

Upstate Update

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

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Legislative Update

STATE LEGISLATION

The General Assembly adjourned for the year on June 2, ending a largely successful legislative session for conservation issues. Thanks to bipartisan support, we celebrate two major victories: full funding of the Conservation Bank and the establishment of an Environmental Grand Jury. We are disappointed that the South Carolina Priority Investment Act stalled in the legislature but very pleased that several bad pieces of legislation suffered the same fate. All of these bills will be considered again next year. Here is the final status of the legislation we've been following in 2005.

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: Carried over to 2006. The bill was overwhelmingly approved in the House but has been held up in the Senate. It will be carried over on the "Special Order" calendar.

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: Carried over to 2006. This Senate Agriculture and Natural Resources Committee amended the bill to allow more local control over poultry operations and has sent it back to subcommittee for consideration next year.

H.3881, South Carolina Priority Investment Act. This bill 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

Promoting sensible growth and protecting special places in the Upstate

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: *Carried over to 2006. The House Judiciary Committee voted 9-8 to adjourn debate on this bill and will pick it up again next year.*

H.3141, S.770 State Agency Regulations. H.3141 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 support S.770.

Status: *Carried over to 2006. The House overwhelmingly approved H.3141. Both bills are awaiting action next year in the Senate Judiciary Committee.*

H.3841, Big Box Revitalization Incentives. This 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: *Carried over to 2006. The House approved this bill, which now carries over in the Senate Finance Committee.*

H.3828, Would Impose a "Gag Order" On the State. 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: *Carried over to 2006. No action has been taken on this bill, which remains in the House Committee on Agriculture, Natural Resources and Environmental Affairs.*

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 Senate Judiciary Committee amended H. 3184 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 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: Carried over to 2006. Both bills are on the Senate's contested calendar for next year.

H. 3189, S. 22, Environmental Grand Jury. These bills would give the State Grand Jury authority to investigate and prosecute "knowing and willful" environmental crimes. This legislation was initially opposed by the business community, but a compromise was reached after several months of meetings.

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

Status: Passed. A conference committee reached a compromise of \$2 million as the threshold to trigger state investigation of an environmental crime by a state grand jury (the House had proposed \$3 million, while the original Senate version supported by Upstate Forever proposed a \$1 million threshold). The passage of this bill was the result of many years of work.

Conservation Bank Funding. The Conservation Bank's \$15 million funding remains intact--a great victory for open space in South Carolina!

Thanks to Christie McGregor of the South Carolina Coastal Conservation League's Columbia office and to Ann Timberlake of Conservation Voters of South Carolina for their weekly updates on selected state legislation relating to land use and conservation.

FEDERAL LEGISLATION

Tax Incentives For Conservation Threatened

On June 8, the Senate Committee on Finance heard testimony on "The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform." This 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.

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 your U.S. Senators and Congressman and urge them to oppose all efforts to reduce the current tax incentives for conservation. Also please visit the Land Trust Alliance's website (www.lta.org) for updates and other ways you can assist.

Drilling in the Arctic May Soon Be a Reality

The US House recently passed an energy bill appropriating billions of dollars in incentives to encourage exploration and drilling in the Arctic National Wildlife Refuge, while the Senate did not include a provision for drilling in its version. Both houses of Congress, however, approved a budget resolution that assumes income from drilling in the ANWR, although the two chambers still must pass additional legislation before it can begin. For more information about this issue, see [Upstate Update 63](#).

✱ **Upstate Forever's position:** We **do not support** opening ANWR for oil exploration.

Status: *This fight is still active; please continue to urge your U.S. Senators and Congressman to remove provisions for drilling in the ANWR from the final 2006 budget and to pursue other, less harmful and more sustainable ways to reduce oil demand in this country. Conservation is one such way. Drilling in the Arctic National Wildlife Refuge is a drastic measure that should be avoided.*

You can find a complete listing of both your state and U.S. House and Senate members at <http://www.scstatehouse.net/cgibin/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.)

Oconee County First in State Recycling

Congratulations to Oconee County's Solid Waste Department for meeting the state's recycling and waste disposal goals—and doing so ahead of deadline. The Solid Waste Policy and Management Act of 2000 required that, by June 30 of this year, each community recycle 35% of its solid waste. Oconee County, with a recycling rate of 36.6%, is so far the only county in the state to meet this goal, thanks to extensive education efforts, accessible and convenient recycling centers, and the enthusiasm of local businesses and civic groups. Way to go, Oconee!

Upstate Forever News

Rails to Trails Workday a Huge Success

More than 100 enthusiastic, hand tool-wielding volunteers gathered at 8 a.m. on June 4 for the first work day on the new Rails to Trails Conversion from Greenville to Travelers Rest. A 12-mile section of the abandoned Greenville & Northern Railway is being converted to a hike and bike trail. During the work day, volunteers cleared brush and overgrowth, picked up trash, and built a kiosk. With such a large turnout, the work exceeded the expectations of the organizers, with **three miles** of trail cleared--all the way from downtown Travelers Rest to a thousand feet past Furman University! The National Trails Day event was organized by the Palmetto Conservation Foundation and co-sponsored by **Upstate Forever**, Furman University, the City of Travelers Rest, and the City and County of Greenville, with generous support from Sunshine Cycle, The Great Escape, and Sunrift Adventures.

