

Upstate Update

NUMBER 64

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2005

Upstate Forever's Monthly Bulletin on
Important Issues and Events in the Upstate

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Legislative Update

We are continuing to keep you informed about important conservation and land use related legislation at the state and national levels by including a legislative update in each issue of Upstate Update and by regular emails throughout the legislative session. We realize that your time is limited and that you cannot act upon each of these bills, but please let your voice be heard on the bills of special interest to you by contacting your elected leaders and expressing your support or opposition. Contact information for your legislators can be found at the end of this Legislative Update.

STATE LEGISLATION

Only five more weeks remain before the General Assembly adjourns for the year - please act now.

Conservation Bank Funding. The Senate completed its work on the budget this week and the Conservation Bank's \$15 million funding remains intact. Please thank your Senator for maintaining this funding.

➔ **HIGHEST PRIORITY H.3381, Billboard Protection.** This bill is a specific example of the attack on Home Rule (See S.304 below.) It would seriously undermine the ability of a county or municipality to manage and control billboards. The legislation would prohibit the use of amortization, which gives an industry a reasonable amount of time to remove a billboard. Rather, communities would have to relocate the billboard to a comparable location, and if such a location is not available, to compensate the billboard company for the cost of the structure, relocation costs, and the revenues lost as a result of the removal of the sign. Further, it would require payment to the property owner where the billboard was located for revenues lost due to the removal of the sign. This legislation would create a special exemption for one industry and set a dangerous precedent for other local issues. It would also have a substantial financial impact on cities and counties.

✗ **Upstate Forever's position:** We **do not support** H.3381.

Status: *The Senate Judiciary Committee will consider this bill on May 3. Please contact Committee members to voice your opposition to the "Landowner and Advertising Protection and Property Act."*

➔ **HIGHEST PRIORITY H.3881, South Carolina Priority Investment Act (New Bill).** This new bill is similar to one that was introduced but not adopted by the end of last year's session. It adds three additional planning elements (Transportation, Intergovernmental Coordination, Priority Investment) to the comprehensive planning process and modifies one element (Housing). Cities and counties with local planning commissions will be required to add these elements to their plans within two years. The intent is to provide mechanisms to coordinate the location of new public infrastructure (e.g., water, sewer, roads, schools), to designate priority areas for infrastructure funding, to ensure adequate transportation facilities for existing and planned development, and to provide incentives to developers for affordable housing and traditional neighborhood development.

✓ **Upstate Forever's position:** We **support** H.3881.

Status: *This new bill was introduced on April 7 and referred to the House Judiciary Committee. Please contact Committee members and other House members and let them know you support H.3881.*

Promoting sensible growth and protecting special places in the Upstate

H.3141, S.770 State Agency Regulations (S.770 is a New Bill). This bill would change the Administrative Procedures Act as it relates to the passage of regulations. As initially introduced, the bill reflected compromise language that was agreed upon last year by many interested parties, including representatives of the state's conservation community. However, it has since been amended and is now a very harmful piece of legislation. See page 2 of [Upstate Update 62](#) to read more about the amendments. S.770 is a companion bill representing the original compromise reached on this legislation last year. S.770 does not remove the 120-day tolling clock, does not require a Joint Resolution before regulations can be enacted, and does not prohibit emergency regulations.

× **Upstate Forever's position:** We **do not support** H.3141 as amended.

✓ **Upstate Forever's position:** We **do** support S.770.

Status: *The House overwhelmingly approved H.3141. Both bills are now in the Senate Judiciary Committee for consideration. Please contact Committee members and let them know you are in favor of S.770 and opposed to H3141.*

H.3841, Big Box Revitalization Incentives (New Bill). This new bill provides property tax credits and income tax credits for revitalization expenses made to abandoned "big box" stores. The abandonment of retail facility sites disrupts communities, impacts surrounding property values, and often poses safety concerns. This bill will provide incentives for the renovation, improvements, and redevelopment of abandoned retail facilities with at least one 100,000-or-more square foot single-occupant space.

✓ **Upstate Forever's position:** We **support** H.3841.

