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★ *Utilities State Government Organization* ★

Annual Conference

July 13 - 16, 2014

State Reports



Southern District Reports 2014

A high-contrast, black and white photograph of the Alabama State Capitol dome at night. The dome is the central focus, illuminated from below, creating a bright glow against the dark sky. The building's architecture, including columns and a balcony, is visible. In the background, another part of the building and a flagpole with a flag are faintly visible. The overall mood is dramatic and formal.

ALABAMA STATE LEGISLATURE

2014 REGULAR SESSION

Introduction:

The 2014 regular legislative session began on Tuesday, Jan.14, and concluded on Thursday, April 3. During the 30-day Legislative session, 1,103 bills were introduced with 128 enacted. Most were signed into law by Governor Robert Bentley.

Unlike the 2013 session, which began in February, the 2014 legislative session commenced in January to allow those lawmakers seeking reelection time to campaign in advance of the June primaries. As expected, lawmakers tried to steer clear of highly controversial measures though several issues managed to create the kind of election-year controversy they hope to avoid.

Always a challenge, the Legislature grappled with increased demands on the anemic General Fund budget that funds non-education agencies. Lawmakers settled on a \$1.84 billion budget for FY15 that includes an unfunded one-time \$400 bonus for state employees. The overall budget is essentially level funded from the current fiscal year but increases funding for prisons, the courts, Medicaid and children's health insurance. The budget is dependent upon an annual transfer from the Alabama Trust Fund authorized by voters in 2012.

One of the biggest legislative battles came late in the session over final passage of the \$5.9 billion Education Trust Fund budget. The Governor's proposed budget included a 2 percent pay raise for K-12 teachers and support personnel. During negotiations on differences between the House and Senate-passed versions of the budget, legislative leaders agreed to fund teacher health insurance at a level that would prevent higher out-of-pocket premium costs and stripped the pay raise from their agreed upon budget. Governor Robert Bentley considered vetoing the budget when the Legislature adjourned without allowing him to submit for a vote an executive amendment to include the pay raise. The education budget also includes increased funding to expand voluntary pre-K and dual-enrollment programs.

Other legislative issues that dominated the session were welfare reform and limiting access to abortions. The Legislature approved a bill that requires drug testing for applicants for Temporary Assistance for Needy Families (TANF) if the applicant has had a drug conviction in the previous five years. Also enacted was a bill requiring TANF applicants to apply for at least three jobs in order to be eligible for assistance. Two bills were enacted to increase the steps or time necessary to obtain an abortion.

ECONOMIC DEVELOPMENT/TAXES:

Dual Enrollment Scholarship/Tax Credit - Act 2014-147

The act creates a \$10 million scholarship program to assist students who choose to take vocational training courses at Alabama two-year colleges while still in high school. Companies that contribute to the scholarship program receive up to a 50 percent tax credit and may direct where up to 80 percent of their contribution will go. The act stems from a recommendation of the Governor's College and Career Ready Task Force.

Taxpayer Fairness Act - Act 2014-146

The act establishes a tax court, the Alabama Tax Tribunal, separate from the Department of Revenue, to hear taxpayer appeals. Up to three judges for the tribunal will be appointed to six-year terms by the Governor.

Estimated Sales Tax Payments - Act 2014-316

The act amends current law to raise the monthly threshold at which businesses are required to pay estimated sales taxes. Currently, businesses must pay estimated sales taxes if their sales tax liability is \$1,000 per month. The act increases that threshold to \$2,500 per month with the expected result of fewer businesses having to make estimated payments.

Tax Collection Relief - Act 2014-331

Taxes and fees that cost more for the state to collect than are generated may be suspended by the Alabama Department of Revenue under provisions of the act.

Electronic Tax Filing - Act 2014-415

The act creates an online electronic filing system for business personal property tax returns without cost to the business or the local taxing jurisdiction. The system is to be active before September 30, 2016.

Former Military Base Economic Development Exemption - Act 2014-342

The act exempts authorities that are established to promote the economic development of former military installations from the state bid law relating to contracts.

Tax Credit for Rehabilitation of Historic Structures - Act 2014-452

This act allows a tax credit for the rehabilitation of historic structures and allows the credits to be transferred and assigned until claimed on an Alabama tax return by any taxpayer. These provisions apply to tax years beginning on or after Jan. 1, 2014.

EDUCATION:

Alabama Workforce Council - Act 2014-16

Part of the Governor's legislative agenda and recommended by the Governor's College and Career Ready Task Force, the act creates an advisory council to aid in formulating policies, developing workforce programming, and identifying issues of importance to workforce development in Alabama. The council will advise the Chancellor of the Alabama Department of Postsecondary Education and the State Superintendent of Education.

ENERGY:

Horizontal Drilling Limits - Act 2014-281

This act removes the acreage limitations for horizontal wells drilled into oil reservoirs which will likely increase oil production opportunities.

Local Wind Energy Permits - Act 2014-190 and Act 2014-191

These acts require that local governments in Cherokee and Etowah counties, respectively, issue permits for the installation or operation of wind energy conversion systems.

HEALTH CARE:

Medicaid Overhaul Revisions - Act 2014-434

The act corrects elements of last year's Medicaid reform act by changing the membership requirements and governance of the act's regional care organizations (RCOs). The act also allows the state's Medicaid agency to set a minimum reimbursement rate for providers and establishes a contract dispute committee to review providers' contracts.

Medical Marijuana Study/Carly's Law - Act 2014-277

Known as "Carly's Law," the act authorizes the University of Alabama at Birmingham to study the use of marijuana oil for the treatment of seizures.

Abortion Waiting Period - Act 2014-441

The act prohibits an abortion before a woman has had 48 hours to review mandatory information about abortion and alternatives. The former requirement was 24 hours.

Abortion Consent for Minors - Act 2014-445

The act requires that signatures for parent or guardian consent for a minor's abortion be executed in the presence of the physician or the physician's agent.

TRANSPORTATION:

Alternation of Construction Plans - Act 2014-273

The act allows the Director of the Alabama Department of Transportation to approve, without the Governor's approval, changes under \$200,000 to construction contracts.

OTHER:

Lobbying by Former Legislators - Act 2014-440

A revision to the state's ethics law, this act expands the prohibition for former legislators who engage in lobbying. The ban now extends to lobbying either chamber - not just the one in which they served - for two years.

Licensing of Professional Engineers and Land Surveyors - Act 2014-375

The act allows the state Professional Engineers and Professional Land Surveyors Board to establish a certification test and contract with a testing firm for administration. The act also removes the cap on the cost of the test.

Welfare Applicant Drug Tests - Act 2014-438

The act requires applicants for Temporary Assistance for Needy Families (TANF), who have a drug conviction, to pass a drug test as part of the application process.

Welfare Fraud Penalties - Act 2014-424

Another component of the welfare reform package, the act expands the penalties for committing welfare fraud and expands the types of welfare covered by the act.

Welfare Eligibility - Act 14-425

The act requires applicants for Temporary Assistance for Needy Families to submit three applications for non-subsidized employment before receiving benefits.

Welfare Benefits Spending Prohibitions - Act 2014-419

This act bans the use of public assistance benefits to purchase alcoholic beverages, tobacco products and lottery tickets. Withdrawal of benefit funds from ATMs in certain types of establishments, such as casinos and tattoo parlors, also is prohibited.

One-Call Notification - Act 2014-220

The act amends the current law requiring all utilities and their contractors to call before digging around utilities. The act was amended to eliminate proposed language requiring mandatory membership for all Alabama utilities including electric cooperatives.

Emergency Declarations - Act 2014-017

The act requires that emergency declarations that do not affect the entire state shall specify the counties to which they apply.

Stormwater Management - Act 2014-439

The act expands Alabama's stormwater law to the entire state under the jurisdiction of the Alabama Department of Environmental Management. Expanding the coverage could prevent the federal Environmental Protection Agency from mandating requirements. Language was added to the act to exempt cooperatives and utilities regulated by the Public Service Commission.

Public Service Commission Jurisdiction Over Telephone Companies - Act 2014-82

The act allows land-line telephone companies to elect to remove themselves from the jurisdiction of the Public Service Commission's in resolving complaints.

Drought Assessment and Planning - Act 2014-400

Under provisions of this act, the Alabama Drought Assessment and Planning Team created by an executive order, is codified into law. The act also places into law a requirement that the Office of Water Resources develop a state drought plan and issue drought declarations. The act also codifies the Governor's ability to respond to drought conditions through the Alabama Emergency Management Act.

Facilitating Business Rapid Response to Declared Disasters - Act 2014-157

The act provides a means for out-of-state businesses to respond to natural disasters quickly without requiring the business or its employees to be subject to any state or local taxes, including income taxes, payroll or occupational taxes, or licensing requirements for work performed during a disaster period.

Conditional Raise for State Employees - Act 2014-351

If sufficient funds are available in the General Fund after Oct. 1, 2014, the act allows the Governor, upon recommendation of the State Finance Director, to release funds to provide up to a 4 percent cost-of-living increase to state employees.

Confirmations/Resolutions:

Alabama State Port Authority

Horace Horn, PowerSouth Vice President for External Affairs, was appointed by Governor Robert Bentley to serve on the board of the Alabama State Port Authority. The Alabama Senate confirmed Horn's appointment on Mar. 19, 2014.

EPA Guidelines - Act 2014-103

The Legislature passed a joint resolution urging the U.S. Environmental Protection Agency to recognize state-developed standards in support of regulation of carbon dioxide emissions from existing power plants.

National Lineman Appreciation Day - Act 2014-155

The Legislature passed a joint resolution designating the first Monday of June each year as Lineman Appreciation Day in recognition of the efforts of linemen in keeping power on and protecting public safety.

State Legislative/Regulatory Profile

KENTUCKY



CAPITOL CITY: Frankfort
GOVERNOR: Steven L. Beshear – second term
GENERAL ELECTIONS: First Tuesday in November

LEGISLATURE CONVENES: The Kentucky Legislature convenes in Regular Session for 60 days on the first Tuesday in January of even numbered years, and for 30 days on the first Tuesday in January in odd-numbered years. It convenes in Special Sessions at the call of the Governor.