Land Trust Day at Mast General Store Raises Funds for **Upstate Forever**

Also on June 4, Mast General Store donated 20 per cent of all sales that day to **Upstate Forever**, raising over \$6500 for our organization! We are profoundly grateful to John and Faye Cooper, the owners of Mast; Mary Nase, the manager of the Greenville store; and all of the wonderful Mast employees for this wonderful opportunity to raise both funds and awareness. Also, thanks to wildlife artist Bruce Bunch who donated 30 per cent of his watercolor sales that day to **Upstate Forever**!

Upstate Forever Receives \$100,000 Challenge Grant

An anonymous donor has given **Upstate Forever** a \$100,000 challenge grant for new funding! "New funding" means either increased support from an existing member, the contribution of a new member, or a new grant. We have until the end of the 2005 calendar year to meet this challenge. It is "all or nothing"—if we do not raise the entire \$100,000, we lose the grant.

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Please consider renewing your membership at a higher level or making a supplemental contribution this year. Also, please ask other members of your family and your friends to join. Every dollar they contribute will be matched by the donor. All contributions are tax deductible. Thank you for your continued support!

Our New Home

Upstate Forever has found a new home for its main office in Greenville---119 Manly Street in the Pettigru Historic District. It's a beautiful building that was constructed in 1925 and was used as a law office for many years. Please come by to say hello or volunteer! Our post office box and phone number remain the same as before.

Upcoming Events

Upstate Forever Events

November 5, Upstate Forever's Annual Meeting, Asbury Hills Methodist Camp, Cleveland, SC. Mark your calendars; details will follow later this summer.

Other Events

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.garners-natural.com.

June 21, Gardening with Native Plants of the Southeast, Greenville Technical College, 7:00 p.m. Features Jamie Oxley, native plant grower in Marion, NC. Learn how to plant and use native perennials, trees, and shrubs in residential landscaping. Presented by the South Carolina Native Plant Society. For more information, call 864-472-6732.

June 25, Habitat Stewards Introduction Workshop, South Carolina Wildlife Foundation, Columbia, SC, 9:00 a.m. - 4:00 p.m. Educators, learn to create a NWF certified Schoolyard Habitat. Cost: \$10 per person. To register, call (803) 256-0670 or email rachel@scwf.org.

July 12, Smart Metropolitan Neighborhoods Series: Comprehensive Neighborhood Planning Webcast, 2:00 - 3:30 pm. From the Local Initiatives Support Corporation: http://www.lisc.org/resources/2005/07/neighborhoods_7831output.asp.shtml

July 27-30, TrailLink 2005: International Trails and Greenways Conference, Minneapolis/St. Paul, MN. <http://www.railtrails.org/traillink2005/>

Lots o' Links

American Lung Association grades S.C. counties on air pollution. Ratings are based on high ozone days, particle pollution, and groups at risk. http://lungaction.org/reports/SOTA05_stateozone.html?geo_area_id=45

AAA calculates the gasoline costs of your summer travels. <http://www.fuelcostcalculator.com/>

20th-Century Planning: The Good, The Bad, And The Downright Ugly. Planning has come a long way -- just look at Nashville. <http://www.newurbannews.com/CommentaryJun05.html>

Making our neighborhoods safer for kids walking to school and adults biking to the park. <http://www.activelivingresources.org>

Physical exercise boosts brain power of seniors, kids. <http://www.newscientist.com/channel/health/mg18625011.900>

America's 11 Most Endangered Historic Places 2005. <http://www.nationaltrust.org/11Most/2005/index.html>

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The Five-Bedroom, Six-Figure Rootless Life. <http://www.nytimes.com/2005/06/01/national/class/01ALPHARETTA-FINAL.html>

The End of the Pipeline for Oil? <http://www.msnbc.msn.com/id/7997882/>

Bush Aide Softened Greenhouse Gas Links to Global Warming. <http://www.nytimes.com/2005/06/08/politics/08climate.html?ex=1118894400&en=3ecf6a7e95009d2c&ei=5070&emc=eta1>

Half of Humanity Set to Go Urban. <http://news.bbc.co.uk/2/hi/science/nature/4561183>

A Clean Energy Mega-Mall? <http://www.grist.org/news/muck/2005/05/20/little-destiny/index.html>

Green Neighborhoods: Building Blocks for Sustainable Development. http://www.uli.org/AM/Template.cfm?Section=Current_Issue&CONTENTID=21062&TEMPLATE=/CM/ContentDisplay.cfm

Fruit Season is Here! News from Perdue's Mountain Fruit Farm. <http://www.carolinafarmers.com/perdue/emails/email060805.htm>

Quote of the Month

"Tree ordinances don't stop development. What they do is encourage smart development." Ed Macie, US Forest Service, The Greenville News, 5/10/05