

"The Future of DHEC Still Pending at the General Assembly?"

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As the *Charleston Post and Courier* reported on September 11 in an in-depth article by Avery Wilks, employees at the South Carolina Department of Health and Environmental Control (DHEC) have been and continue to be under enormous stress in the agency's already 18-month front line battle with COVID-19. The heroism described in Wilks' article underscores the monumental undertaking with which DHEC staff has been tasked. For some members of the General Assembly, this may further fuel questions about whether the agency's current structure best serves both the public health and environmental protection needs of a fast-growing South Carolina.

In an article published earlier this year by Nexsen Pruet, the article attempted to summarize the legislation pending before both chambers of the South Carolina General Assembly proposing to dramatically reform DHEC, with the possible outcome that breaks up the agency. Specifically, Senate Bill No. S.2 and House Bill H. 3766 were discussed.

The idea of splitting the health and environmental functions of DHEC is not new. Legislation has been introduced in several previous sessions to accomplish that goal but made little progress. Amid the COVID-19 pandemic, however, the idea seemed to gain a new urgency. Reflective of the importance of this legislation, the Senate Medical Affairs Committee formed a Select Subcommittee on S. 2, which is chaired by Senator Harvey Peeler, the President of the Senate as well as the author of S. 2.

As the General Assembly concluded the regular portion of the 2021 session last spring, the Select Subcommittee had adopted a substitute amendment to S. 2 as a working document. Highlights of the working document include the following:

- Creation of the Department of Public and Behavioral Health (DPBH).
- Governor appoints Director of DPBH with advice and consent of the Senate.
- All divisions, offices, and programs of DHEC that perform health-related functions will become a division of DPBH with the DPBH

director being deemed the head of the division.

- All divisions, offices, and programs of the Department of Alcohol and Other Drug Abuse Services will become a division of DPBH with the DPBH director being deemed the head of the division.
- All divisions, offices, and programs of the Department of Mental Health will become a division of DPBH with the DPBH director being deemed the head of the division; except that the authority to establish, manage and operate veterans' homes will be transferred to the Department of Veterans Affairs, and all powers and duties assigned to the Department of Mental Health regarding veterans' homes being transferred to and devolved upon the Department of Veterans Affairs.

→ **Creation of the Department of Environmental Services (DES).**

- The Governor will appoint a Director of DES with the advice and consent of the Senate.
- The divisions, offices, and programs of DHEC that perform functions related to regulation and protection of the environment will become divisions, offices, and programs of DES with the director of DES being deemed the head of the divisions, offices, and programs; except that the food safety program in the Division of Food and Lead Risk Assessment and the Milk and Dairy Lab of DHEC will become a division of the Department of Agriculture with the director of that department being deemed the head of the division.
- The Water Resources Division of the Department of Natural Resources will become a division of DES with the director of DES being deemed the head of the division.

→ **Amended S.2 abolishes:**

- The South Carolina Department of Alcohol and Other Drug Abuse Services (DAODAS),
- South Carolina Mental Health Commission,
- South Carolina Department of Mental Health,
- South Carolina Department of Health and Environmental Control, and
- South Carolina Board of Health and Environmental Control.

This summary is taken from Section 1 of the Subcommittee Substitute Amendment, a copy of which is found at the following link.

The Select Subcommittee then took testimony from a number of state agencies that would be impacted by the proposed changes, including DHEC of course, but also DAODAS, the Department of Mental Health, the Department of Agriculture, and others. It became apparent from the testimony offered by agency heads that there are a number of issues to be addressed if S.2 as amended is enacted into law.

It is anticipated that the Select Subcommittee will hold further hearings on the S. 2 working document to hear from non-governmental entities, such as industry groups, non-profits, and the environmental community before it continues with deliberations on the working document itself. The timeline for the Select Subcommittee to renew its work on this wide-ranging legislation is unclear. It is clear, however, that any action on this bill will be closely followed by the stakeholders—both governmental and non-governmental—who are likely to be impacted by its changes.