facilities
20 or operations incident to them in duplication of an activity of the
21 federal government which has not been discontinued by agreement
22 pursuant to Section 13-7-60.”

23

24 D. Section 13-7-45(A)(1) of the 1976 Code is amended to read:

25

26 “(A)(1) The ~~South Carolina~~ Department of ~~Health and~~
27 ~~Environmental Control~~ Environmental Services shall promulgate
28 regulations and establish a schedule for the collection of annual fees
29 for the licensing, registration, and certification of users of the
30 sources of ionizing radiation. The fees collected must be sufficient,
31 in the judgment of the department, to protect the public health and
32 safety and the environment and to recover the costs incurred by the
33 department in regulating the use of ionizing radiation and in
34 performing emergency corrective measures intended to protect the
35 public health and safety or the environment pursuant to the
36 provisions of law.”

37

38 E. Section 13-7-60(B) of the 1976 Code is amended to read:

39

40 “(B) Any person who on the effective date of an agreement under
41 subsection (A) of this section possesses a license issued by the
42 Federal Government authorizing activities, the regulation of which
43 is assumed by the State under such agreement, shall be deemed to

1 possess a license issued under this article, which shall expire either
2 ninety days after receipt from the Department of ~~Health and~~
3 ~~Environmental Control~~ Environmental Services of a notice of
4 expiration of such license, or upon the date of expiration specified
5 in the Federal license; whichever is earlier.”

6

7 F. Section 13-7-70(1) of the 1976 Code is amended to read:

8

9 “(1) The ~~South—Carolina~~ Department of ~~Health—and~~
10 ~~Environmental Control~~ Environmental Services (the department)
11 shall adopt rules and regulations governing the transportation of
12 radioactive materials in South Carolina which, in the judgment of
13 the department, shall protect the public health and safety and protect
14 the environment. Such rules and regulations shall include, but not
15 be limited to, provisions for the use of signs designating radioactive
16 material cargo; for the packing, marking, loading and handling of
17 radioactive materials and the precautions necessary to determine
18 whether the material which is offered for transport is in proper
19 condition. Nothing in this section shall be deemed applicable to the
20 transportation of radioactive waste which is regulated by Article 2
21 of this chapter.”

22

23 G. Section 13-7-90 of the 1976 Code is amended to read:

24

25 “Section 13-7-90. Any person who is practicing as an operator
26 of sources of ionizing radiation on May 26, 1986 is exempt from the
27 certification requirements promulgated by the Department of ~~Health~~
28 ~~and—Environmental Control~~ Environmental Services provided that
29 such person applies for certification as an operator within sixty days
30 of May 26, 1986.”

31

32 H. Section 13-7-120B. of the 1976 Code is amended to read:

33

34 “B. ‘Department’ means the Department of ~~Health—and~~
35 ~~Environmental—Control~~ Environmental Services, including
36 personnel authorized to act on behalf of the Department.”

37

38 I. The undesignated paragraph after Section 13-7-160B. of the
39 1976 Code is amended to read:

40

41 “In preparing its regulations, the Department of ~~Health—and~~
42 ~~Environmental—Control~~ Environmental Services is authorized to

1 distinguish as to the radioactive isotope and its curie strength so as
2 to protect the general public.”

3

4 SECTION 59. Article 1, Chapter 62, Title 48 of the 1976 Code is
5 amended by adding:

6

7 “Section 48-62-25. The office shall administer the state flood
8 mitigation program, which includes administration of the national
9 flood program for the State.”

10

11 SECTION 60. A. Section 1-30-10(A) of the 1976 Code, as last
12 amended by Act 26 of 2019, is further amended to read:

13

14 “(A) There are hereby created, within the executive branch of
15 the state government, the following departments:

16 ~~1.~~(1) Department of Administration

17 ~~2.~~(2) Department of Agriculture

18 ~~3.~~(3) Department of ~~Alcohol and Other Drug Abuse~~
19 Services Behavioral and Public Health

20 ~~4.~~(4) Department of Commerce

21 ~~5.~~(5) Department of Corrections

22 ~~6.~~(6) Department of Disabilities and Special Needs

23 ~~7.~~(7) Department of Education

24 ~~8.~~(8) Department of ~~Health and Environmental Control~~
25 Environmental Services

