2014 LEGISLATIVE SESSION IN REVIEW

In late May, with just three days remaining in the two-year legislative session, the Senate calendar was still over 60 pages long with many business priorities bogged down, meaning legislation that did not pass would have to begin the process all over again in 2015. Thus was the theme for the 2014 legislative session, as many business issues passed out of committee but became contested on the floor. 2014 is also an election year for the House of Representatives and Constitutional Officers, so major reform legislation realistically had little chance of passing. Unfortunately, the General Assembly spent a good deal of the session debating issues, like nullification of the Affordable Care Act (ACA) and Common Core State Standards, with action taken on few items.

In all, it was a legislative session that saw some forward movement, but many business priorities stalled.

INFRASTRUCTURE DOESN’T CROSS FINISH LINE

As the state’s infrastructure continues to decline and as a report recently ranked South Carolina rural roads the deadliest in the nation, the General Assembly postponed addressing infrastructure funding this year. While there were lengthy discussions, led by Senator Ray Cleary (Georgetown), and a bill set for Special Order in the Senate on infrastructure funding, ultimately no legislation passed.

However, it looks like there may be a renewed commitment to addressing this No. 1 issue in 2015 with a comprehensive plan, similar to the Road Map to the Future that the South Carolina Chamber of Commerce, along with 13 other business associations, released in 2013. This summer, and into the fall, the Chamber will continue to work with all interested parties to elevate the dire need for infrastructure funding and begin discussing a comprehensive infrastructure funding package for the 2015 legislative session.

EDUCATION AND WORKFORCE DEVELOPMENT MAKE STRIDES

The General Assembly passed several initiatives this year to improve education and workforce development in the Palmetto State. First, Governor Nikki Haley included several education and technology priorities in her executive budget, and the final 2014-15 state budget included funding to expand four-year-old kindergarten for at-risk students and more dollars for higher education. The state budget also included $29 million for reading coaches in elementary schools and $4.5 million to expand summer reading camps. Further, the General Assembly allocated $2.5 million for STEM education and workforce development initiatives at all 16 technical colleges in South Carolina.

Led by Senator Harvey Peeler (Cherokee), the Read to Succeed Act, a package of initiatives to help children adequately read by the third grade, was signed into law by Governor Haley. It has been proven that before third grade, students “learn to read.” After the third grade, students “read to learn.” The Read to Succeed Act will help remediate struggling third grade readers with a year of literacy instruction. It also requires reading instruction training for teachers and offers summer reading camps. The Act also expands four-year-old kindergarten as state funding is available.

Governor Haley also signed legislation that moves the 12 Regional Education Centers (RECs) from the South Carolina Department of Education to the South Carolina Department of Commerce. RECs are located throughout the state to serve students, adult learners, parents, educators, employers and community members, connecting them with the information, resources and services they need. Governor Haley also approved legislation that eliminates the requirement that high school students pass the high school exit exam. The legislation instead requires students to complete a WorkKeys assessment and ACT testing beginning in 2015.

After months of debate, compromise legislation on Common Core State Standards passed the General Assembly and was signed by the governor. The legislation keeps the current Common Core State Standards in place for math and English and language arts for the next school year. During that time, a review of the standards will be completed. Any new state developed standards must be in place by the 2015-16 school year. Additionally, any new standards or revisions must be approved by the Education Oversight Committee as well as the General Assembly. The State Department of Education would also be required to notify the governor and General Assembly of any plans to change the existing standards.

The legislation also removes South Carolina from the Smarter Balance Assessment Consortium and includes a provision to create a review committee under the state Budget and Control Board for the recommendation of an assessment system. The chair of the South Carolina Chamber of Commerce Board of Directors has a seat on the review committee. The review committee must return its recommendations on an assessment system by September 30, 2014.