Status: *This new bill was introduced in the House on April 5. Please contact your House members and let them know you support this bill.*

H.3828, Would Impose a "Gag Order" On the State (New Bill). Under the federal Clean Water Act, the U.S. Army Corps of Engineers has permitting authority over all dredge and fill activities in "waters of the United States," a broadly defined term that includes most rivers, streams, lakes and wetlands in the country. The Corps has established a "Nationwide Permit Program" (NWP) that allows particular activities to be conducted without having to apply for and receive an individual permit. Some examples of NWP activities are utility lines, bank stabilization work, road crossings and outfall structures. The Clean Water Act gives the states the authority to "certify" a NWP activity before it can be implemented in their jurisdictions. A state also can make its certification conditional, that is, additional requirements must be imposed on particular NWP activities. Where the NWP activity is in South Carolina's coastal zone, certification under the State Coastal Zone Management Act is also required. House Bill 3828 would change all of this. It declares that any NWP is "deemed to comply with all state laws and regulations" and directs the state not to impose any additional conditions or limitations. This bill is a shocking capitulation to the federal government. South Carolina should continue to have the right to decide the scope and nature of the NWP within its boundaries. Does anyone seriously suggest that the U.S. Army Corps of Engineers always knows what's best for our state?

× **Upstate Forever's position:** We **do not support** H.3828.

Status: *This new bill was introduced in the House on March 3 and is now in the House Committee on Agriculture, Natural Resources and Environmental Affairs. Please contact your House members, and members of this committee in particular, and let them know that you do not support this bill.*

S.304, Attack on Home Rule. This bill would strip local governments of the right to enact local ordinances that are more restrictive than state regulations on any business or industry. In its present form, this bill would prevent communities from enacting local ordinances that are more stringent than state law or regulation. This would apply to wetlands ordinances, livestock ordinances, billboard and sign ordinances, and even "adult entertainment" business permits. Home Rule allows local governments to establish their own beautification, business, architectural, and other standards so that communities can establish their own priorities and identities. S.304 would change state law to set a statewide standard for every community.

× **Upstate Forever's position:** We **do not support** S.304.

Status: *This bill has been recommitted to the Senate Agriculture and Natural Resources Committee for further study because of confusion over the language and intent of the most recent amendment adopted by the Committee. Contact members of the Committee and other Senators and let them know that you do not support this ill-conceived legislation.*

H.3184, H.3285, Administrative Procedures. In their original form, these bills completely removed the DHEC Board's oversight of administrative appeals, instead placing it in the hands of Administrative Law Judges. This citizen Board has the authority to consider and approve environmental and public health regulations for the state. It should also have the authority to review, through the appeals process, the application and enforcement of these regulations. The conservation community supports changes to increase public participation and notification in the appeals process, but not the usurpation of the Board's authority.

✓ **Upstate Forever's position:** We **support** H.3184 as amended.

× **Upstate Forever's position:** We **do not support** H.3285 as currently drafted.

Status: *H.3184 was amended by the Senate Judiciary Committee to remove language affecting the DHEC Board's role in the appeals process and adding language to ensure an automatic stay would remain in effect until the Administrative Law Judge's decision. The bill will now be considered by the Committee. Please contact your legislators and let them know you support H.3184 as amended but you do not support H.3285 as currently written.*

H.3189, S.22, Environmental Grand Jury. These bills would give the State Grand Jury the authority to investigate and prosecute environmental crimes.

✓ **Upstate Forever's position:** We **support** S.22.

Status: *H.3189 has been weakened with amendments that raise the threshold that could trigger a state investigation of an environmental crime by a state grand jury to \$3 million. S.22 has a threshold of \$1 million. Both bills require the environmental crime to be "knowing and willful." The House did not concur with the Senate version of the bill, so S.22 will be sent to a conference committee (members listed below). Please contact these members and ask them to support S.22.*

Senators: [John M. "Jake" Knotts, Jr.](#) [Gerald Malloy](#) [Larry A. Martin](#),

House Members: [Douglas Jennings, Jr.](#) [James H. Merrill](#) [G. Murrell Smith, Jr.](#)

Contact information for House and Senate members and Committees:

House Members: <http://www.scstatehouse.net/html-pages/house2.html>

House Judiciary Committee: <http://www.scstatehouse.net/html-pages/housecommlst.html#jud>

House Committee on Agriculture, Natural Resources and Environmental Affairs: <http://www.scstatehouse.net/html-pages/house-commlst.html#agr>

Senate Members: <http://www.scstatehouse.net/html-pages/senate2.html>

Senate Judiciary Committee: <http://www.scstatehouse.net/html-pages/senatecommlst.html#jud>

Senate Agriculture and Natural Resources Committee: <http://www.scstatehouse.net/html-pages/senatecommlst.html#agr>

You can find a complete listing of both your state and U.S. House and Senate members at <http://www.scstatehouse.net/cgi-bin/zipcodesearch.exe> by entering your 9-digit zip code. (A link is provided on this site to help you find your 9-digit zip code.)