26 ~~9.~~(9) Department of Health and Human Services

27 ~~10.~~(10) Department of Insurance

28 ~~11.~~(11) Department of Juvenile Justice

29 ~~12.~~(12) Department of Labor, Licensing and Regulation

30 ~~13.~~ ~~Department of Mental Health~~

31 ~~14.~~(13) Department of Motor Vehicles

32 ~~15.~~(14) Department of Natural Resources

33 ~~16.~~(15) Department of Parks, Recreation and Tourism

34 ~~17.~~(16) Department of Probation, Parole and Pardon Services

35 ~~18.~~(17) Department of Public Safety

36 ~~19.~~(18) Department of Revenue

37 ~~20.~~(19) Department of Social Services

38 ~~21.~~(20) Department of Transportation

39 ~~22.~~(21) Department of Employment and Workforce

40 ~~23.~~(22) Department on Aging

41 ~~24.~~(23) Department of Veterans’ Affairs.”

42 B. Section 1-30-75 of the 1976 Code is amended to read:

43

1 Section 1-30-75. ~~Effective on July 1, 1994,~~ The following
2 agencies, boards, and commissions, including all of the allied,
3 advisory, affiliated, or related entities as well as the employees,
4 funds, property, and all contractual rights and obligations associated
5 with the agency, except for those subdivisions specifically included
6 under another department, ~~are transferred to and incorporated in,~~
7 ~~and~~ must be administered as part of the Department of Natural
8 Resources. The department must be divided ~~initially~~ into divisions
9 for Land Resources and Conservation Districts, ~~Water Resources,~~
10 Marine Resources, Wildlife and Freshwater Fisheries, and State
11 Natural Resources Enforcement. ~~The South Carolina Wildlife and~~
12 ~~Marine Resources Commission, as constituted on June 30, 1993,~~
13 ~~and after that time, under the provisions of Section 50-3-10 et seq.~~
14 ~~is the governing authority for the department:~~

15 (1) Geological Survey of the Research and Statistical Services
16 Division of the Budget and Control Board, to include the State
17 Geologist, formerly provided for at Section 1-11-10, et seq.;

18 (2) State Land Resources Conservation Commission, less the
19 regulatory division, formerly provided for at Section 48-9-10, et
20 seq.;

21 (3) South Carolina Migratory Waterfowl Commission,
22 formerly provided for at Section 50-11-20, et seq.;

23 ~~(4) Water Resources Commission, less the regulatory~~
24 ~~division, formerly provided for at Section 49-3-10, et seq.;~~

25 ~~(5)~~(4) South Carolina Wildlife and Marine Resources
26 Commission, formerly provided for at Section 50-3-10, et seq.”
27

28 C. Chapter 30, Title 1 of the 1976 Code is amended by adding:
29

30 “Section 1-30-140.(A) There is hereby created, within the
31 executive branch of the state government, the Department of
32 Behavioral and Public Health, headed by a director appointed by the
33 Governor pursuant to Section 44-1-20. The divisions, offices, and
34 programs of the Department of Health and Environmental Control
35 performing functions, related to regulation and protection of the
36 health prior to the effective date of this act, the Department of
37 Mental Health, and the Department of Alcohol and Other Drug
38 Abuse Services, including all of the allied, advisory, affiliated, or
39 related entities as well as the employees, funds, property, and all
40 contractual rights and obligations associated with these divisions,
41 offices, programs, and other related entities, except for those
42 subdivisions specifically included under another department, are

1 hereby transferred to and incorporated in and shall be administered
2 as part of the Department of Behavioral and Public Health.

3 (B) There is hereby created, within the executive branch of the
4 state government, the Department of Environmental Services,
5 headed by a director appointed by the Governor pursuant to Section
6 49-3-20. The divisions, offices, and programs of the Department of
7 Health and Environmental Control performing functions related to
8 regulation and protection of the environment prior to the effective
9 date of this act, including all of the allied, advisory, affiliated, or
10 related entities as well as the employees, funds, property and all
11 contractual rights and obligations associated with these divisions,
12 offices, programs, and other related entities, except for those
13 subdivisions specifically included under another department, are
14 hereby transferred to and incorporated in and shall be administered
15 as part of the Department of Environmental Services.”