POLITICS OVERTAKE CERTIFICATE OF NEED

Over the past year, numerous health care related businesses made substantial investments in land, buildings and personnel based on the understanding that the Certificate of (continued page 6)
SC Restructuring Act of 2014 (S.22) – By a vote of 39 to 4, the Senate adopted the conference report to create the Department of Administration, a cabinet-level agency that will report to the Governor. (Chamber Vote – aye; Vote # 693; 1/21/2014)

Regional Education Centers (H.3410) – The Senate passed legislation to move the Regional Education Centers from the Department of Education to the Department of Commerce by a vote of 44 to 0. (Chamber Vote – aye; Vote # 764; 3/4/2014)

Splitting of Drug Tests for Workers’ Compensation Rates (S.826) – The Senate unanimously passed legislation by a vote of 41 to 0 to codify the standard industry practice of splitting a single drug test sample from employees so employers may be deemed a “certified drug-free workplace.” (Chamber Vote – aye; Vote # 768; 3/4/2014)

Set Read to Succeed Act for Special Order (S.516) – By a vote of 32 to 12, the Senate set the Read to Succeed Act for Special Order, giving the legislation priority status on the Senate calendar. (Chamber vote – aye; Vote # 769; 3/4/2014)

Defeat of Nullification Bill (H.3101) – By a vote of 9 to 33, the Senate defeated legislation aimed at stopping the implementation of the Affordable Care Act in South Carolina, but in reality would have put businesses in jeopardy of lawsuits and increased complexity in the health care arena. (Chamber Vote – nay; Vote # 846; 3/19/2014)

Energy Independence & Sustainable Construction Act of 2007 (H.3592) – By a vote of 40 to 0, the Senate passed legislation outlining the process for adopting standards for LEED Certification or Green Globes Rating system for construction of facilities, thereby ending the current practice of automatic adoption of new standards. (Chamber Vote – aye; Vote # 858; 3/26/2014)

(continued page 5)
By a vote of 106 to 30, the House passed legislation fixing an unintended loophole in the Pollution Control Act, exposing businesses to the threat of frivolous citizen lawsuits. (Chamber Vote – aye; Vote # 910, 2/26/2014)

The House unanimously approved legislation to exempt engineers of manufacturing companies from licensing requirements by a vote of 100 to 0. (Chamber Vote – aye; Vote # 941; 3/4/2014)

The House passed legislation to help South Carolina businesses defend frivolous claims of patent infringement brought by patent trolls in South Carolina courtrooms. (Chamber vote – aye; Vote # 1229; 4/2/2014)

The House unanimously concurred in Senate amendments to legislation to eliminate the requirement that students take the high school exit exam by a vote of 102 to 0. (Chamber Vote – aye; Vote # 1262; 4/9/2014)

By a vote of 95 to 0, the House approved legislation to codify the common law liability owed to trespassers by landowners. (Chamber Vote – aye; Vote # 1350; 5/1/2014)

The House concurred in Senate amendments to compromise legislation on Common Core State Standards by a vote of 80 to 26, speeding up the time frame for a cyclical review of the standards and instituting a review committee to make recommendations on a testing system for South Carolina. (Chamber Vote – aye; Vote # 1428; 5/20/2014)

The House unanimously approved legislation by a vote of 105 to 0 allowing third-party leasing of renewable energy generating facilities, updating the net metering requirements and implementing renewable energy production targets for regulated utilities. (Chamber Vote – aye; Vote # 1438; 5/21/2014)
Splitting of Drug Tests for Workers’ Compensation Rates (S.826) – The House passed legislation by a vote of 93 to 2 to codify the standard industry practice of splitting a single drug test sample from employees so employers may be deemed a “certified drug-free workplace.” (Chamber Vote – aye; Vote # 1441; 5/21/2014)

Exemption of Unemployment Insurance for Independent Contractors of Motor Carriers (S.1099) – By a vote of 96 to 2, legislation passed the House to provide an exemption from providing unemployment benefits for an independent contractor of a motor carrier. (Chamber Vote – aye; Vote # 1445; 5/21/2014)

Read to Succeed Act (S.516) – By a vote of 75 to 20, the House passed legislation strengthening reading programs for children in the third grade and expanding four-year-old kindergarten statewide as funding is available. (Chamber Vote – aye; Vote # 1535; 6/4/2014)

