

**The South Carolina State Transit Authority:  
A Quality-Growth Alternative For South Carolina's  
Future Transportation and Land-Use Policies**

**Keary Warner  
LAWS 804  
April 30, 2004**

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## **Purpose and Objective of Paper**

The purpose of this academic paper was originally intended to be an in-depth examination of the various tools and devices (including all applicable state and federal statutes and regulations) that could be utilized to prevent the construction of politically motivated transportation projects in South Carolina. This topic has been of particular interest to many political organizations in South Carolina ever since Congressman James E. Clyburn proposed the controversial Briggs-Delaine-Pearson Connector, a two-lane 9.6-mile roadway (including a 2.8-mile bridge across Lake Marion) between the rural towns of Lone Star and Rimini. However, the objective of this research paper has changed dramatically from the time of its inception. It now focuses less on what could be termed as project-specific litigation strategies that are reactive in nature and more on the development of forward-looking pieces of state legislation and governmental restructurings that might prevent the vast majority of “resource-inefficient”<sup>1</sup> transportation projects in the future. This paper begins with an analysis of the situational factors that contribute to the emphasis on construction versus maintenance, analyzes various alternatives to help right this imbalance, and concludes with a recommended course of action that likely stands the best chance of success for South Carolina.

## **Factors That Emphasize Construction over Maintenance**

Two main situational factors work together to result in the emphasis in South Carolina on new infrastructure construction over road and bridge maintenance. These two factors are what are referred to as: 1) the state’s “project identification process” and 2) its procedures for funding transportation projects with state and federal dollars. Each

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<sup>1</sup> In this case, the term “resource inefficient” refers to any project that would be unlikely to satisfy any formalized version of an economic cost-benefit analysis.

factor independently plays an important role in determining whether construction or maintenance projects are funded each year in South Carolina. However, when these two factors are considered in combination, their effect on road and bridge maintenance projects in the state are deadly, to say the least.

### **The State Process for Proposing Transportation Projects**

The current procedure for the “identification” of transportation projects in South Carolina is an amalgamation of both federal law and old-fashioned state politics that often leads to the construction of infrastructure projects that are arguably inefficient uses of South Carolina’s limited tax dollars. Under the Federal Aid Highway Act of 1962<sup>2</sup>, any metropolitan area with a population of 50,000 or more must establish a Metropolitan Planning Organization (MPO) which is responsible for developing that city’s “twenty-year transportation plans that identify all the transportation [projects] that are needed in [its] regional transportation system, and [also] for approving the transportation improvement program (TIP) for [its] region.”<sup>3</sup> Currently in South Carolina, there are ten federally recognized MPOs.<sup>4</sup> These ten MPOs work in conjunction with the state’s regional Councils of Government (COGs)<sup>5</sup> in order to create long-range comprehensive plans for each region’s future transportation needs.<sup>6</sup>

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<sup>2</sup> Commonly referred to as the 3C Act because it mandates the existence of long-range transportation plans that are based on a *continuing, comprehensive* transportation planning process carried out *cooperatively* by states and local communities.

<sup>3</sup> Oliver Gillham, *The Limitless City: A Primer on the Urban Sprawl Debate* 49 (2002).

<sup>4</sup> These metropolitan areas include Anderson, Aiken/North Augusta, Charleston, Columbia, Florence, Greenville, the Grand Strand, Rock Hill/Ft. Mill, Spartanburg and Sumter. For a complete list of all ten MPOs, including their respective contact information, please see <http://www.centralmidlands.org/mpo.asp>.

<sup>5</sup> For a more complete report on South Carolina’s COGs, visit <http://www.scacog.org/General/scarc.pdf>.

<sup>6</sup> For example, the MPO in Charleston is referred to as the Charleston Area Transportation Study (CHATS). CHATS works in conjunction with the Berkeley-Charleston-Dorchester COG (BCDCOG) to formulate that region’s transportation improvement plan (TIP).

Under the normal operational paradigm, MPOs first determine which transportation projects they believe will be necessary to adequately manage their cities' future growth in traffic and congestion. Their proposals are then forwarded to the ten COGs representing subdivided regions of the state.<sup>7</sup> These COGs are usually made up of members of the state's political elite - including mayors, State Representatives and Senators, and heads of city and county councils.<sup>8</sup> Members of each COG, in turn, negotiate amongst themselves to determine which projects will receive funding and, conversely, which projects will remain in the pipeline for future consideration.<sup>9</sup> For obvious needs, such as the construction of the Ravenel Bridge in Charleston, the system more or less works with minimal debate. However, for less obvious needs, politics can play a crucial role in determining which projects will receive funding.