16

17 SECTION 61. Section 1-23-600(H) of the 1976 Code is amended
18 to read:

19

20 “(H)(1) This subsection applies to ~~timely requests for a~~
21 ~~contested case hearing pursuant to this section of decisions by~~
22 ~~departments governed by a board or commission authorized to~~
23 ~~exercise the sovereignty of the State~~ the Department of
24 Environmental Services. Emergency actions taken by the
25 Department of Environmental Services pursuant to an applicable
26 statute or regulation are not subject to the provisions of this
27 subsection.

28 (2) Any decisions requiring a public hearing by the
29 Department of Environmental Services are automatically stayed for
30 five days. A party seeking to continue the automatic stay must file a
31 motion to continue the automatic stay together with a request for a
32 contested case hearing for an agency order stays the order prior to
33 the automatic stay’s expiration. A request for a contested case
34 hearing for an order decision to revoke or suspend a license stays
35 the revocation or suspension. A request for a contested case hearing
36 for a decision to renew a license for an ongoing activity stays the
37 renewed license, the previous license remaining in effect pending
38 completion of administrative review. A request for a contested case
39 hearing for a decision to issue a new license stays all actions for
40 which the license is a prerequisite; however, matters not affected by
41 the request may are not be stayed by the filing of the request. If the
42 request is filed for a decision is concerning a subsequent license
43 related to issues substantially similar to those considered in a

1 previously licensed matter, then the license may is not be
2 automatically stayed by the filing of the request. If the requesting
3 party asserts in the request that the issues are not substantially
4 similar to those considered in a previously licensed matter, then the
5 license must be stayed until further order of the Administrative Law
6 Court. Requests for contested case hearings challenging only the
7 amount of fines or penalties must be considered not to affect those
8 portions of such orders imposing substantive requirements.

9 ~~(3) The general rule of item (2) does not stay emergency~~
10 ~~actions taken by an agency pursuant to an applicable statute or~~
11 ~~regulation.~~

12 ~~(4)(3)(a) Ninety days after a contested case is initiated before~~
13 ~~the Administrative Law Court, If a party may move before the~~
14 ~~presiding administrative law judge to lift moves to continue the~~
15 ~~automatic stay imposed pursuant to this subsection or for a~~
16 ~~determination of the applicability of the automatic stay. A then a~~
17 ~~hearing must be held within thirty days after any party files a the~~
18 ~~motion is filed with the court and serves the motion served upon the~~
19 ~~parties. The automatic stay shall remain in effect until the~~
20 ~~Administrative Law Court makes a determination about whether to~~
21 ~~continue the automatic stay. The court shall lift continue the~~
22 ~~automatic stay unless if the moving party that requested a contested~~
23 ~~ease hearing proves shows: (i) the likelihood of irreparable harm if~~
24 ~~the automatic stay is lifted, (ii) the substantial likelihood that the~~
25 ~~moving party requesting the contested case and stay will succeed on~~
26 ~~the merits of the case, (iii) the balance of equities weigh in favor of~~
27 ~~continuing the automatic stay, and (iv) continuing the automatic stay~~
28 ~~serves the public interest. The judge must issue an order no later~~
29 ~~than fifteen business days after the hearing is concluded. If the~~
30 ~~automatic stay is lifted, action undertaken by the permittee or~~
31 ~~licensee does not moot and is not otherwise considered an~~
32 ~~adjudication of the issues raised by the request for a contested case~~
33 ~~hearing. Notwithstanding the provisions of this item, the process to~~
34 ~~lift continue a stay as provided in this item does not apply to a~~
35 ~~contested case concerning a permit or license involving hazardous~~
36 ~~waste as defined in Section 44-56-20(6), and a An automatic stay~~
37 ~~in such a contested case concerning a permit or license involving~~
38 ~~hazardous waste must not be lifted continued until the contested~~
39 ~~case is concluded and the Administrative Law Court has filed its~~
40 ~~final order in the matter.~~

41 (b) Notwithstanding any other provision of law, in a
42 contested case arising under this subsection, the Administrative Law
43 Court shall file a final decision on the merits of the case no later than

1 twelve months after the contested case is filed with the Clerk of the
2 Administrative Law Court, unless all parties to the contested case
3 consent to an extension or the court finds substantial cause
4 otherwise.

5 ~~(5)~~(4) A final decision issued by the Administrative Law
6 Court in a contested case may not be stayed except by order of the
7 Administrative Law Court, ~~or the Court of Appeals, or the Supreme~~
8 Court.