GENERAL ASSEMBLY



Senate

TERM:
4 years

PRESIDING OFFICER(S):

Robert Stivers (R), President
Katie Stine (R), President Pro Tem
Damon Thayer (R), Majority Floor Leader
Dan Seum (R), Majority Caucus Chair
Brandon Smith (R), Majority Whip
RJ Palmer (D), Minority Floor Leader
Johnny Ray Turner (D), Minority Caucus Chair
Jerry Rhoads (D), Minority Whip -- *Retiring*

MAJOR UTILITY COMMITTEE:

Natural Resources & Energy

CURRENT ISSUES:

EPA GHG Compliance Plans & Cost Recovery
Energy Efficiency
Environment/Carbon
Renewable Energy Standards
Relief for Energy Intensive Industries in KY

House

TERM:
2 years

PRESIDING OFFICER(S):

Greg Stumbo (D), Speaker of the House
Larry Clark (D), Speaker Pro Tem
Rocky Adkins (D), Majority Floor Leader
Sanny Overly (D), Majority Caucus Chair
(2015 Lt. Gov. candidate)
Tommy Thompson (D), Majority Whip
Jeff Hoover (R), Minority Floor Leader
Bob DeWeese (R), Minority Caucus Chair
John "Bam" Carney (R), Minority Whip

MAJOR UTILITY COMMITTEE:

Tourism Development and Energy
Natural Resources and Environment

CURRENT ISSUES:

EPA GHG Compliance Plans & Cost Recovery
Energy Efficiency
Environment/Carbon
Renewable Energy Standards
Relief for Energy Intensive Industries in KY

REGULATORY BODY



Kentucky Public Service Commission

MEMBERS:

David Armstrong, Chairman (Term expires June 30, 2015)
James W. Gardner, Vice Chairman (Term expires June 30, 2016)
Linda Breathitt, Commissioner (Term expires June 30, 2017)



METHOD OF APPOINTMENT/ELECTION:

The Public Service Commission consists of three members appointed by the Governor to 4-year staggered terms, with one commissioner appointed to act as Chairman and another as Vice Chairman. The Commission appoints an Executive Director who is responsible for the daily operation of the Commission.

CURRENT ISSUES:

Environmental Cost Recovery Mechanism – EPA Mandates
Energy Efficiency/Demand Side Management
Retirement of old Coal Units/Replacement with Gas
Transmission Siting
Net Metering Standards
Renewable Energy Standards
Relief for Energy Intensive Industries in KY
Federal v State Authority over Transmission Grid
State Energy Policy

2014 Kentucky General Assembly

Upon Sine Die adjournment of the 2014 Kentucky General Assembly several significant bills remained unresolved, but a biennial budget agreement was reached. Among the top unresolved issues was Senate Bill 5, commonly referred to as “the heroin bill”. The clock also ran out on House Bill 125, which was the annual “Christmas tree” – the piece of legislation that was “lit up” in the final days with the contents of myriad other bills, and in this case it was a lot of health care/insurance related bills. The legislature did escape in the eleventh hour with a compromise on the six-year road plan. That, combined with the successful passage of the budget prior to the veto recess, mitigates the absolute necessity of a special session, but it will be the prerogative of the Governor to call the members back during the interim.



Despite the disappointment of many legislators and advocates about the bills that didn’t pass, the legislature did accomplish much of what it intended to. As mentioned, the biennial budget passed prior to the veto recess. Governor Beshear exercised his line-item veto on the budget bill, notably deleting language that would have limited the flexibility of many community and technical colleges to fund capital projects. The legislature did not act to override the Governor’s line-item vetoes. The road plan passed without an increase in the gasoline tax. Kentucky’s six-year plan is broken up into two parts: the two-year “funded” portion and a generally unfunded plan for the four remaining “out years.” Rather than fully fund all phases of projects (from design to construction) within the two-year portion and leave a relatively meaningless wish list of out-year projects, the General Assembly attempted to have a true six year plan. Money will be let for projects incrementally over the next six years, avoiding the project glut that has prevented projects from being let in a timely manner.

Senate Bill 200, the juvenile justice reform bill, was passed and signed by the Governor. One of the final bills that passed both chambers was House Bill 2, which provides scholarship opportunities for students from counties in the state’s Eastern and Western coal fields. Senate Bill 74 provides economic development incentives for a large steel mill in Eastern Kentucky. It barely passed, following an hour long debate on the Senate floor that lasted until 11:30 Tuesday evening. Retiring Senator Bob Leeper (I-



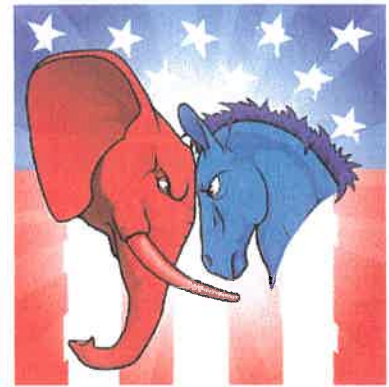
Paducah) urged his colleagues to vote against the incentives provision, noting that the same legislation was still alive in the House – the same chamber that refused to act on Leeper’s bill that would allow nuclear power plants in Kentucky. The debate was unusually divisive – for the Senate. Senators from Western Kentucky publicly expressed frustration about the money and attention paid to Eastern Kentucky. Nearly all Republican members placed blame on Democrats in the House for not moving bills in a timely manner, if at all. The vote on the steel mill provisions held at 19-19 with the roll call open for minutes, until two Republicans switched their vote, allowing it to move forward. It was a bitter conclusion for the retiring Leeper, who was subject of so much tribute earlier in the day.

The House had no shortage of its own theatrics. As the minutes waned, that body was set to take a vote on a relatively non-controversial parental rights bill. A previously unseen, eleven-page floor amendment that would have made several changes to Kentucky limited liability company statutes was called, and in the interest of time, House Leadership quickly attempted to end debate and proceed with a vote.

However, ending debate requires its own procedural vote, and House Republicans used their vote explanation to essentially filibuster the provision. The amendment was tabled and the bill passed out cleanly, but SB5 and HB125 were left in its wake as the clock ran out nearly 15 minutes later. When it was clear there was no longer time to send the bill back to the Senate then to the Governor's Office, the House settled for enrolling a final batch of bills, then adjourned. Senate President Stivers has since asked the Governor to call for a special session to address heroin abuse, and House Speaker Greg Stumbo said it will be the legislature's top priority in 2015.

The legislature did not override any gubernatorial vetoes, meaning that public-private-partnerships must wait for a future session. Tolling between Kentucky and Ohio on a future I-75 bridge replacement was the stumbling block for that bill. No agreement was reached on the Rupp Arena expansion, which took up a significant amount of time the last couple days of session. Legislators express support for the end goal, but were never able to build a comfort level with a financing plan. Bills and multiple amendments attempting to take away the right of eminent domain for natural gas liquids projects did not pass. The sponsor of Senate Bill 99, the "AT&T bill" eulogized the death of telecomm modernization on the Senate floor late Tuesday evening. Senator Paul Hornback (R-Shelbyville) said that although he filed the bill on behalf of his rural constituents who are tired of seeing only metro areas benefitting from wireless investment, he was proud to be associated with AT&T, who has invested hundreds of millions of dollars into the Commonwealth in recent years. Expanded gaming did not pass this session.

Unless the Governor calls the members back for a special session, the General Assembly will not return until next January. The composition of the body could change, as the next session follows the November general election in which all 100 House seats and half of the 38 Senate seats are on the ballot. The Senate GOP maintains a sizeable majority which will likely continue barring any unforeseen event. The Democrat hold on the House is much more tenuous at 54-46; Democrats and Republicans spent the entire session positioning to retain and attain majority status respectively. Such high stakes led to an incredibly low-risk session, explaining why issues such as local option sales tax, gaming, telecomm modernization and tax reform were never put to a vote of the entire body.



Kentucky Federal Delegation Races



In the setup for a race that may garner as much national attention as local, U.S. Senate Minority Leader Mitch McConnell handily defeated challenger Matt Bevin for the Republican nomination. McConnell's unofficial results have him reaching the 60% threshold, with Bevin garnering 36%, and the race was called within minutes of the polls closing. The outcome was never in doubt, but politicians anticipated reading into the margin for clues as to the November outcome.

Bevin's "ceiling" was thought to be somewhere in the mid-high 40s. The decisive victory by Senator McConnell effectively resets the November race, which polling shows to be nearly even. Meanwhile, three additional GOP candidates in the primary garnered a negligible percentage of the vote.

McConnell will face Kentucky Secretary of State Alison Lundergan Grimes in November, who easily defeated a trio of token Democrat opponents with around 77% of the vote. Like her GOP counterpart, Grimes' victory was announced almost instantly after voting stopped. As indicated, Grimes' primary opponents were relative unknowns and never mounted a formidable challenge, allowing her to concentrate on fundraising rather than campaigning.



Kentucky Congressional Update

All six sitting Congressmen from Kentucky will face general election opposition this year, although the likelihood of much turnover is minimal. Most have attracted trivial challengers with the exception of Andy Barr (R) in the 6th Congressional District, which covers Lexington-Fayette Co. and what is considered Central Kentucky. First-term incumbent Barr has a significant fundraising lead over Democratic challenger Elisabeth Jensen, but Jensen has garnered support and fundraising help from most of the Kentucky Democratic political leaders. Jensen faces an uphill challenge, but the 6th Congressional district race will be the main Kentucky Congressional campaign to watch in November.

Kentucky State Legislative Races

Two incumbent state legislators were upset in primary races this year, one in each chamber. In the Senate, incumbent Republican Sen. Sara Beth Gregory of Monticello was defeated; and in the House, incumbent Democrat Keith Hall of Pikeville was defeated.

Retirements and redistricting brought dozens of new faces to the fold this election season. Challengers filed to either challenge incumbents or for open seats in 62 of 100 House districts and 12 of 19 Senate Districts on the ballot.

Local Races

Louisville Mayor Greg Fischer did not garner any competition and did not have to face a primary. He will face Republican challenger, Bob DeVore, in the general election in November.

Lexington Mayor Jim Gray will face former Lexington police chief Anthony Beatty in the November general election. Gray and Beatty easily moved through the primary and will meet again in the November 4 general election.