All of the projects chosen for funding by a particular COG are included in that region's TIP. The South Carolina Department of Transportation (SCDOT) then takes all of the TIPs from each of the ten COGs and forms its own Statewide Transportation Improvement Plan (STIP), which it then uses as a type of a guideline for upcoming transportation projects.<sup>10</sup> More often than not, the vast majority of the projects contained in the TIPs submitted by the ten regional COGs are included in the overall STIP.<sup>11</sup>

Under this process of project selection it is possible for "well-connected" local and regional politicians to obtain approval for "wasteful"<sup>12</sup> projects requiring state funds

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<sup>7</sup> For all areas outside of MPOs, the process begins with the COG nominating the transportation projects.

<sup>8</sup> In Charleston, the number of members of the Berkeley-Charleston-Dorchester COG is approximately 45.

<sup>9</sup> This process is similar to the take-off order of airplanes on a runway in that the projects move up in line sequentially until it is their turn for funding. Of course, these projects, just like the planes, can be bumped back in line in favor of more important ones.

<sup>10</sup> A copy of the SCDOT's most recent STIP for 2003-2007 can be viewed at <http://www.dot.state.sc.us/doing/pdfs/STIP2003.pdf>.

<sup>11</sup> Admittedly, there is little empirical data to support this assertion.

<sup>12</sup> "Wasteful" in this sense refers to a negative value in traditional cost-benefit analysis (See Footnote 1).

that could be spent on the maintenance of existing roadways and bridges. Consequently, the state of South Carolina is left with a system that builds too many new roads and does not adequately preserve the ones already in place. This system will continue to exist indefinitely until the state identifies an acceptable mode of reform that will shift its limited tax resources back into infrastructure maintenance projects.

### **State and Federal Funding for Highway Construction and Maintenance**

South Carolina's current procedures for allocating state and federal funding to infrastructure projects also favor the construction of new roads and highways over the maintenance of existing structures. According to the SCDOT:

[T]he federal government imposes an 18¢ per gallon fuel tax across the United States. These dollars are collected in each state, sent to Washington, and returned to the states in the form of federal-aid for highways. Each year, Congress appropriates a set amount for each state. These funds may be used to upgrade highways and bridges of national significance. Federal dollars are primarily used for construction while state dollars are used for maintenance. In South Carolina, about 40% of the state-controlled highway system is eligible for federal highway funds. The other 60% must be maintained and improved with state dollars alone.

Each state is required to "match" federal highway funds with state or local funds. The match ratio is generally 80 Federal/20 State. As highway projects are completed, SCDOT must pay all expenses then seek 80% reimbursement from the Federal Highway Administration. That is how the "match" program works.

[There has been] a 100% increase in federal funds over the last five years...an unfortunate side effect of increased federal funding is that South Carolina's federal "match" requirement has also grown 100% over the last five years. This means that the state's highway maintenance budget - already the lowest in the nation - has been slashed in order shift state dollars to meet the "match" requirement. The majority of miles in the system (60%) are now being patched and maintained on

a bare bones budget that is - by far - the lowest per mile maintenance budget in the nation. Routine pothole patching is being performed on roads that should have been re-paved years ago.<sup>13</sup>

In addition, SCDOT has also recently reported that:

South Carolina state highway funding per mile is the lowest in the nation. This is why SCDOT has been forced to abandon its secondary road-resurfacing program. This is also why the state has such limited funds for making safety improvements on non-federal roads.

Local highway taxes are low in South Carolina because the majority of roads are under state ownership. This places a high responsibility on state government. In fact, SCDOT has three times the level of responsibility of other states (ownership of roads based on the national average).

But, the per capita highway funding level (taxes and fees paid per citizen to fund state highways) in South Carolina is the lowest in the nation. This represents a major dis-connect [sic] in South Carolina Highway Policy. SCDOT has the fourth highest level of responsibility in the nation, but the lowest level of funding.