9 ~~(6)~~(5) Nothing contained in this subsection constitutes a
10 limitation on the authority of the Administrative Law Court to
11 impose a stay as otherwise provided by statute or by rule of court."
12

13 SECTION 62. Sections 1-30-20, 1-30-45, 1-30-70, 44-11-30, and
14 44-11-40 of the 1976 Code are repealed.
15

16 SECTION 63. The Code Commissioner is directed to change all
17 references to the "Department of Health and Environmental
18 Control" in Chapters 3, 5, 6, 7, 8, 9, 20, 29, 30, 31, 32, 33, 34, 35,
19 36, 37, 38, 39, 40, 41, 44, 49, 52, 53, 61, 63, 69, 70, 74, 78, 80, 81,
20 99, 113, 115, 117, 122, 125, 128, and 130 of Title 44 of the 1976
21 Code to the "Department of Behavioral and Public Health".
22

23 SECTION 64. (A)(1) Beginning July 1, 2022, and until the initial
24 director of the Department of Behavioral and Public Health is
25 appointed and qualifies, the Director of the Department of Health
26 and Environmental Control shall serve as the Director of the
27 Department of Behavioral and Public Health. The interim director
28 is subject to removal by the Governor pursuant to Section 1-3-240.
29

30 (2) Beginning July 1, 2022, and until the initial director of the
31 Department of Environmental Services is appointed and qualifies,
32 the Director of the Division of Environmental Affairs of the
33 Department of Health and Environmental Control shall serve as the
34 Director of the Department of Environmental Services. The interim
35 director is subject to removal by the Governor pursuant to Section
36 1-3-240.

37 (B) When the provisions of this act transfer particular state
38 agencies, departments, boards, commissions, committees, or
39 entities, or sections, divisions, or portions thereof (transferring
40 departments), to another state agency, department, division, or
41 entity or make them a part of another department or division
42 (receiving departments), the employees, authorized appropriations,
43 bonded indebtedness if applicable, and real and personal property of
the transferring department also are transferred to and become part

1 of the receiving department or division unless otherwise specifically
2 provided. All classified or unclassified personnel of the affected
3 agency, department, board, commission, committee, entity, section,
4 division, or position employed by these transferring departments on
5 the effective date of this act, either by contract or by employment at
6 will, shall become employees of the receiving department or
7 division, with the same compensation, classification, and grade
8 level, as applicable. The Department of Administration shall cause
9 all necessary actions to be taken to accomplish this transfer and shall
10 in consultation with the agency head of the transferring and
11 receiving agencies prescribe the manner in which the transfer
12 provided for in this section shall be accomplished. The Department
13 of Administration's action in facilitating the provisions of this
14 section are ministerial in nature and shall not be construed as an
15 approval process over any of the transfers.

16 (C)(1) When an agency, department, entity, or official is
17 transferred to or consolidated with another agency, department,
18 division, entity or official, regulations promulgated by that
19 transferred agency, department, entity or official under the authority
20 of former provisions of law pertaining to it are continued and are
21 considered to be promulgated under the authority of present
22 provisions of law pertaining to it.

23 (2) When powers and duties of the Department of Health and
24 Environmental Control are transferred to and devolved upon another
25 department, agency, or subdivision thereof, the power and duty to
26 promulgate regulations is also transferred to and devolved upon that
27 department, agency, or subdivision thereof.

28 (D) References to the names of agencies, departments, entities,
29 or public officials changed by this act, to their duties or functions
30 herein devolved upon other agencies, departments, entities, or
31 officials, or to provisions of law consolidated with or transferred to
32 other parts of the 1976 Code are considered to be and must be
33 construed to mean appropriate references.

34 (E) Employees or personnel of agencies, departments, entities,
35 or public officials, or sections, divisions, or portions thereof,
36 transferred to or made a part of another agency, department,
37 division, or official pursuant to the terms of this act shall continue
38 to occupy the same office locations and facilities which they now
39 occupy to the greatest extent possible. The rent and physical plant
40 operating costs of these offices and facilities, if any, shall continue
41 to be paid by the transferring agency, department, entity, or official
42 formerly employing these personnel to the greatest extent possible.
43 The records and files of the agencies that formerly employed these

1 personnel shall continue to remain the property of these transferring
2 agencies, except that these personnel shall have complete access to
3 these records and files in the performance of their duties as new
4 employees of the receiving agency.