LOUISIANA LEGISLATIVE REPORT

State Profile

Capitol: **Baton Rouge**
Governor: **Bobby Jindal (R)**
General Elections: **4 Years (House, Senate, Governor)**
Legislature Convenes: **Annually**
Even Year Sessions: **General Sessions (85 Days)**
Odd Year Sessions: **Fiscal Sessions (60 Days)**

Senate Makeup

Republicans: **26 (66.67%)**
Democrats: **13 (33.33%)**
Term: **4 Years**
Presiding Officer: **Senate President John Alario (R)**
Majority Leader: **Senator Danny Martiny (R)**
Minority Leader: **Senator Eric Lafleur (D)**
Major Utility Committee: **Commerce Committee**

House

Republicans: **58 (55.23%)**
Democrats: **45 (42.85%)**
Independents: **2 (1.904%)**
Term: **4 Years**
Presiding Officer: **Speaker Charles "Chuck" Kleckley (R)**
Majority Leader: **Lance Harris (R)**
Minority Leader: **John Bel Edwards (D)**
Major Utility Committee: **Commerce and Industry**

Regulatory Body

Regulatory Body: **Louisiana Public Service Commission**
Members: **5 Elected Commissioners**
Election Cycle: **6 Year Alternating Terms**

OVERVIEW OF 2014 ISSUES

The Louisiana Constitution provides that the legislature is a continuous body during the term for which its members are elected; however, a bill or resolution not passed during a session in which it is introduced cannot carry over to a subsequent session. During even numbered years, the sessions are considered "general in nature." The general sessions run for not more than 60 legislative days (a day when either or both houses are meeting) during a continuous 85 day period. The legislature is prohibited from considering any proposals that are fiscal in nature. However, legislators may pre-file an unlimited amount of general bills and may file five (5) bills after the session opening.

During odd numbered years, the sessions are considered "fiscal in nature." Fiscal sessions may not run longer than 45 legislative days during a continuous 60 day period. Fiscal sessions include matters pertaining to making appropriations; levying or authorizing a new tax; increasing an existing tax; legislating with regard to tax exemptions, exclusions, deductions, reductions, repeals and credits. In addition, during a fiscal session, each legislator may file five (5) bills which are not fiscal in nature.

The 2014 session was considered a general session convening on March 10, 2014 and adjourned on June 2, 2014. A total of 1969 bills were filed; 1284 House bills and 685 Senate bills. In addition, 838 resolutions and study requests were filed, as well as, 57 constitutional amendments.

2014 SESSION HIGHLIGHTS FOR UTILITIES

Solar Related Legislation

Senate Bill 63 (J.P. Morrell) provided criminal penalties for claiming a tax credit when a contractor fails to meet contractual obligations relative to installation and maintenance of solar electric or thermal systems. A person can be fined and/or imprisoned for receiving tax credits failing to comport with obligations such as not fully installing the equipment or not making necessary repairs to the system. Fines are tiered, depending on value of credits received. Entergy worked with the author to amend the bill to further narrow the scope of protection for solar financing entities so as to ensure that groups involved in the actual installation are not overly protected from fraud prosecution by virtue of being affiliated with a financing company.

Senate Bill 447(J.P. Morrell) required the Louisiana State Licensing Board for Contractors to provide testing specifically for solar installers. Contractors amended the bill so that any contractor licensed in this state as of August 1, 2014, holding the major classification of Building Construction, Electrical Work (Statewide), or Mechanical Work (Statewide), shall be deemed to have met the examination requirement.

Expropriation Related Legislation

House Bill 656 (Greg Miller) prohibited the expropriation of mortgages, attempting to stop municipalities from expropriating blighted property for less than the value of the mortgage. Utilities recognized that the bill might cause issues for private acquisition of rights of ways and worked with the author and members of the Louisiana Realtors Association to provide language that exempted private expropriation from the bill. This bill is similar to legislation that has been filled in other states to prohibit third parties from using public expropriation authority to acquire mortgages.

Senate Concurrent Resolution 172 (Gerald Long) requested the Louisiana Office of Conservation, in conjunction with the Louisiana Public Service Commission, to study landowner's rights concerning expropriation or condemnation for the purpose of construction and operation of pipelines transporting any form of hydrocarbon in a liquid or gaseous state. The resolution came after the defeat of House Bill 1281 (Jack Montoucet) that required that all private expropriating entities file for registry with the Louisiana Department of Natural Resources.

Tax Related Bills

Senate Bill 360 (Neil Riser) provided relative to reimbursements to tax assessors of expenses for defending assessments. The bill, as filed, benefited tax assessors and was industry neutral. However, an amendment was added in the House of Representatives that allowed tax recipient bodies (including school boards, police juries, sheriffs, water districts, fire districts, recreational districts, etc.) to appeal in district court valuations of property centrally taxed state-wide by the Louisiana Tax Commission. As a result, the property owner and the Louisiana Tax Commission would be subject to multiple actions in various judicial jurisdictions. Entergy, with help from other industries, was able to work with the author to strip the amendment in conference committee following the passage of the bill from the House.

Louisiana Underground Utilities and Facilities Damage Prevention Law

House Bill 868 (Erich Ponti) made changes to the Louisiana Underground Utilities and Facilities Damage Prevention Law. The legislation was filed on behalf of the Dig Law Advisory Committee to amend the law to add a warning for first offense violations, allow for "mark by time" extensions and allow the use of offset markings. There was some opposition by the Louisiana State Police (which is charged with "Dig Law" enforcement) to the "mark by time" extension portion of the bill. However, the advisory committee, utilities and Louisiana State Police leadership came to an agreement to allow for documented "mark by time" extensions.

Environmental

House Bill 1084 (Jared Brossett) created the Air Quality Monitoring Commission, which will have the right to monitor systems used by a facility and notify the EPA, LDEQ and local governments when toxic air pollutants register above a level that may present a threat to health. The bill also required that every facility have a federally enforceable air permit to install on the facility's boundaries as well as develop a plan for assistance by local first responders in the event of a release. This bill would have an adverse financial impact to utilities by requiring additional equipment, manpower and administrative resources to design, operate and maintain an ambient air network. Entergy visited with the author and the bill was voluntarily deferred.

House Concurrent Resolution 171 (Ray Garafalo) was relative to the creation of an Air Quality Monitoring Commission to study the efficacy and adequacy of the state's air monitoring system. Entergy met with the author to amend the bill to include representatives of investor owned utilities and the association of electric co-ops on the proposed commission in House Natural Resources. The utilities, along with the Louisiana Chemical Association and Louisiana Mid-Continent Oil and Gas Association, further met with House members to author an amendment that would strip the proposed commission from the resolution and instead urge the LDEQ to study air monitoring directly.

Senate Bill 650 (Mike Walsworth) authorized the Louisiana Department of Environmental Quality (LDEQ) to establish regulations on carbon dioxide emissions from existing fossil fuel-fired electric generating units. The bill was originally intended to limit the way LDEQ creates programs to regulate CO2 from existing generating units. However, Entergy worked with the group sponsoring the legislation to ensure that they did not legislatively box LDEQ into non-compliance with future federal rulemaking. Also, Senate Resolution 180 requested the EPA to rely on state regulators when developing guidelines for regulating carbon dioxide emissions from fossil-fueled power plants.

House Bill 1120 (Ted James) made a legislative determination that the Southern Hills Aquifer System is an area of critical groundwater concern and provided for limitations on groundwater removal from the aquifer. If passed, the bill would have had a significant detrimental effect on electric utilities' usage of groundwater. The utilities worked with the author, the House of Representative Natural Resources and Environment Committee and industry representatives to voluntarily defer the bill. The issue was, instead, addressed by a House Concurrent Resolution 89 (Franklin Foil). The HCR urged and requested the Louisiana Commissioner of Conservation to continue monitoring the health and sustainability of the Southern Hills Aquifer System and to use the results of simulations conducted by the U.S. Geological Survey (on the fifteen hundred foot sand and the two thousand foot sand) to develop management regimes for the health sustainability of the Southern Hills Aquifer System. This HCR was supported by Entergy and industry as an alternative to more aggressive bills that would have limited water use but was deferred for the 2014 session.

Louisiana Public Service Commission Related Legislation

House Bill 1 is the Louisiana legislature's bill dedicated to funding state government for the 2015 fiscal year. At the request of Secretary Eve Gonzales of the Louisiana Public Service Commission, the utilities lobbied the House of Representatives to allow an amendment to restore two positions to the 2014-15 state budget.

House Bill 1249 (Jack Montoucet) exempted certain nonprofit water companies from fees at the Louisiana Public Service Commission. Utilities aligned to amend the bill into a revenue neutral posture in House Commerce Committee. Entergy assisted LPSC Secretary Eve Gonzales with the issues she was experiencing with the state legislature.

Overhead Power Line Safety Act

House Bill 964 (Stewart Bishop) required overhead power line information to be identified on Louisiana Department of Transportation and Development public works project plans. The author filed similar legislation in 2013 in an attempt to shift liability under Louisiana's Overhead Power line Safety Act to the engineering firms responsible for drafting plans. Again, the utilities were concerned that their rights under the OPLSA might be negatively affected. The Overhead Power Line Identification Work Group was formed after the 2013 session to study the issues surrounding power lines and construction. The group immediately asked the author to defer the 2014 bill once filed in order to continue to study the issues outside of legislation, and the author complied.

Storm Restoration

House Bill 458 (Brian Adams) attempted to provide a cause of action for municipalities against parties for accidents, disasters or emergencies. The bill could have caused undue liability during storms and storm restoration by providing a potential claim that a utility "created or enhanced the natural disaster." Furthermore, the bill would allow "any political subdivision" to recover "costs or expenses of any type" to protect the public as a result of any physical damage to property the subdivision does not own. The author filed this legislation during the 2013 session as well. Again, the utilities strongly opposed the bill, offering language that would exempt investor owned utilities from the legislation. The bill was killed before reaching committee by the utilities.