South Carolina depends almost solely on the motor fuel tax for highway funding. The fuel tax is an excise tax collected on a per-gallon basis. Unlike ad valorem taxes, when prices go up, excise tax revenues generally go down. The only way to increase fuel tax revenues is to simply put more vehicles on the road. This creates even greater needs for highway construction and maintenance. Because of this, the fuel tax is considered a "regressive" source of funding.

In our neighboring states, 47% of state highway funding is derived from sources other than fuel taxes. In South Carolina, only 5% comes from other sources.<sup>14</sup>

Although South Carolina is considered a “donor” state<sup>15</sup> to the federal highway program, it nevertheless still receives hundreds of millions of dollars each year for new highway construction. At the same time, many of the state’s non-highway roads have fallen into a state of disrepair due to a lack of adequate state funding.<sup>16</sup> According to a recent article published in the Spartanburg Herald-Journal, the state of South Carolina is “about to enter its fifth [consecutive] year with no secondary resurfacing budget.”<sup>17</sup> In

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<sup>13</sup> The South Carolina Department of Transportation, *Federal Funding* (2004) available at <http://www.dot.state.sc.us/inside/HighwayPolicy/federalfunding.html>

<sup>14</sup> The South Carolina Department of Transportation, *State Funding* (2004) available at <http://www.dot.state.sc.us/inside/HighwayPolicy/statefunding.html>

<sup>15</sup> For example, in 1996 South Carolina received back only \$0.73 for every dollar it contributed. The United States Department of Agriculture Economic Research Service, *Will Increased Highway Funding Help Rural Areas?* (1999) available at <http://www.ers.usda.gov/Briefing/Infrastructure/readings.htm>.

<sup>16</sup> A recent study by the Surface Transportation Policy Project ranked South Carolina #8 on its “Pothole Index”. Surface Transportation Policy Project, *The State of Our Nation’s Roads: Half of all Major Roads are in less than Good Condition*, (2003) available at <http://transact.org/library/roadconditiondecoder.asp>.

<sup>17</sup> Michael D. Covington, *A Matter of Pride: State no longer is prepared in Mind and Resources*, Spartanburg Herald-Journal. April 11, 2004, at A11.

addition, “[t]he resurfacing cycle for secondary roads [in South Carolina] is now 136 years. It should be 12 to 15 years.”<sup>18</sup> For the major highways in the state (which are federally funded) the resurfacing cycle is now 53 years, whereas they normally should be on a 10-year cycle.<sup>19</sup>

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<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

### **Four Potential Types of Solutions**

There are a number of potential solutions that could be utilized by South Carolina to more effectively allocate its tax dollars to necessary maintenance projects. These include judicial solutions, legislative solutions, executive solutions, and “Smart Growth” initiatives. Each of these solutions proposed has advantages that make it an attractive answer to a complex problem. Unfortunately, several of these potential solutions also have drawbacks that call into question their ultimate feasibility.

### **Judicial Solutions and their Limitations**

As environmentalists have undoubtedly learned over the past three decades, the legal options for preventing the construction of new roads and bridges are few in number and limited in power. The traditional tools used typically involve either challenging a project’s wetlands permits under Sections 401 and 404 of the federal Clean Water Act or alleging a violation of the National Environmental Policy Act (NEPA) of 1969. In addition, there are a number of other pieces of federal legislation that also can be utilized albeit with less frequency and with marginal success. These include the Endangered Species Act of 1973, the Water Resources Development Act of 2000, the Intermodal Surface Transportation Efficiency Act of 1991 (commonly referred to as “ISTEA”) and the Surface Transportation and Uniform Relocation Assistance Act of 1987.

The main drawback to these types of challenges is that they typically must be litigated in court on an individual basis with very little assurance of success. By litigating against these projects separately, environmentalists have been forced into a situation that requires “recreating the wheel” with each successive trial process. Not only does each individual challenge become prohibitively expensive, but also the overall litigation

process inevitably becomes extremely resource intensive, which often works in favor of the party with greater access to human capital.<sup>20</sup> Such a plan of attack might be considered worthwhile for the environmentalists if only the outcome of each separate trial had a predictable rate of success. However, as with any other form of litigation, this is seldom the case in the field of environmental law.

### **Available Legislative Solutions**

Instead of attacking resource-inefficient transportation projects on a case-by-case basis, environmentalists need to instead formulate a strategy for effectively combating these projects on an overall basis. To do so would require that these groups adopt a more pro-active stance in their approach seeking legislative alternatives that change the “rules” of the game rather than reactive litigation strategies that just alter the game’s outcome.