Fiscal Year 2014-15 State Budget (H.4701) – By a vote of 85 to 28, the House approved a $7 billion spending plan for the next fiscal year. (Chamber Vote – aye; Vote # 1541; 6/4/2014)

Table Certificate of Need (CON) Grandfathering Proviso (Amendment 5a to H.4701) – By a vote of 66 to 49, the House tabled a proviso to the state budget that would have grandfathered healthcare projects that went forward during the 2013-14 year while the CON program was in limbo. (Chamber Vote – nay; Vote # 1543; 6/4/2014)

Capital Reserve Fund (H.4702) – The House approved legislation prioritizing spending of the Capital Reserve Fund by a vote of 111 to 0. (Chamber Vote – aye; Vote # 1544; 6/4/2014)

Reauthorization of First Steps (H.3428) – By a vote of 105 to 0, the House approved legislation reauthorizing First Steps for another two years while increasing oversight and accountability for the program. (Chamber Vote – aye; Vote # 1548; 6/5/2014)
Elimination of High School Exit Exam (H.3919) – The Senate unanimously passed legislation to eliminate the requirement that students take the high school exit exam by a vote of 45 to 0. (Chamber Vote – aye; Vote # 864; 3/27/2014)

Exemption of Unemployment Insurance for Independent Contractors of Motor Carriers (S.1099) – By a vote of 36 to 0, legislation passed the Senate to provide an exemption from providing unemployment benefits for an independent contractor of a motor carrier. (Chamber Vote – aye; Vote # 890; 4/3/2014)

Manufacturing Engineer Exemption (H.4604) – The Senate unanimously approved legislation to exempt engineers of manufacturing companies from licensing requirements by a vote of 39 to 0. (Chamber Vote – aye; Vote # 895; 4/9/2014)

Read to Succeed Act (S.516) – By a vote of 36 to 6, the Senate passed legislation strengthening reading programs for children in the third grade and expanding four-year-old kindergarten statewide as funding is available. (Chamber Vote – aye; Vote # 909; 4/9/2014)

Set Highway Funding Legislation for Special Order (H.3412) – By a vote of 34 to 4, legislation to fund roads and bridges was set for Special Order by the Senate, giving it priority status for legislation on the Senate Calendar. (Chamber Vote – aye; Vote # 974; 4/30/2014)

Common Core Compromise (H.3893) – The Senate passed compromise legislation on Common Core State Standards by a vote of 42 to 0, speeding up the time frame for a cyclical review of the standards and instituting a review committee to make recommendations on a testing system for South Carolina. (Chamber Vote – aye; Vote # 979; 5/1/2014)

Table Anti-Commandeering Budget Proviso (Amendment 35 to H.4701) – By a vote of 23 to 19, the Senate tabled an amendment to the FY 2014-15 state budget that was another attempt to stop the implementation of the ACA in South Carolina but would again only increase burdens on businesses and individuals as they navigate the federal health care law. (Chamber Vote – aye; Vote # 1001; 5/8/2014)

Distributed Energy Resource Program Act (S.1189) – The Senate unanimously concurred by a vote of 42 to 0 in legislation allowing third-party leasing of renewable energy generating facilities, updating the net metering requirements and implementing renewable energy production targets for regulated utilities in South Carolina. (Chamber Vote – aye; Vote # 1213; 5/28/2014)

Export-Import Bank Resolution (S.1306) – The Senate adopted a resolution by a vote of 28 to 14 to urge members of the South Carolina delegation in Congress to support the reauthorization of the Export-Import Bank of the United States. (Chamber Vote – aye; Vote # 1240; 6/3/2014)

Carry Over Trespasser Responsibility Act (S.986) – By a vote of 17 to 23, the Senate narrowly failed to carry over an amendment to codify the common law liability landowners owe to trespassers. (Chamber Vote – nay; Vote # 1242; 6/3/2014)