2014 State Legislative/Regulatory Profile

STATE: Mississippi
CAPITOL CITY: Jackson
GOVERNOR: Phil Bryant (R)
GENERAL ELECTIONS: 1st Tuesday after 1st Monday in November
LEGISLATURE CONVENES: First (1st) Tuesday after first (1st) Monday in January at 12:00 noon
FLOOR PERIODS: 125 days - with new administration and 90 days for next three (3) years

SENATE: 52 Members 33 Standing Committees
REPUBLICANS: 32
DEMOCRATS: 20
TERM: 4 years
PRESIDING OFFICER(S): Tate Reeves (R) (Lt. Governor);
Terry Brown (R)(President Pro-Tem)
MAJOR UTILITY COMMITTEE: Senate Energy Committee (15 members)
Chairman: Terry Burton (R)
Vice-Chairman: Giles Ward (R)
CURRENT ISSUES: Budget, Education, Teacher Pay, Second Amendment Rights

HOUSE: 122 Members 37 Standing Committees
REPUBLICANS: 65
DEMOCRATS: 57
TERM: 4 years
PRESIDING OFFICER(S): Phillip Gunn (R) (Speaker)
Greg Snowden (R)(Speaker Pro Tem)
MAJOR UTILITY COMMITTEE: House Public Utilities Committee (17) members
Chairman: Jim Beckett (R)
Vice-Chairman: Hank Lott (R)
CURRENT ISSUES: Budget, Education, Teacher Pay, Second Amendment Rights

REGULATORY BODY: Public Service Commission

MEMBERS: Brandon Presley (D); Commissioner, Northern District
Lynn Posey (R); Commissioner, Central District
Steve Renfroe (R); Commissioner, Southern District

METHOD OF APPOINTMENT/ELECTION: Election - 4-year term

CURRENT ISSUES: Baseload Recovery, Energy Efficiency,
Compensation Review

UTILITY:

HB 220/HB 842/SB 2569: Repeal the Public Utility Baseload Act. *Died in Committee*

HB 624: HERO Voter Act - Allows MS Sec. of State to provide voter assistance for utility workers who are called out of their home counties on Election Day. *Signed by the Governor*

HB 1266/HB 1319/SB 2568: Gas pipelines: These bills would provide for the open access of intrastate gas pipelines for the transportation of carbon dioxide across the state. *Died in Committee*

HB 1378/HB 1542/SB 2914: Tax Credits for Installing Solar Panels: These bills would provide tax credits for the purchase and installation of solar panels. *Died in Committee*

HB 1629: Long-term power supply agreements: allows the City of Collins to enter into a long-term agreement with MPCO to purchase a percentage of the electricity generated at the Kemper Plant. *Signed by the Governor*

SB 2016: Electric Power Associations: allow SMEPA to engage in economic development activities. *Died on the Calendar*

SB 2017: Electric Power Associations: Revise the certificate of incorporation to change the threshold need to amend Association bylaws. *Signed by the Governor*

SB 2018: EPAs: Allow corporate name to include the words "electric cooperative" to prevent the "EPA" moniker from being confused with the Environmental Protection Agency. *Signed by the Governor*

SB 2021: EPAs: Allows EPA members to vote electronically (via email) on issues before the membership. *Signed by the Governor*

SB 2521: Allows public entities to enter into energy performance contracts and shared savings contracts for energy efficiency equipment & services, including alternative fuel vehicles and fueling equipment. *Signed by the Governor*

TAXES:

HB 574/SB 2567: The proposal would require all electric public utilities to include industrial usage in their franchise fee calculations. *Died in Committee*

HB 799: Tax liabilities and appeals – Changes the way the Department of Revenue determines the apportionment of corporate tax liabilities for companies doing business in multiple states. Assures that all taxpayers have a fair appeal of any tax cases without having to first post a bond or pay the disputed tax amount. *Signed by the Governor*

HB 1560/SB 2953: Tax Exemption for Mandated Pollution Control Equipment to provide a 10-year ad valorem tax exemption for state or federally mandated pollution control equipment. *Died on the Calendar*

SB 2958: Unemployment Tax: Reduces the Unemployment General Experience rate paid by employers without negatively affecting the Unemployment Trust Fund or the Workforce Enhancement Training Fund. *Signed by the Governor*

ECONOMIC DEVELOPMENT:

HB 1318: Authorizes the state auditor to audit projects under any MDA economic incentive program, including any company that receives these incentives. *Signed by the Governor*

HB 1365: Calls for MDA & University Research Centers to analyze and report on the use/results of economic development tax incentives and programs. *Signed by the Governor*

SB 2726: Authorizes the State Auditor to audit state agencies and nonprofits that have received funds from the federal American Recovery and Reinvestment Act of 2009 (RESTORE Act). *Signed by the Governor*

PROPERTY/REAL ESTATE:

SB 2378: Creates a statewide building code by requiring all cities and counties to follow one of the three latest editions of the International Residential Code adopted by the Mississippi Building Code Council (MBCC). However, the municipality or county has 120 days after the bill goes into law to opt out of the mandate. The legislation also states that the mandatory fire sprinkler provisions are to be exempted from the codes. *Signed by the Governor*

LIENS:

SB 2622: This new law will grant special lien rights to all subcontractors (including subsubcontractors) and all materialmen furnishing materials for the improvement of real estate for which they furnish labor, services or materials if they are furnished at the instance of the owner, design professional or contractor or a subcontractor having direct privity of contract with a contractor, and shall include the value of the work done and labor, services or materials furnished. *Signed by the Governor*

SAFETY:

HB 22/ HB 53: HB 53 would make the murder of a utility worker, while on the job, a capital offense which would allow the prosecution to seek the death penalty.

HB 22 - "Utility Worker Protection Act" - would make the threatening of a utility worker, while he is performing his duties, a felony. *Both Bills Died in Committee*

SB 2148: 811/Call Before You Dig: exclude routine railroad maintenance activities from reporting requirements. *Signed by the Governor*

LABOR UNIONS:

SB 2473: Prohibits an organization, corporation or individual from damaging a businesses' property and products or threatening to damage, harass or coerce a business or individual into surrendering their rights under federal labor law. It also prohibits forcing employees into neutrality agreements, card check agreements and collective bargaining recognition. *Signed by the Governor*

SB 2653: Prevents an organized effort to use picketing or objects, such as vehicle, to block a business' sidewalk, entrance or exit, as well as private residences, as part of an effort in a labor dispute. *Signed by the Governor*

SB 2689: Provides that no local government shall create regulations that interfere with an employer's ability to perform background checks of an employee or potential employee for the purpose of maintaining a fair, secure, safe and productive workplace. *Signed by the Governor*

SB 2797: Prevents cities and counties from using ordinances, zoning, licensure or conditions of a procurement to force employers to use organized labor. *Signed by the Governor*

Other major issues that were debated and passed into law include:

Medicaid – The Mississippi legislature, again, voted not to expand the state's Medicaid program. Opponents of the expansion cited the increased costs the state would inherit when the federal funding for the expansion expired in coming years. Mississippi is among about two dozen states that have rejected the expansion of Medicaid services allowed under the Affordable Care Act.

Highway Patrol School – \$6.9 million was appropriated to fund the Department of Public Safety's new Trooper School. Due to funding issues and retirements, the Mississippi Highway Patrol is currently 150 troopers short of the 600 troopers needed on the road.

Teacher Pay Raise (HB 504) – Nearly \$60 million will go toward increasing all teacher salaries in the state. The teacher pay raise will be phased in over three years with a \$1500 salary increase in 2014, a \$1000 salary increase in 2015, and an additional raise in 2016 for teachers at highly rated schools. Legislators have also committed to developing a Phase 3 pay plan for high-performing teachers working in lower rated schools by 2016.

Sales Tax Holiday for firearms and hunting supplies (SB 2425) – This new law creates a sales tax exemption on the sale of firearms, ammunition, and hunting supplies. "Hunting supplies" include archery equipment, firearm and archery cases, firearm and archery accessories, hearing protection, holsters, belts and slings. The tax exemption begins on the first Friday in September and ends on the following Sunday.



2014 USGO
NORTH CAROLINA REPORT



KANSAS CITY, MISSOURI
JULY 13-16, 2014

NORTH CAROLINA

State Profile

Capital City	Raleigh
Governor	Pat McCrory (R)
General Elections	Executive Branch every 4-years (2016) House every 2-years (2014) Senate every 2-years (2014)

Session Schedule	Meets in regular session beginning in January of each odd-numbered year, and adjourns to reconvene the following even-numbered year for a shorter session. (Convening Date: May 14, 2014 - Adjournment Date: To be determined)
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Senate (50 members)

Republicans	33
Democrats	17
Presiding Officer	Lt. Gov. Dan Forest (R)
President Pro Tempore	Sen. Phil Berger (R)
Majority Leader	Sen. Harry Brown (R)
Minority Leader	Sen. Dan Blue (D)
Major Utility Committee:	Agriculture/Environment/Natural Resource Committee

House (120 members)

Republicans	77
Democrats	43
Presiding Officers	Speaker Thom Tillis (R)
Republican Majority Leader	Rep. Edgar Starnes
Republican Majority Whip:	Rep. Mike Hager
Democratic Leader:	Rep. Larry Hall
Major Utility Committee	Public Utility and Energy Committee

Regulatory Body

NC Utilities Commission	
Members	7 (currently 5 men, 2 women)
Method of Appointment/Election	Appointments are made by the Governor, subject to confirmation by the General Assembly by joint resolution.

Commissioner Edward S. Finley, Chairman	Term expires June 30, 2019
Commissioner Don Bailey	Term expires June 30, 2017
Commissioner Bryan Beatty	Term expires June 30, 2017
Commissioner ToNola Brown-Bland	Term expires June 30, 2017
Commissioner Jerry Dockham	Term expires June 30, 2019
Commissioner James Patterson	Term expires June 30, 2019
Commissioner Susan Rabon	Term expires June 30, 2015

BILLS OF INTEREST

Due to the fact that the North Carolina General Assembly is still in session, a North Carolina utility representative was unable to attend USGO 2014. The following North Carolina information was compiled by Chuck Claunch, Duke Energy South Carolina. The information is not comprehensive, but does attempt to highlight the major utility issues currently being debated in Raleigh. If you would like additional information on North Carolina issues, please contact chuck.claunch@duke-energy.com.

North Carolina legislative short session: The North Carolina General Assembly's 'short' session began Wednesday, May 14, 2014. Senate and House leadership identified the budget, education, a teacher salary increase, coal ash management and Medicaid reform as the major issues to be addressed this session. While there is no statutory deadline, the session is expected to end by the end of July.

Governor's coal ash bill introduced: Indicating a high priority for the issue, the first bill to be filed for the 2014 session was **SB 729** -- Governor's Coal Ash Action Plan -- sponsored by Senate President Phil Berger from Eden and Sen. Tom Apodaca from the Asheville area. We expect additional, substantive changes to the bill as it moves through Senate committees and ultimately to the House for consideration. The bill has been assigned to the Senate Agriculture and Environment Committee.

