

Divide in Order to Conquer? Major Changes Proposed to the Department of Health and Environmental Control

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No stranger to scrutiny, the State's largest administrative agency was the subject of legislation in both chambers with support from both parties that proposed massive changes to the South Carolina Department of Health and Environmental Control (DHEC) – in fact proposing to abolish DHEC entirely in favor of a newly created state agency tasked with protecting the health and welfare of South Carolinians. While neither of the legislative proposals made it to a vote prior to adjournment, DHEC is likely to remain a focal point for change and these or similar proposals will reappear when the General Assembly returns. Severing the long-connected police powers of public health and environmental control will require significant deliberation, which both chambers will undoubtedly dedicate to the matter. With 77 chapters legislating a sundry of matters from body piercings to infectious waste management to drug dealer liability and sexually violent predators, Title 44 alone of the South Carolina Code commits many critically important public health, welfare and safety matters to DHEC's oversight and enforcement.

Earlier this year, Senate Bill S.2 proposed to sever the twin pillars by creating a new state agency dedicated to public health matters and disseminate the environmental control to other existing agencies. As to the public health responsibilities of DHEC, those would transfer to a newly created state agency: the Department of Behavioral and Public Health. Evidenced by the naming, Senate Bill S.2 proposed to expand the public health matters traditionally delegated to DHEC to also include behavioral health, assigning to the new agency those matters currently within the purview of the Department of Mental Health, as well as those matters overseen by the Department of Alcohol and Other Drug Abuse Services. As a result of this restructuring, the Department of Mental Health, the Mental Health Commission, and the Department of Alcohol and Other Drug Abuse Services would be abolished.

As to the environmental responsibilities held by DHEC, Senate Bill S.2 proposed to allocate them between two existing agencies: the Department of Agriculture and the Department of Natural Resources. In simple terms, all environmental functions other than those currently performed by DHEC's Coastal Division and Office of Ocean and Coastal Resource Management would be transferred to a newly created Division of Environmental Protection within the Department of Agriculture. As to the coastal concerns, those responsibilities would be delegated to the Department of Natural Resources.

A separate bill in the House of Representatives similarly proposed to abolish DHEC and transfer the public health responsibilities to a new Department of Public Health, but the similarities largely ended there. Involving fewer moving parts, House Bill H.3766 divided those twin pillars of public health and environmental protection, but rather than disseminate the environmental responsibilities to the Department of Agriculture and the Department of Natural Resources, House Bill H. 3766 proposed to create a new Department of Environmental Protection. Also, unlike Senate Bill S.2, the new public health agency would not be expanded to assume the responsibilities for mental health and alcohol and other drug abuse services.

The pressures on DHEC are greater than ever given the significant responsibilities that fall to the agency, including protection and preservation of public health in the face of a global pandemic. Independent of these legislative propositions, DHEC has been working on its own internal restructuring and realignment of services. The major program areas that had previously been organized into bureaus have been shuffled and today DHEC's public responsibilities are tasked to one of three divisions: Environmental Affairs, Healthcare Quality and Public Health. Given the breadth of responsibilities delegated to DHEC by the General Assembly, the current cadre of 2,990 employees according to the State Department of Administration would seem materially fewer bodies than is needed to perform the agency's tasks. Notably, the Department of Mental Health employs 3,924 staff, a much larger workforce whose responsibilities would have been woven into the new Department of Public and Behavioral Health under Senate Bill S.2 – which begs the question of whether a reform by dividing (of public health from environmental control) may inadvertently make conquering major public health matters more difficult?