One of these legislative approaches would involve seeking changes to South Carolina’s current motor fuel tax laws. As mentioned previously, South Carolina has perhaps the lowest gas tax revenues of any of the fifty states. As a result, many of the non-highway roads in the state are in a state of disrepair and are in desperate need of maintenance work. Unless the amount of revenue generated by the motor fuel tax increases substantially, it will be impossible to meet these maintenance needs. There are two ways of accomplishing this goal: either increase the number of cars traveling on South Carolina roadways, thereby generating higher gasoline sales and motor fuel tax revenues,<sup>21</sup> or otherwise by simply increasing the gasoline tax on a per-gallon basis. North Carolina is among a growing number of states that has opted for the latter approach. In North Carolina, consumers of gasoline pay a 24-cent-per-gallon user fee,

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<sup>20</sup> In this type of a “last-man-left-standing” scenario, it is often the resource-restricted private groups that succumb to the relatively resource-rich public agencies.

<sup>21</sup> Note that such an approach would also increase the state’s maintenance requirements over the long run.

which provides roughly half of the North Carolina Department of Transportation's state budget (the other half is derived from vehicle fees and vehicle sales taxes). By increasing its motor fuel tax rate to a level comparable with its neighbor to the north, South Carolina would receive approximately 50% more in revenues each year from gasoline sales.

Another alternative that would lead to an increase in the amount of revenues generated annually by South Carolina's motor fuel tax would be to index the rate on an inflation-adjusted basis. By doing so, South Carolina would join a number of states nationwide that have been indexing their motor fuel tax rates for years.<sup>22</sup> Wisconsin, which has been indexing its rate since 1985, has seen increases averaging less than one-half cent per year in its motor fuel tax rates.<sup>23</sup> While it is doubtful that South Carolina could afford such minute annual increases especially given its low current tax rates, it may be possible for the state to maintain an adjustment structure that would limit increases to levels of less than six to seven percent on an annual basis due to the nation's current historically-low interest rate environment.

Just simply increasing the amount of tax on a gallon of gas will not solve South Carolina's infrastructure problems, though, unless the additional revenues generated are used to maintain the state's existing roadways instead of funding the construction of new projects. Therefore, even if a law increasing the gasoline tax were to be passed by the state, there would also need to be a provision included in its language mandating that a majority of the revenues generated by the new tax be devoted to maintenance operations while reserving only a small to fund new construction projects.<sup>24</sup> This stipulation would

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<sup>22</sup> Jim Ritchie, *Funding Issues: Legislature cannot continue to ignore growing highway concerns*, Spartanburg Herald-Journal, April 11, 2004 at A11.

<sup>23</sup> Ibid.

<sup>24</sup> An appropriate mix might be 75%/25%, for example.

prevent any newly generated revenues from being used in a manner that would only exacerbate the state's current predicament.

There are two main downsides to this approach. To begin with, citizens of South Carolina are generally conservative in nature. Therefore, they are not typically receptive to tax increases of any type. In addition, many previous attempts to increase motor fuel tax rates nationwide have been largely unsuccessful due primarily to the influence of "Big Oil" lobbying interests, including the American Automobile Association (AAA) and a many of the country's major oil corporations. For these reasons, it is unlikely that the South Carolina's Legislature would be able to pass any new legislation that would increase its motor fuel tax rate.

An additional solution that has discussed with some frequency of late would be to mandate that all new transportation projects funded by state resources be subject to cost-benefit analysis.<sup>25</sup> The purpose of this type of analysis would be to ensure that the economic benefits generated by any newly constructed projects would justify the costs of their construction. Governor Sanford and four other members of the South Carolina Congressional Delegation recently made a request for such an analysis shortly after the announcement of the proposed Briggs-Delaine-Pearson Connector. However, this call has gone largely unheeded due to the fact that there are no currently existing provisions in any federal or state statutes/regulations that require cost-benefit analysis of new infrastructure projects. If the state of South Carolina were to pass new legislation mandating such analysis for new infrastructure projects, it could potentially put an end to many of these expensive pork barrel projects.

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<sup>25</sup> Including user fees, motor fuel tax revenues and bonds.