Fiscal Year 2014-15 State Budget (H.4701) – By a vote of 34 to 10, the Senate concurred in the $7 billion spending plan for the next fiscal year. (Chamber Vote – aye; Vote # 1247; 6/4/2014)

Capital Reserve Fund (H.4702) – The Senate concurred in legislation prioritizing spending of the Capital Reserve Fund by a vote of 36 to 7. (Chamber Vote – aye; Vote # 1248; 6/4/2014)

Reauthorization of First Steps (H.3428) – By a vote of 40 to 3, the Senate approved legislation reauthorizing First Steps for another two years while increasing oversight and accountability for the program. (Chamber Vote – aye; Vote # 1257; 6/4/2014)

2014 BUSINESS ADVOCATE AWARD RECIPIENTS

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2014 Legislative Scorecard & Year In Review
Need permitting program was suspended for the fiscal year because funding was vetoed by Governor Nikki Haley and sustained by the House of Representatives in 2013. In her veto message, Governor Haley wrote, “The Certificate of Need program is an intensely political one through which bureaucratic policymakers deny new healthcare providers from offering treatment. We should allow the market to work rather than politics.”

After the South Carolina Supreme Court ruled in April 2014 that the CON program was not suspended by the sustaining of the veto, the General Assembly neglected to address the issue in 2014, which created bad public policy that only increased uncertainty for businesses expanding and creating jobs.

As a result of the House sustaining the veto in 2013, South Carolina Department of Health and Environmental Control (DHEC) Director Catherine Templeton told businesses that the Certificate of Need permitting program was suspended. The removal of funding for the Certificate of Need program in 2013 was a clear indication that the governor and General Assembly wanted to do away with the program and let free markets dictate growth.

In 2014, the South Carolina Chamber of Commerce and other organizations warned the legislature that action was needed as businesses continued to expand to meet capacity and growth needs. This year, the South Carolina Chamber presented two solutions to the General Assembly to fix the uncertainty created after the governor vetoed funding for the program: include a proviso in the budget to grandfather health care facilities that undertook projects or purchased equipment based on the understanding that the program was suspended, or pass standalone legislation, which included language reforming the Certificate of Need permitting process and included a grandfathering provision.

In the end, no solution passed. Specifically, the House of Representatives failed to adopt the compromise that the Senate offered during budget deliberations. The inaction this year to correct the uncertainty created last year by the House only extends this bad policy. Businesses cannot be punished for following the law.

After neither option passed the General Assembly, the South Carolina Chamber is now working with DHEC and affected businesses to find a workable solution to address this uncertainty.

**COMBINED UNITARY REPORTING PRESENTS PROBLEMS**

In early 2014, the South Carolina Department of Revenue (DOR) issued a draft guidance document on the use of combined unitary reporting for businesses in South Carolina as an acceptable method of taxing corporations, which strayed from the precedence of the agency using separate entity reporting. In response, the South Carolina Chamber of Commerce highlighted the negative impacts from increases in corporate income taxes from combined reporting and the uncertainties from the draft guidance on economic development.

After the outcry from the business community, DOR issued a new document outlining that the department will cease work on a proposed ruling that would have mandated forced combined unitary reporting. Instead, DOR will work with a committee of individuals from the business community, along with tax practitioners, to study alternative allocation and apportionment methods. DOR has agreed not to assert combined unitary reporting as a result of an audit and will work to resolve ongoing audits on other bases. The South Carolina Chamber will continue to work with the department to develop solutions to bring South Carolina back in line with the longstanding policy of being a separate entity reporting state.

**SENATE STALLS ENVIRONMENTAL BILLS**

Two environmental bills important to the business community remained contested on the Senate calendar through the end of the legislative session. Minority reports were placed on both bills as they came out of the Senate Medical Affairs Committee. On the floor, multiple attempts were made to remove the minority report from both pieces of legislation to allow debate on the issues, but the motions did not pass as they require unanimous consent. This rule allows one senator to continue to object to the bills, keeping the legislation contested and not debated on the floor.