Coal ash bill passes Senate: The full Senate gave unanimous final approval to **SB 729** following several amendments and lengthy debate over two days. The bill requires prioritization by Aug. 1, 2015, of ponds by high, intermediate and low priority, and sets closure dates of Dec. 31 in the years 2019, 2024 and 2029, accordingly. Several amendments were added on the floor, including significant additional requirements for capping in place and structural fills. The bill now goes to the House where it, or a House alternative bill, is expected to be heard. In addition to the above, the bill also:

- Prohibits cost recovery for 'unlawful discharges' to surface waters after Jan 1, 2014 (i.e., Dan River or any future unlawful discharge to surface waters), and creates a moratorium on a base rate increase for coal ash pond cleanup costs prior to Jan. 15, 2015
- Establishes a Coal Ash Management Commission for oversight of closure prioritization and cleanup
- Sets a fee to cover a total of 30 positions within the Department of Environment and Natural Resources (NCDENR) and the new commission staff. Cost to Duke Energy is approximately \$2.3 million and the fee is sunset in 2030.
- Reclassifies all coal ash as solid waste
- Allows for structural fills (after a one-year moratorium) but requires certain sizes to have liners, leachate collection, and groundwater monitoring. Additional amendment further restricts structural fills and we are in discussions regarding this issue.
- Requires market analysis of the use of coal ash in concrete and other products.
- Requires quicker emergency reporting of discharges and submission of dam emergency action plans

Coal ash day at the General Assembly: June 4 was declared "Coal Ash Day" at the General Assembly. A small group of protestors rallied in front of the legislative building and then delivered "coal ash" cupcakes to each legislative office.

Drone protections: H 1099 was debated, changed in subcommittee and ultimately passed by the House this session. However, the Senate did not address the issue. H 1099 was intended to slowly move away from the current moratorium on drones and strike a balance between an individual's privacy, the needs of law enforcement, private property rights, and a growing new drone industry. The bill lays out restrictions on use, regulation of launch

and recovery sites, unlawful distribution of images taken by a drone, disturbance of wildlife, training and licensing requirements, and sets up a civil cause of action for anyone who is the subject of unwarranted surveillance. Duke Energy worked with the North Carolina Farm Bureau and the North Carolina Electric Cooperatives to ensure the additional protective language was added to the bill regarding unwarranted surveillance of our property. Outcome: House passed H 1099 but Senate did not take up the bill, which means it is dead for the biennium. However, the concepts in the bill are likely to be used in House and Senate discussions, and development of legislation in the 2015 session.

Hydraulic fracturing bill passed: A bill addressing certain aspects of opening the state to hydraulic fracturing has passed. The NC Mining and Energy Commission is developing rules expected to be in place in 2015. The solar lobby was successful in amending the bill to require a study during the interim on third-party sales of renewable energy for military installations.

SB 474, Net-Zero Energy Schools: A bill that failed to move forward after two hearings in the Senate Education Committee during the 2013 session, was brought back before the Joint Energy Policy Committee. Duke Energy opposes the bill. The legislation puts in place a new customer class via statute in a way that benefits only the business owner. The committee did not take action on the bill.

Senate moves shale gas exploration bill: The Senate passed a bill that would make "knowingly or negligently" releasing company secrets a misdemeanor. The Senate reduced the penalty from a felony in response to objections from Democratic legislators. Also in the bill is a bonding requirement on drilling companies. The bill now goes to the House.

Regulatory reform bill at final senate vote: A comprehensive regulatory reform bill received tentative approval from the Senate. The bill includes a number of provisions intended to streamline government. One of the more controversial provisions encourages industries to self-report environmental violations to the state or to seek a voluntary compliance audit. As an incentive, the state could waive civil penalties or fines for the self-reported pollution, and the audits pertaining to the violations would be kept confidential. About half of the states in the country have a similar law. This bill includes a provision reducing the regulatory fee telecoms pay as a result of reduced regulation, while remaining regulated entities will absorb the amount to adequately fund the NCUC.

Tax reform bill: Legislation addressing several tax changes has moved out of the House and to the Senate. Of note, language on the corporate income tax moves North Carolina from a net economic loss to a more favorable federal net operating loss calculation. The bill also caps the local privilege license tax to a flat \$100 fee, in addition to other changes we are neutral/favorable toward.

Department of Commerce public-private partnership bills move: The House and Senate are both near final passage of two similar bills to privatize a large portion of the economic development and recruiting efforts in North Carolina. The proposal was made last year and has been making its way through debate and discussion. The bills call for a portion of funds to support the effort to be raised by private entities. A version is expected to pass this session.

Right of way bill for police chiefs: North Carolina Police Chiefs are moving a bill forward to allow for use of public safety technology, such as license plate readers, in utility right of ways. Duke Energy is working as part of a utility industry coalition to ensure proper protections and considerations are in place to avoid future issues with our utility right of ways.

House budget process: The House passed its budget, following a controversial period of weeks in which the governor and Senate proposed different approaches to a variety of items, including teacher salary increases and health and human services issues, such as Medicaid coverage. The House budget includes \$1.8 million for 25 Department of Environment and Natural Resources positions for future coal ash regulation and oversight. Also, Rep. Ruth Samuelson of Charlotte successfully amended the bill on behalf of the solar industry to clarify that renewable projects that have incurred at least 5 percent of the cost of the project before Jan. 1, 2016 qualify for the renewable energy tax credit. The amendment does not otherwise change the Dec. 31, 2015, sunset. The budget now goes to a conference committee for negotiation with the Senate.

Tax reform bill passes: The tax reform bill has been quickly signed into law by the governor. The bill includes several 'cleanup' items from the major tax reform passed last year, including a change to the corporate income tax that moves from a net economic loss calculation to a 'state net loss' calculation that is more in line with the federal operating loss calculation. The bill also essentially takes away the privilege license tax imposed by local governments.

OKLAHOMA

State Profile

Capitol City	Oklahoma City
Governor	Mary Fallin
General Elections	November 4, 2014
Legislature Convenes	February 2, 2015

Senate

Republicans (#)	32
Democrats (#)	16
Term	4 Years
Presiding Officer	President Pro Tempore, Brian Bingman
Majority Leader	Mike Schulz
Minority Leader	Sean Burrage
Major Utility Committee	Energy Committee, Cliff Branan (Chair)

House

Republicans (#)	72
Democrats (#)	29
Term	2 Years
Presiding Officer	Speaker, Jeff Hickman
Majority Leader	Pam Peterson
Minority Leader	Scott Inman
Major Utility Committee	Utility & Environmental Regulation, Colby Schwartz (Chair)

Regulatory Body

Members	Bob Anthony – R (Chair), Dana Murphy – R, and Patrice Douglas - R
Method of Selection	Election
Current Issues	Regional Haze Compliance, Distributive Energy Resources & Net-Metering

2014 OKLAHOMA LEGISLATIVE SUMMARY

The second Session of the 54th Legislature of Oklahoma convened on February 3, 2014, and Adjourned Sine Die 16 weeks later May 23, 2014.

During this Session Legislators dealt with more than 4,000 pieces of legislation.

UTILITY COALITION LEGISLATION

Top Priority – OAEC, OGE & PSO – Senate Bill 1456 – Distributive Generation. This Legislation basically accomplished two things:

1. Prohibited unjust subsidies of future DG customers by non-DG customers; and
2. Required those electric providers that are rate-regulated by the Corporation Commission, to obtain new electric rates (which reflect the true cost of grid connection) for DG customers by December 31, 2015.

SB1456 passed nearly unanimously (only received 5 “no” votes), but Governor considered a VETO of the measure, due to influence of outside special interests. Instead, she ultimately signed the Legislation, but also issued an accompanying Executive Order addressing how she envisioned the Legislation would be adopted. After adjournment a citizen requested a “referendum petition” seeking to put the Legislation to a vote of the people this November. Opponents included Sierra Club, TASC, and TUSK, among others.

UTILITY ISSUES

Smart Meter “Opt-Out” Requirement – Legislation was introduced to require utilities to offer customers the opportunity to “opt-out” of having a Smart Meter on their property to monitor and report electricity usage. We educated the legislators on the benefits provided by the Smart Meters, explained our willingness to work with customers on the location of their devices, etc... This legislation didn’t move forward.

Renewable Portfolio Standards (RPS) – A couple pieces of legislation were introduced to change Oklahoma’s current 15% “Goal” of generation coming from renewable sources, to a 20% **mandate**. We opposed this legislation, convincing the authors that given the State’s success (already exceeding the goal; currently at 17%-plus), that the legislation was unnecessary. After visiting with the legislators and their constituents, this legislation didn’t move forward.

Shielding the Grid from Electromagnetic Pulses (EMP) – Legislation was introduced to send to the vote of the people a requirement that the State’s electricity providers be required to “shield the grid” from EMPs; either solar flares or terrorist attacks. The legislation included “automatic” rate increases to cover the cost, should such a measure pass on the General Election Ballot. We opposed this legislation and it didn’t move forward.

2014 OKLAHOMA LEGISLATIVE SUMMARY

Rural Ambulance Service – Fee on Electric Bills – Legislation has been introduced for each of the past few years to require the rural electricity providers to collect and remit a fee as part of the monthly electric bill, to provide funding for ambulance service. The reason legislation is introduced is because local officials are unwilling / unable to pass a local tax to fund the ambulance service. This measure failed again this year.



2014 USGO
SOUTH CAROLINA REPORT



KANSAS CITY, MISSOURI
JULY 13-16, 2014

SOUTH CAROLINA

State Profile

Capital City	Columbia
Governor	Nikki R. Haley (R)
General Elections	Statewide offices every 4-years (2014) House every 2-years (2014) Senate every 4-years (2016)

Biennial Session Schedule	Second Tuesday in January to first Thursday in June (Next: January 13, 2015 and June 4, 2015)
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Senate

(1-vacancy – McGill (D) seat)	
Republicans	28 (62%)
Democrats	17
Presiding Officer	Lt. Gov. J. Yancey McGill (D)
Majority Leader	Sen. Harvey Peeler (R), Cherokee County (Duke Energy)
Minority Leader	Sen. Nikki Setzler (D)
Major Utility Committee	Judiciary Committee – Chairman, Senator Larry Martin (R), Pickens County (Duke Energy)

House

Republicans	78 (63%)
Democrats	46
Presiding Officers	Speaker Bobby Harrell (R)
Majority Leader	Rep. Bruce Bannister (R), Greenville County (Duke Energy)
Minority Leader	Rep. J. Todd Rutherford (D)
Major Utility Committee	Labor, Commerce & Industry – Chairman, Rep. Bill Sandifer (R), Oconee County (Duke Energy)

Regulatory Body

Public Service Commission	
Members	7 (currently 5 men, 2 women)
Method of Appointment/Election	Elected by the General Assembly to 4-year terms

Staggered terms:

District 1	Butch Howard (2016)
District 2	Elliott Elam, Jr. (2018)
District 3	Randy Randall (2016)
District 4	Lib Fleming (2018)
District 5	Swain Whitfield (2016)
District 6	Nikiya Hall, Vice Chairman (2018)
District 7	O'Neal Hamilton, Chairman (2016)

120th SESSION OF THE SOUTH CAROLINA GENERAL ASSEMBLY

GENERAL OVERVIEW

The General Assembly's annual legislative session begins on the second Tuesday in January and runs through the first Thursday in June. The General Assembly convened on January 14, 2014 for the second year of the 120th General Assembly. The session was scheduled to adjourn on June 5th, but legislators extended the session with the adoption of H.5282, the Sine Die Resolution. The Resolution allowed lawmakers to return June 17th – 19th, to consider a limited list of matters including the state government budget legislation, vetoes issued by the Governor, and the reports of conference committees. The General Assembly will convene on January 13, 2015 for the first year of the 121st legislative session.