### **An Executive-Type Solution**

A third type of solution that could be sought by South Carolina would be to seek a restructuring of the state government to more closely align the South Carolina Department of Transportation under the control of the Executive Branch.<sup>26</sup> Currently in South Carolina, the Governor's office has "direct control over less than 20% of state agencies through [the] 14 Cabinet directors -- the only agency heads [that are appointed]. The balance of executive power is diffused throughout the bowels of state government among eight other statewide elected officials and 55 agencies controlled by boards and commissions appointed in a myriad of ways. Among these are some of [South Carolina's] most important agencies, such as the Department of Health and Environmental Control and Department of Transportation."<sup>27</sup> Governor Sanford recently attempted to initiate action on this issue, although the results have been decidedly mixed at best.<sup>28</sup> It must be remembered, however, that the Governor's recent action on restructuring was no more than an initial foray into this subject. Throughout the remainder of his term in office, Governor Sanford will have the opportunity to propose and pursue further restructuring efforts.

The SCDOT is managed by a commission whose members are determined according to Section 57-1-330 of the South Carolina Code of Laws. Under this provision, each congressional district in the State elects one commissioner to serve for a term of four years. In addition, the Governor also appoints one at-large commissioner to serve for the same length of time (presumably for the length of the Governor's term in

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<sup>26</sup> As was done recently with the Department of Motor Vehicles.

<sup>27</sup> Chip Campsen, *Restructuring S.C. Government needs to move forward*, The Charleston Post and Courier, March 9, 2004, available at [http://charleston.net/stories/030904/com\\_09camp.shtml](http://charleston.net/stories/030904/com_09camp.shtml).

<sup>28</sup> *Restructuring should happen*, The Greenville News, February 28, 2004, available at <http://greenvilleonline.com/news/opinion/2004/02/28/2004022825957.htm>.

office). This at-large commissioner also serves as the Chairman of the Commission. Under this format, the executive branch's influence on the Commission is extremely limited given the fact that only one of the seven commissioners serves at the Governor's pleasure. However, if the SCDOT were restructured to replace the Commission with an agency head and to make this position a Cabinet-level office, then the agency would fall more closely under the control of the Governor, who could then provide more guidance as to which transportation projects might be most beneficial on a state level.

### **Smart Growth Initiatives**

Across the nation, many communities are discovering that their current land-use laws, which often lead to a development pattern commonly referred to as "sprawl", may not be in their best long-term interest. The ever-increasing economic cost of building additional roads to service their suburban populations has stretched their already thin budgets to crisis levels. In reaction, these cities have started turning towards "smart-growth" solutions to help ease their financial burdens. Overall, "smart growth invests time, attention, and resources in restoring community and vitality to center cities and older suburbs. New smart growth is more town-centered, is transit and pedestrian oriented, and has a greater mix of housing, commercial and retail uses. It also preserves open space and many other environmental amenities."<sup>29</sup> Several examples of smart-growth plans exist that could provide solutions to South Carolina's road maintenance problems.

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<sup>29</sup>Geoff Anderson, *Why Smart Growth: A Primer*, Executive Summary (1998) available at <http://www.smartgrowth.org/about/overview.asp>

## **Oregon's State-Authorized Metropolitan Coordination**

Smart growth initiatives are now being adopted on a statewide basis in many areas of the United States, most notably on the eastern and western seaboard where the majority of the country's population growth is expected to occur over the next several decades. One of the earliest efforts at a statewide-enforced growth management regime is Oregon's State-Authorized Metropolitan Coordination, initiated in 1969. Oregon's growth management system is based on nineteen land use management goals. However, the best known, and definitely most controversial, of these nineteen goals is the Urban Growth Boundaries (UGB) program. Under this program, local governments are required "to establish boundaries so that public facilities and services are extended in such a manner as to separate urbanizable from rural land."<sup>30</sup>

In essence, the UGB program mandates that Oregon's communities designate limits beyond which they cannot grow in the future. These lines of demarcation have been very effective in separating residential and commercial development from protected areas reserved for agricultural purposes. The program's exceptional ability to reign in development sprawl has been lauded nationwide by supporters of the smart growth movement. On the other hand, there have also been many opponents of Oregon's growth management plan over the years, the majority of which have long complained that housing prices across the state have risen dramatically in response to the UGB program to levels unaffordable to members of the lower class.<sup>31</sup> Another broadly asserted complaint against the UGB system is that although Oregon's major cities, such as Portland, have

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<sup>30</sup> Robert H. Freilich. *From Sprawl to Smart Growth: Successful Legal, Planning, and Environmental Systems*, 148 (1999).