H.3827 would have streamlined the permitting process at the South Carolina Department of Health and Environmental Control (DHEC) and eliminate the DHEC board review during the permitting process unless the permittee, applicant or licensee requests final review by the board. Third parties typically use the final review by the DHEC board as a delay tactic. Taking this step out of the permitting process would eliminate up to 140 days during permitting, thereby increasing certainty for economic development projects.

H.3925 was a technical fix to the 2012-passed Pollution Control Act (PCA) and clarified that there is no private cause of action under the PCA, reiterating the intent of the General Assembly that was agreed to by the business community and environmental groups. The 2012 legislation instituted an administrative remedy through DHEC for persons to petition the agency if they believe an individual or company is operating without a permit. Therefore, no rights are being taken away from potentially aggrieved parties. The compromise was to change the remedy from an action in civil court to an administrative procedure. As the legislation passed in 2012, environmental groups filed one more lawsuit, claiming that a business was operating without a Pollution Control Act permit, going against the compromise agreed to by all parties. H.3925 closes the loophole the court exposed in this tenth hour lawsuit and protects businesses from frivolous lawsuits under the PCA that hinder economic development.

Both H.3827 and H.3925 passed the House with broad support. Representative David Hioett (Pickens) and House Speaker Pro Tempore Jay Lucas (Darlton) led floor debate on these two environmental bills and are commended by the business community for their leadership.

The Chamber plans to again pre-file these bills ahead of 2015.

**ON THE FEDERAL FRONT**

President Barack Obama signed into law legislation vital to allowing the Port Harbor Deepening project to begin as soon as the Army Corps of Engineers gives the project a green light. The final law includes the contingency authorization provision that gives states the flexibility to advance construction funding for Army Corps of Engineers projects that fall outside the terms of the authorization bill. Even after securing the majority of the estimated construction funding from the South Carolina General Assembly, lack of a congressional authorization would have indefinitely stalled dredging at the port, crippling the industry. Allowing the project to begin without delay was a crucial part of the bill, which was approved with unanimous support from the South Carolina congressional delegation.

The U.S. Export Import Bank (Ex-Im), a vital tool for small, medium and large manufacturers across the country, awaits reauthorization by Congress. The Bank’s authorization is set to expire in September and needs congressional approval to continue to cover critical gaps in financing for U.S. exports to developing countries where commercial financing is unavailable or insufficient. Since 2007, the Ex-Im Bank has directly supported more than $55 South Carolina exporters, 30 of whom are considered small businesses. The Ex-Im Bank affects 7,878 jobs directly in South Carolina, but this number does not include the jobs associated with suppliers and other businesses that indirectly depend on the Bank’s existence. The Ex-Im Bank is essential to enabling American businesses to compete in the global economy.

**LOOKING AHEAD**

With the 2014 legislative session at a close, the South Carolina Chamber will begin to lay out business priorities for 2015. Two overarching areas will be a comprehensive infrastructure funding package and continued progress on workforce development. As economic development continues to take center stage in South Carolina, infrastructure and workforce development will likely be the two areas that will be strained under current scenarios. South Carolina needs to find a dedicated, sustainable funding source for roads and bridges. Likewise, as the state continues to grow economic development, South Carolinians need to be adequately prepared for job openings as new companies locate here and existing companies continue to expand.
2014 ADVOCACY RETURN ON INVESTMENT

Through the South Carolina Chamber of Commerce’s direct advocacy efforts at the State House and through strong business alliances with other industry trade associations, South Carolina businesses will benefit from at least $122.4 million in legislative changes designed to make businesses more competitive and profitable.

- Defeat of ACA Nullification Act: Unlimited
- Closing Fund: $37 million
- Reading Coaches: $29 million
- 4K Expansion: $18.6 million
- Digital Instruction and Teacher Training: $11 million
- First Steps: $6.5 million
- LocateSC: $6.5 million
- readySC: $5.4 million
- Georgetown Port Maintenance Dredging: $5 million
- Tech Colleges STEM Education: $2 million
- Certificate of Need Program: $1.4 million

Total Return on Investment
$122.4+ million