5 (F) Unless otherwise provided herein or by law, all fines, fees,
6 forfeitures, or revenues imposed or levied by agencies, personnel,
7 or portions thereof, so transferred to other agencies or departments
8 must continue to be used and expended for those purposes provided
9 prior to the effective date of this act. If a portion of these fines, fees,
10 forfeitures, or revenues were required to be used for the support,
11 benefit, or expense of personnel transferred, these funds must
12 continue to be used for these purposes.

13 (G) When the functions of former agencies have been devolved
14 on more than one department or departmental division, the general
15 support services of the former agency must be transferred to the
16 restructured departments or departmental divisions as provided by
17 the General Assembly in the annual general appropriations act.

18 (H)(1) The Code Commissioner of the Legislative Council is
19 directed to change or correct all references to the agencies,
20 divisions, and programs thereof in the 1976 Code to reflect the
21 transfers of authority and responsibility as provided in this act.
22 References to the agencies, divisions, and programs thereof in the
23 1976 Code or other provisions of law are considered to be and must
24 be construed to mean appropriate references.

25 (2) By July 1, 2023, the Code Commissioner shall prepare and
26 deliver a report to the President of the Senate and the Speaker of the
27 House of Representatives concerning appropriate and conforming
28 changes to the 1976 Code Laws reflecting the provisions of this act
29 relating to the government restructuring described in item (1). The
30 affected agencies shall coordinate with the Code Commissioner for
31 purposes of preparing the report.

32 (I) The Code Commissioner of the Legislative Council shall
33 cause the changes to the 1976 Code as contained in this act to be
34 printed in replacement volumes or in cumulative supplements as he
35 considers practical and economical.

36
37 SECTION 65. The repeal or amendment by this act of any law,
38 whether temporary or permanent or civil or criminal, does not affect
39 pending actions, rights, duties, or liabilities founded thereon, or
40 alter, discharge, release or extinguish any penalty, forfeiture, or
41 liability incurred under the repealed or amended law, unless the
42 repealed or amended provision shall so expressly provide. After the
43 effective date of this act, all laws repealed or amended by this act

1 must be taken and treated as remaining in full force and effect for
2 the purpose of sustaining any pending or vested right, civil action,
3 special proceeding, criminal prosecution, or appeal existing as of the
4 effective date of this act, and for the enforcement of rights, duties,
5 penalties, forfeitures, and liabilities as they stood under the repealed
6 or amended laws.

7
8 SECTION 66. If any section, subsection, paragraph,
9 subparagraph, sentence, clause, phrase, or word of this act is for any
10 reason held to be unconstitutional or invalid, such holding shall not
11 affect the constitutionality or validity of the remaining portions of
12 this act, the General Assembly hereby declaring that it would have
13 passed this act, and each and every section, subsection, paragraph,
14 subparagraph, sentence, clause, phrase, and word thereof,
15 irrespective of the fact that any one or more other sections,
16 subsections, paragraphs, subparagraphs, sentences, clauses, phrases,
17 or words hereof may be declared to be unconstitutional, invalid, or
18 otherwise ineffective.

19
20 SECTION 67. Upon the act's approval, the Department of
21 Administration shall commence its duties as specified in SECTION
22 63. Monthly progress reports shall be issued to the Chairmen of the
23 Senate Finance Committee, Senate Medical Affairs Committee,
24 Senate Agriculture and Natural Resources Committee, House Ways
25 and Means Committee, House Medical, Military, Public and
26 Municipal Affairs Committee, and House Agriculture, Natural
27 Resources and Environmental Affairs Committee. Reports must
28 include a summation of material progress and the expenditures made
29 relevant to the current report, an overview of tasks yet to be
30 accomplished, the associated estimated expenditures, and a
31 projected timeline for completion of those tasks and the entire
32 transfer and consolidation of state agencies as directed by this act.
33 The report also must include information from the receiving
34 agencies regarding the absorption of the transferring agencies and
35 their organization within the receiving agencies. Notwithstanding
36 any of the above, final completion, as directed by this act, shall
37 occur no later than June 30, 2023.

38
39 SECTION 68. This act takes effect on July 1, 2022.

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