Any legislation that did not pass or was not enacted prior to Sine Die adjournment “died” and may be introduced again in the 2015 legislative session.

The political make-up of the current Senate is twenty-eight Republicans and seventeen Democrats with one vacancy for the Senate seat in District No. 32, formerly held by Lt. Governor Yancey McGill. A special election will be held on November 4th. The primary election is scheduled for September 2nd, and if necessary, a primary run off will be held on September 16th.

Changes in Senate leadership occurred in the last week of the legislative session. Senator John Courson resigned as President Pro Tempore and former Lt. Governor Glenn McConnell resigned from office to become the president of the College of Charleston. Senator Yancey McGill was elected as President Pro Tempore and immediately was sworn in as Lt. Governor. Senator Hugh Leatherman, chairman of the Finance Committee, was elected as President Pro Tempore.

Members of the House of Representatives will be elected in the November 4th General Election. Several members are not seeking re-election, including Democrats Bakari Sellers, District 90, Elizabeth Munnerlyn, District 54, Lester Branham, Jr., District 61, Ted Vick, District 53, and Republicans B.R. Skelton, District 3, J.R. Smith, District 84, Liston D. Barfield, District 58, Andy Patrick, District 123, and Phil Owens, District 5. Representatives Don Bowen, R, District 8, and Tracey Edge, R, District 104, were both defeated in the Primary election.

Members of the House and Senate introduced over 3,782 bills and resolutions in the two year legislative session. The General Assembly passed 2,024 – most of which were resolutions. Of the 3,782 bills introduced, 1,767 were general bills that would change the current SC Code of Laws; and only 285 (16%) were passed by both bodies.

Details of Legislation:

2013-14 LEGISLATION	HOUSE INTROS	HOUSE LEGIS. PASSED	SENATE INTROS	SENATE LEGIS. PASSED	TOTAL LEGIS. INTRODUCED	TOTAL H&S LEGIS. PASSED
General Bills	1042	136	725	149	1767	285
Joint Resolutions	110	14	115	17	225	31
Concurrent Resolutions	271	239	189	157	460	396
General H&S Resolutions	983	974	347	338	1330	1312
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Total	2406	1363	1376	661	3782	2024

BILLS OF INTEREST

S.1189, SC Distributed Energy Resource Program

STATUS: Signed into Law

Governor Nikki Haley signed into law [S.1189](#), a bill by [Senator Greg Gregory \(R-Lancaster\)](#) that provides for a South Carolina Distributed Energy Resource Program. The bill, which was supported by the electric utility companies and the environmental and solar lobbies, includes a comprehensive plan regarding third party leasing, distributed energy resource program, net energy metering, cost recovery, and a business model study. The legislation calls on electric utilities by 2021 to invest in renewable energy sources that equal at least 2% of their previous five-year average peak power demand.

H.3644, Job Retraining Credit

STATUS: Signed into Law

Governor Nikki Haley signed into law [H.3644](#), a bill by [Representative Dwight Loftis \(R-Greenville\)](#), the Job Retraining Credit, which exists under South Carolina law for a business engaged in manufacturing or processing operations or technology intensive activities, allows a company to claim a credit against withholding taxes for the retraining of a production or technology employee. However, fewer and fewer companies utilize the credit due to the minimal value of the credit and the cumbersome application and auditing process that is required. The legislation transfers the authority of the Job Retraining Credit to the Technical College System, and it increases the credit from \$500 to \$1,000 per employee per year. It also reduces the annual renewal fee from \$500 to \$250, streamlines the reporting and auditing processes, and allows a company to do the training internally provided it is under the supervision of the technical college.

H.3827, Review of DHEC Decisions

STATUS: Dies in Senate

The Senate failed to take up [H.3827](#), a bill by [Rep. Mike Pitts \(R-Laurens\)](#) that removes the SC Dept. of Health & Environmental Control (DHEC) Board from the permit appeals process. The business community supported the legislation, which could reduce third party challenges to environmental permits by up to 155 days and would allow appeals to go straight to the Administrative Law Court, saving companies time and money.

H.3925, Pollution Control Act

STATUS: Dies in Senate

The Senate failed to take up [H.3925](#), a bill by [House Agriculture Committee Chairman Nelson Hardwick \(R-Horry\)](#) that reaffirms that a company cannot be sued under the SC Pollution Control Act (PCA) for not having a permit when no regulatory permitting program exists.

The business community worked to get legislation approved in 2012 after a SC Supreme Court Ruling, *Georgetown League of Women Voters vs. Smith Land Company*, found that under the PCA there is an absolute prohibition against any discharge into the environment without a DHEC permit and that a private right of action exists, allowing any citizen to sue for an alleged violation under the PCA. Both of these findings were significant departures from the way the PCA had been implemented since its enactment in 1950.

Following the enactment of the 2012 law, court rulings from a lawsuit that had been filed based on the Smith Land decision indicated that any emissions into the environment that may have occurred prior to June 6, 2012, the date the new law went into effect, is still subject to a private cause of action under the Pollution Control Act. This loophole is contrary to the agreed-upon compromise and is why H.3925 is needed to clarify that the PCA requires permits only when a regulatory permitting program applies and that no private cause of action exists under the PCA.

H.3512, Craft Brewery
STATUS: Signed into Law

Governor Nikki Haley signed into law [H.3512](#), a bill by [Rep. Rick Quinn \(R-Lexington\)](#) that will make several changes to South Carolina's alcohol laws in an attempt to recruit several craft breweries that have expressed interest in locating in South Carolina and plan to bring hundreds of jobs and invest tens of millions of dollars.

A compromise between the craft brewery industry and the beer wholesalers association moved the legislation from the brewpub statute to the brewery statute and will allow breweries to have a restaurant that serves food and also sells their own brand of beer, other brands of beer, and wine.

S.387, Economic Development
STATUS: Died in House

[S.387](#), an economic development incentives bill by [Senator Billy O'Dell \(R-Greenwood\)](#), passed the Senate last session and has been pending in the House Ways & Means Committee all this session. The bill, which would help make South Carolina more competitive and would help existing industry, revamps the Job Retraining Credit and clarifies the eligible uses for the Utility Tax Credit.

Under the legislation, the Job Retraining Credit, which exists under South Carolina law for a business engaged in manufacturing or processing operations or technology intensive activities, allows a company to claim a credit against withholding taxes for the retraining of a production or technology employee. However, fewer and fewer companies utilize the credit due to the minimal value of the credit and the cumbersome application and auditing process that is required. The legislation transfers the authority of the Job Retraining Credit to the Technical College System, and it increases the credit from \$500 to \$1,000 per employee per year. It also reduces the annual renewal fee from \$500 to \$250, streamlines the reporting and auditing processes, and allows a company to do the training internally provided it is under the supervision of the technical college.

In addition, the bill makes changes to the Utility Tax Credit law, which allows utility companies to claim a credit against utility license taxes for amounts paid in cash for infrastructure for an eligible project. The requirements for a project to be eligible and authorized uses of the funds are often ambiguous and unclear. The legislation clarifies that eligible projects do not have to be in a county or local government-owned industrial park and that infrastructure improvements include the construction, refurbishment and up fit of both the interior and exterior of new or existing buildings. The legislation also clarifies that infrastructure improvements may include expenditures related to compliance with site certification requirements of the SC Dept. of Commerce. An amendment was also adopted in the Senate last session to include a provision allowing sports and recreational complexes in a county that collects at least \$5 million in state accommodation taxes to be considered an eligible project for the purposes of the Utility Tax Credit.

H.4604, Engineering
STATUS: Signed into Law

Governor Nikki Haley signed into law [H.4604](#), a bill by [Rep. Bill Sandifer \(R-Oconee\)](#) providing an exemption from South Carolina engineer licensure requirements for employees of manufacturing companies. The legislation, which was strongly supported by the business community, is needed to clarify that everyday activities in a manufacturing facility do not require a licensed professional engineer, and it will bring South Carolina in line with a [majority of other states](#) in the country that have this exemption. In addition, the legislation specifically states that the exemption does not apply to activities where the seal of a professional engineer is expressly required by statute, regulation, or building code and it will not permit a manufacturing company to offer engineering services to the public.

H.4607, Trespasser Responsibility

STATUS: Died in Senate

The House amended and approved [H.4607](#), a bill by [Rep. David Hiott \(R-Abbeville\)](#) that provides a limitation of liability by land owners to trespassers. The legislation is needed to preempt courts from adopting a provision in the American Law Institute's *Restatement Third of Torts: Liability for Physical and Emotional Harm (2012)*, which recommends that courts hold land owners to a higher standard for "all entrants on their land, including unwanted trespassers."

In a move supported by trial lawyers, the bill was amended in the House Judiciary Committee to expand land owners' liability, allowing trespassers more opportunities to sue. The business community worked together to have the bill re-amended on the House floor by codifying the state's current common law, which means a landowner is only responsible for not causing a willful or wanton injury.

S.1011, Offshore Wind Research

STATUS: Died in Senate

The Senate Judiciary Committee approved [S.1011](#), a bill by [Senator Greg Hembree \(R-Horry\)](#) which provides that the South Carolina Public Service Commission shall adopt regulations that encourage electric utilities to invest in offshore wind research and development activities and that provide incentives and cost recovery for energy suppliers and distributors who invest in offshore wind research and development activities that are intended to result in economic development opportunities related to the manufacturing and deployment of offshore wind.