Thanks to Christie Renken of the South Carolina Coastal Conservation League's Columbia office for her weekly updates on selected state legislation relating to land use and conservation.

FEDERAL LEGISLATION

Tax Incentives For Conservation Must Be Maintained!

A shocking report by Congress' Joint Committee on Taxation recommends dismantling the tax deductions for landowners who volunteer to conserve their property—a program that has been essential to private and public conservation efforts for more than 25 years.

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These incentives have led to the voluntary conservation of more than 34 million acres of natural areas, historic sites, working farms and forests, and wildlife habitats throughout the United States. In South Carolina, the incentives played a key role in the preservation of landscapes and resources of incalculable value, such as the Mountain Bridge Wilderness Area and the ACE Basin.

For more information, please read the guest editorial by *Upstate Forever* Executive Director Brad Wyche and Land Trust Director Dana Leavitt in The Greenville News on March 7: <http://greenvilleonline.com/news/opinion/2005/03/06/2005030660036.htm>

Upstate Forever's position: We do not support reduced tax incentives for conservation.

We need your help! Please contact United States [Senator Lindsay Graham](#), [Senator Jim DeMint](#), [Congressman Bob Inglis](#), and [Congressman Gresham Barrett](#) and urge them to oppose all efforts to reduce the current tax incentives for conservation. Also please visit the [LTA website](#) for updates and other ways you can assist.

How to Contact Your Representatives and Share Your Concerns

When referring to a specific bill, address comments about House bills (e.g., H.3141) to members of the House of Representatives, or Senate bills (e.g., S.304) to members of the Senate. You can find contact information for all state legislators representing Upstate counties by referring to the chart provided on page 7 of [Upstate Update 62](#). When bills are being considered in Committee, it is equally important to contact members of those Committees with your concerns.

Thank you for your support on all of this important legislation!

April 7 - A Momentous Day for Upstate Forever!

The groundbreaking for "Upstate House" was held on April 7 and construction is now underway. Upstate House is a single-family residence in Greenville's Pettigru Historic District that will meet the EarthCraft and Energy Star standards. Upon completion, the house will be open to the public and allow homeowners, architects, builders, community groups and educators to see firsthand how to lessen the impact of daily living on the environment.

Upstate Forever Board Chairman Carlton Owen and his wife Brenda will own and live in the house. Next door will be a native woodland garden and public trail linking the Pettigru district to Cleveland Park.

Several manufacturers are donating or discounting materials and services toward construction of Upstate House. The gain made when the house is purchased at fair market value will support the EarthCraft House program and other *Upstate Forever* and HBA of Greenville initiatives. To date, more than 25 building products manufacturers and professional service providers have agreed to sponsor the project. The house was designed by the Johnston Design Group and is being built by Rome Construction.

For more information and to follow the progress in constructing the house, see www.upstatehouse.org. For more information on the EarthCraft House program, visit <http://www.earthcrafthouse.com/>, and to learn about Energy Star, visit <http://www.energystar.gov/>

Upcoming Events

Events that Benefit *Upstate Forever*

Third Saturday of Each Month, Garner's Natural Market and Café, Greenville, SC. Shop at Garner's and help raise money for *Upstate Forever*! On the third Saturday of every month, Garner's will donate 10% of what you spend to *Upstate Forever*. Simply mention that you are making the purchase in our name and Garner's will handle the rest! For more information about Garner's, visit www.garnersnatural.com

June 4, Land Trust Day, Mast General Store, Greenville, SC. For the third year, Mast General Store will honor *Upstate Forever* in their Greenville store on "Land Trust Day" by donating 20 per cent of all sales made that day to our organization. Please join us for a day of fun, fellowship, and shopping, and help make this event a huge success! *Upstate Forever* staff and board members will be on hand to talk with you about our mission and projects. We hope to see you on June 4!