H.3592, Energy Independence Act

STATUS: Signed into Law

Governor Nikki Haley signed into law [H.3592](#), a bill by [Rep. Bill Sandifer \(R-Oconee\)](#) that gives the state more authority in approval of the rating systems used for energy efficiency standards for the construction or renovation of state-owned public buildings.

Under a state law enacted in 2007, most new state buildings or major project renovations must be constructed according to a private label system, either the U.S. Green Building Council's LEED standard or Green Globes certification rating system. H.3592 was introduced in response to a move made in 2012 by the U.S. Green Building Council to propose a new version of LEED standards that discouraged the use of building products containing certain chemicals and plastics, many of which are manufactured in South Carolina. The State of South Carolina did not have a choice in whether or not to follow the new standard because the current law requires the state to comply with the version of LEED or Green Globes that is available.

In response, the legislation was introduced to regain SC General Assembly control of the construction of state owned public buildings. The bill establishes a state advisory committee to make recommendations to the Fiscal Accountability Authority (FAA), formerly known as the SC Budget and Control Board, when a new version of a LEED or US Green Globes rating system is published. The FAA shall then promulgate regulations to amend the rating systems to remove specific provisions based on the recommendations of the advisory committee. The regulations must then be sent to the General Assembly for approval.

In addition, the bill prohibits the rating systems from placing at a disadvantage building materials or furnishings that are manufactured or produced within the State, and it will not allow a major facility project to seek a rating credit or point for building product disclosure and optimization credit that requires material ingredient reporting.

S.256, Regulatory Reform Act
STATUS: Died in Senate

The Senate Judiciary Committee approved [S.256](#), a bill by [Senator Thomas Alexander \(R-Oconee\)](#) that makes changes to how state regulations are approved. Under current law, regulations must be approved or disapproved by the General Assembly within 120 days, or if they are not acted upon after 120 days, they automatically go into effect. The legislation changes this by removing the 120 day time period and requiring regulations to receive an affirmative vote from the General Assembly in order to become effective.

S.1164 and H.4979, Affordable Care Act
STATUS: Did not pass

In an effort to revive the debate on the nullification of the Affordable Care Act (ACA), bills were introduced in both the House and Senate. Companion bills, [H.4979](#) by [Rep. Bill Chumley \(R-Spartanburg\)](#) and [S.1164](#) by [Senator Tom Davis \(R-Beaufort\)](#), known as the "ACA Anti-Commandeering Act" were introduced and referred to the House Labor, Commerce, and Industry Committee and the Senate Judiciary Committee.

Anti-commandeering is a principle based on a United States Supreme Court ruling, *Printz vs. United States*, that found, "The Federal Government may neither issue directives requiring the States to address particular problems, nor command the States' officers, or those of their political subdivisions, to administer or enforce a federal regulatory program." Essentially, this anti-commandeering legislation would prohibit state agencies from assisting individuals or businesses that may have questions about an issue, such as tax implications or human resource impacts that is in any way related to the ACA. Other business organizations raised serious concerns about the legislation and its impact on the business community, the insurance market in South Carolina, and the state's overall economy.

H.3412, Infrastructure Funding Bill
STATUS: Dies in Senate

The Senate failed to take up [H.3412](#), an infrastructure funding bill by [House Speaker Bobby Harrell \(R-Charleston\)](#). The bill primarily redirected car sales tax revenues, which generate around \$80 million annually, to the State Highway Fund.

The business community has been calling on the state to make infrastructure funding a priority. Last session, the General Assembly took the first step towards addressing the state's growing infrastructure needs when they approved a \$600 million infrastructure plan. However, the state is estimated to need an additional \$19 billion over the next twenty years, so a long-term, sustainable funding plan is vital.

H.4922, Veterans Employment
STATUS: Signed into Law

Governor Nikki Haley signed into law [H.4922](#), a bill by [Rep. Murrell Smith \(R-Sumter\)](#) that provides that it is not an unlawful employment practice for a private employer to give hiring preferences to a veteran. The bill also extends the preference to the veteran's spouse if the veteran has a service-connected permanent and total disability.

S.1085, Transportation Infrastructure Local Sales & Use Tax Extension
STATUS: Signed into Law

Governor Nikki Haley signed into law [S.1085](#), a bill by [Senator Paul Campbell \(R-Berkeley\)](#) that provides that a county in which the transportation infrastructure local sales and use tax is currently imposed for less than the twenty-five year maximum imposition period, upon referendum approval, may extend the initial imposition for an imposition not to exceed twenty-five years.

S.1306, Export Import Bank
STATUS: Adopted, died in Senate

The General Assembly approved [S.1306](#), a concurrent resolution by [Senator Paul Campbell \(R-Berkeley\)](#) that urges members of the South Carolina Congressional delegation to support reauthorizing the Export Import Bank for an additional five years.

H.4371, Patent Trolling
STATUS: Dies in Senate

The Senate refused to take up [H.4371](#), a bill by [Rep. Kirkman Finlay \(R-Richland\)](#) that prohibits someone, in regards to patent ownership and potential patent infringement, from intentionally interfering with the existing contractual relations of another person or with the prospective contractual relations of another person. The legislation makes it an unlawful trade practice for a person or entity to make a bad faith assertion of patent infringement. The bill also includes a provision requested by the pharmaceutical and biotech industries stating that it does not apply when a company is going through the FDA approval process.

S.1085, Infrastructure Bill
STATUS: Signed into Law

Governor Nikki Haley signed into law [S.1085](#), a bill by [Senator Paul Campbell \(R-Berkeley\)](#) that provides that a county in which the transportation infrastructure local sales and use tax is currently imposed for less than the twenty-five year maximum imposition period, upon referendum approval, may extend the initial imposition for an imposition not to exceed twenty-five years.

S.1100, Unemployment Benefits
STATUS: Signed into Law

Governor Nikki Haley signed into law [S.1100](#), a bill by [Senator Kevin Bryant \(R-Anderson\)](#) which provides that corporate officers are exempt from unemployment benefits unless the employer elects coverage.

H.3941, Employee Benefits
STATUS: Signed into Law

Governor Nikki Haley signed into law [H.3941](#), a bill by [Rep. Bill Sandifer \(R-Oconee\)](#) that prohibits a political subdivision of the state from mandating an employee benefit, including wages, health benefits, disability benefits, group accidental death and dismemberment benefits, paid days off for holidays, sick leave, vacation, personal necessity, and profit-sharing benefits. The bill was amended to clarify that it does not limit the authority of political subdivisions to establish wage rates or employee benefits in contracts or employment relationships to which they are a party.

H.3945, SC Commission on Ethics Enforcement/Disclosure
STATUS: Died in Senate

The House passed [H.3945](#), the comprehensive ethics reform bill by [Rep. Murrell Smith \(R-Sumter\)](#). The House voted to send the bill back to the Committee for consideration of the changes the Senate made to the legislation.

The business community followed the legislation closely to ensure a provision was not included that would require persons promoting or opposing actions or votes by officials of local government entities to register as lobbyists with the State Ethics Commission. They raised concerns that the provision, which was included in the original version passed by the House, could hinder the confidentiality of economic development projects and also interfere with a company's ability to communicate with local government officials about certain permit needs, zoning changes, and other day-to-day business functions. The measure was later removed in the

Senate Judiciary Committee, and an attempt to reinsert the provision during the debate on the Senate floor a few weeks ago was rejected by Senators in a 30-9 vote.

S.447, Stop Methamphetamine Production Act
STATUS: Died in Senate

A Senate Medical Affairs Subcommittee voted to carry over [S.447](#), a bill by [Senator Mike Fair \(R-Greenville\)](#) that would require medications containing pseudoephedrine, such as Sudafed, Claritin-D, and Allegra-D, to be available only with a prescription from a medical doctor. Proponents of the bill testified that the legislation would help cut down on methamphetamine abuse in South Carolina. Opponents of the bill, including the business community, argued it would place an unnecessary and unfair burden on law-abiding South Carolinians while also imposing additional healthcare costs on patients and companies and requiring people to take time off from work to see a doctor for common cold or allergy symptoms.

H.3410, Regional Education Centers
STATUS: Signed into Law

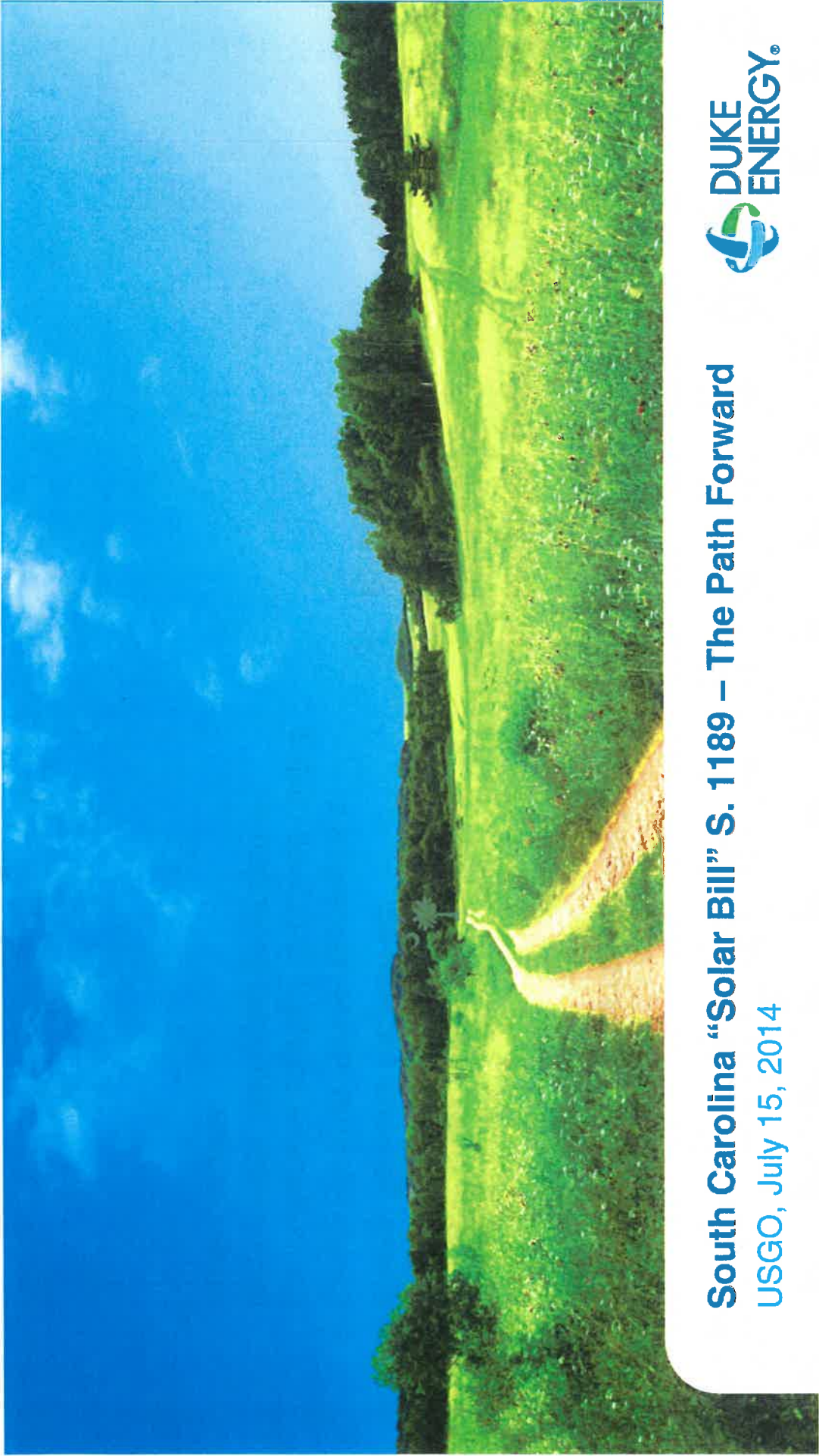
Governor Nikki Haley signed into law [H.3410](#), a bill by [Rep. Mike Forrester \(R-Spartanburg\)](#) that transfers the Regional Education Centers established by the Education and Economic Development Coordinating Council from the Dept. of Education to the Dept. of Commerce. The bill calls on the SC Dept. of Employment & Workforce, in collaboration with the State Board for Technical and Comprehensive Education, the Commission on Higher Education, and the State Dept. of Education, to assist the Dept. of Commerce in planning and promoting the career information and employment options and preparation programs provided by the regional education centers.

H.4505, Water management program
STATUS: Died in Senate

[H.4505](#), a concurrent resolution by [Rep. Don Bowen \(R-Anderson\)](#) stating that the General Assembly shall join the South Carolina and Georgia Joint Water Caucus to encourage state agencies, in conjunction with the U.S. Army Corps of Engineers, to implement a water management program for the Savannah River Basin to ensure continuous optimization of water quality and quantity management of the water resources shared by South Carolina and Georgia throughout the Savannah River Basin.

H.4619, Income Tax Credit
STATUS: Died in House

[H.4619](#), a bill [Rep. Dwight Loftis \(R-Greenville\)](#), provides a tax credit for the in-state purchase or lease of a new qualified hybrid electric vehicle, new qualified battery electric vehicle, or new qualified alternative fuel motor vehicle under 8,500 gross vehicle weight rating. The bill was referred to the House Ways & Means Committee.



South Carolina “Solar Bill” S. 1189 – The Path Forward

USGO, July 15, 2014



Status

- The bill was signed into law on June 2, 2014.

Description

- The bill is referred to as the *Distributed Energy Resource Program Act*.
- Senate Bill 1189 (S1189) represents a comprehensive approach to policies related to renewable, distributed generation in South Carolina.

Major elements of the bill include

1. Fuel statute amendment
2. Distributed Energy Resource Program
3. Net Energy Metering
4. Leasing of Renewable Generation
5. Interconnection Standards
6. Ratemaking Study

Act 236: The Distributed Energy Resource Program Act of 2014

1. Cost recovery of renewables

2. Net Energy Metering Revision

3. Distributed Energy Resource Plan

4. Leasing of solar panels

5. Interconnection 2.0

6. Rates Study

2014 implementation

2015 implementation

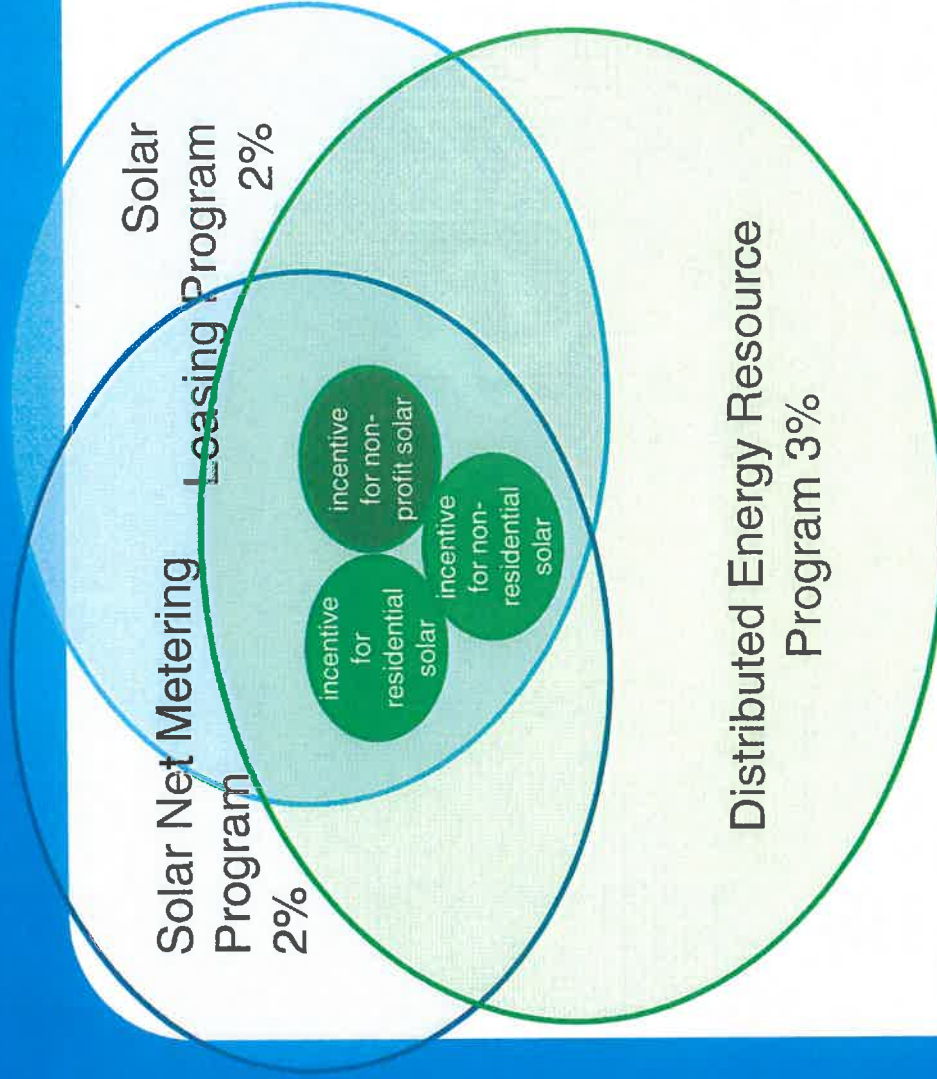
- 1. Cost Recovery:** S1189 amends the South Carolina fuel statute to add to costs permitted in the annual fuel filing the following: PURPA qualifying facility costs, capacity costs associated with other purchased power (previously, only energy had been permitted), and costs related to the implementation of a Distributed Energy Resource Program (see below)
- 2. Distributed Energy Resource Program:** Permits utilities to vary from least-cost planning from now through 2021 and invest in or contract for new renewable generation capacity equivalent to as much as 3% of the utility's previous 5-year average peak (~150 megawatts for DEC+DEP, combined)
- 3. Net Energy Metering:** revises and standardizes net energy metering; establishes a process to develop new net energy metering rates for utilities; raises the aggregate capacity limit from 0.2% to 2% of utility's retail peak demand, and increases the single-facility permissible size from 100 kilowatts to 1000 kilowatts.
- 4. Renewable Equipment Leasing:** new program to allow renewable equipment leasing statewide
- 5. Renewable Interconnection:** requires PSC to update interconnection standards
- 6. Ratemaking Study** of the relationship between distributed generation, fixed costs, fixed charges, and traditional ratemaking.

S.1189 Percentages Explained

S. 1189 enables a number of public policies to encourage solar adoption and permit utilities to manage solar, from a cost recovery and technical perspective.

- The DER Section states that utility is permitted to pay a premium above avoided cost for up to 3% of generation.
- Net metering: the utility's customers, in aggregate, can self-generate until 2% of retail peak is reached.
- Leasing: non-utilities (as well as utilities) may lease solar systems to customers until 2% of peak is reached, in aggregate

Importantly, the caps are not additive. Rather, they overlap.





2014 Virginia General Assembly Session

Divided State Government

- Second longest budget standoff in Virginia history (resolved late June)
- Democrats hold all three statewide offices (Governor, Lt. Governor, Attorney General) for the first time in 20 years and all five statewide offices counting U.S. Senate for the first time in more than 40 years
- Two changes in Senate control—GOP control, then Democratic control after two special elections, back to GOP control after resignation of Democratic senator from Southwest Virginia; now an additional Senate Democrat has resigned (though from a safe seat)
- Largest GOP majority in the House ever (68-32); two Democratic delegates recently resigned (both from safe seats) to take jobs in the Administration making current margin 68-30
- Special elections set for August 19 (two Senate, two House)

Major Energy Legislation in 2014

- SB 459 (Stosch)—nuclear development costs; allowed 70 percent of development costs through 2013 to be recovered in base rates for North Anna 3; SB 643 (McEachin) has similar provision for offshore wind. Bill also provided for more even accounting of nuclear outage costs (four units result in eight outages every three years)
- SB 585 (Saslaw)/HB 848 (Loupassi)—undergrounding distribution lines; established program to underground 20 percent of the worst performing tap lines—estimated cost \$2 billion over a decade—recovery through a new distribution reliability rider

Pending Energy Issues in Virginia

- Virginia Energy Plan is being prepared by the McAuliffe Administration and due by October 1
- Several efforts around distributed solar
- Significant focus on natural gas pipeline infrastructure
- State has extremely aggressive 111 (d) target—810 pounds/MWH—strictest of any state touching Virginia or key competitor states