Other Events

April 20 - June 26, RiverRun: Art of the Reedy, Greenville County Museum of Art, Greenville, SC. This event will feature the work of photographers and ceramic artists who were challenged to use the Reedy River as the subject of their art. Ceramic artists were supplied with clay dug from the riverbed, but their themes were entirely flexible. The photography exhibit includes photojournalism, abstract and realistic photos, and images that embody the historical relationship between the river and community. For more information, contact Mary McCarthy at the museum by calling (864) 271-7570, extension 28.

May 7, Ribbon-Cutting for Downtown Greenville's First Bike Lane, 9:30 a.m. to 1:00 p.m. Buncombe Street Methodist Church parking lot, Richardson and North Streets. Free bicycle safety checks, helmet giveaway for kids, face painting, chalk mural drawing, and an easy two-mile ride on Greenville's first bike lane! Inaugural speech and ribbon cutting by Mayor Knox White at 11:00 a.m. Event sponsored by the Greenville Spinners Bicycle Club. For more information call Jason Van Dreische at 235-5109.

May 9-13, Pedestrian Planning and Design Workshops, Raleigh, NC. For more information visit <http://www.itre.ncsu.edu/transit/Pedwkshp/location.html>

May 10, Financial Strategies for Landowners: Advanced Sminar on Conservatoin Easements, Tax and Estate Planning, Asheville NC, 1:00 - 5:00 p.m. With Stephen J. Small, renowned authority on saving land and money with conservation easements. For more information and to register visit <http://carolinamountain.org/workshop05.html>

May 14-21, "Bike Town," Spartanburg, S.C. Celebrate cycling in Spartanburg, SC with a week's worth of events that will include the Lollapalooza Loop at the Spartanburg County Libraries, Cycle Cinema (a bicycling film festival), and a cycling advocacy summit. A highlight of the festival will be the exciting Assault on Mount Mitchell, a 110-mile ride from Spartanburg to the 6,684 summit of North Carolina's Mount Mitchell. Sponsored by the Palmetto Conservation Foundation. For more information, visit <http://www.palmettoconservation.org/index.php>

May 15, Greater Greenville Master Gardener Annual Plant Sale, 9:00 a.m. - 1:00 p.m. - Proceeds benefit Master Gardener projects. Firestone Tire Store, 1104 Woodruff Road, Greenville, SC

May 17, "Invasives in Your Backyard," Greenville Technical College, 7:00 p.m. Features John Randall, national director of The Nature Conservancy's Wildland Species Team. Presented by the SC Native Plant Society and The Nature Conservancy. For more information call (864) 472-6732 or visit www.scnps.org

Lots o' Links

Settlement for Lake Hartwell Injury Inadequate. Op-Ed in April 13 edition of Greenville News by Amanda Bauknight, Pickens Soil and Water Conservation District Commissioner and former *Upstate Forever* Board member. <http://greenvilleonline.com/news/opinion/2005/04/13/2005041362523.htm>

Wal-Mart Pledges \$35 Million for Wildlife. Wal-Mart will provide funding to preserve an acre of priority wildlife habitat for every acre it has developed and will develop over the next ten years. *Upstate Forever* Board Chairman Carlton Owen was instrumental in developing this conservation program. <http://www.nwaonline.net/articles/2005/04/13/business/02bizconservation.txt>

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An Unlikely Meeting of the Minds - Conservative Republican Leaders Join Conservationists in Campaign for Energy-Efficient Automobiles. <http://www.washingtonpost.com/ac2/wp-dyn/A14232-2005Mar30?language=printer>

Ten Most Endangered Rivers List Includes South Carolina River. http://www.americanrivers.org/site/PageServer?pagename=AMR_content_8eb0

The Return of the Neighborhood Church. <http://www.newurbannews.com/ChurchInsideApr05.html>

What Makes Places Special? <http://www.governing.com/articles/4spaces.htm>

Super Sizing the American Dream - Houses Bigger, Commutes Longer, People Heavier. <http://www.motherjones.com/news/exhibit/2005/03/exhibit.html>

The Greening of New York City - Environmentally-Friendly Skyscrapers. <http://www.nypost.com/realestate/42362.htm>

Quote of the Month

"We need to develop more strict standards for green space and open space."

Ron Rabun, Oconee County Administrator
Friends of Lake Keowee Sentinel, March 2005

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