<sup>31</sup> Ironically, one of the strongest voices against the UGB system has been the state's real estate broker lobby.

well-developed public transportation systems, traffic congestion has still increased over the past three decades.<sup>32</sup>

### **Maryland's Smart Growth System**

Another well-known example of a statewide growth management plan is Maryland's Smart Growth and Neighborhood Conservation program. Established in 1997, Maryland's Smart Growth program takes almost the exact opposite approach to controlling growth that Oregon's UGB program does. Instead of imposing regulations on where growth can occur, Maryland's system instead "attempt[s] to influence growth patterns by directing state investment into specific locations."<sup>33</sup> One of the major components of the Smart Growth and Neighborhood Conservation program "identifies Priority Funding Areas throughout the state and channels most state infrastructure money into those areas."<sup>34</sup> Areas that are eligible for Priority Funding status under state law include all existing municipalities, state-designated development zones, and greenfield areas that have a housing density of at least 3.5 units per acre.<sup>35</sup> Those regions that fall outside of the state-designated Priority Funding Areas are still eligible to receive priority status through their own county governments.

### **The Richland County Town and Country Plan**

Many of Maryland's smart growth initiatives have been closely replicated in Richland County's Town and Country 2020 Comprehensive Land Use Plan. Under this proposed zoning system, Richland County will attempt to designate growth for areas within municipalities and suburban "villages". These villages can be viewed as being

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<sup>32</sup> Frontier Centre for Public Policy, "Smart Growth" Threatening the Quality of Urban Life (2004) available at [http://www.fcpp.org/publication\\_detail.php?PubID=701](http://www.fcpp.org/publication_detail.php?PubID=701).

<sup>33</sup> Peter Calthorpe & William Fulton, *The Regional City*, 189 (2001)

<sup>34</sup> Ibid.

<sup>35</sup> Ibid.

directly analogous to the “priority funding areas” that exist under Maryland’s Smart Growth program. The suburban villages in the Richland County comprehensive plan will serve as nodules around which retail, office, medium-density residential, and institutional development will be allowed in an area bounded by a ten minute walk, roughly a one-half mile radius.<sup>36</sup> The remaining lands outside of the county’s municipalities and villages will mostly be “down-zoned” so that their only allowable usages will be for agricultural or conservation purposes.

Concerns over these potential down-zonings have recently led to charges of racially discriminatory impact by opponents of the plan. These opponents have claimed that many of the down-zoned areas that would be reserved for agricultural and conservation uses are owned by African-Americans. Therefore, the overall negative economic impact of not being able to commercially develop these rural properties would be borne largely by members of a minority class. Undoubtedly, these concerns, along with various others, will need to be appropriately addressed before full implementation of the Town and Country plan can proceed.

### **Georgia’s Regional Transit Authority**

In 1999, the state of Georgia was in danger of losing federal funding for its highway system due to violations of pollution levels set by the Clean Air Act. In response, Governor Roy Barnes proposed the formation of a new state agency, the Georgia Regional Transit Authority or GRTA (pronounced “Greta” for short) with the goal of uniting the state’s land use plans with its transportation policies. GRTA is a fifteen-member commission that represents the state’s economic development,

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<sup>36</sup> Richland County, *Town and County Vision Plan Online* (2004) available at <http://www.richlandonline/vision.intro.html>

environmental, transportation policy and academic interests. It was originally given jurisdiction over the thirteen counties in the metro Atlanta region that were considered non-attainment areas by the Clean Air Act. However, due to its ability to overrule city and county land-use decisions, GRTA's potential for influence is statewide. As with Maryland's Smart Growth plan, GRTA has the power to veto new highways proposed by the state DOT "by establishing 'priority funding areas' such as transportation corridors and centers in lieu of sprawl."<sup>37</sup> GRTA can also oversee zoning for major developments such as shopping malls, arenas, office towers and large subdivision and veto any projects that it determines to be inconsistent with long-range plans.<sup>38</sup>

### **The Prospects for a South Carolina Smart Growth Program**

South Carolina's awareness of smart growth initiatives has been steadily increasing in over the past decade. Several residential developments, based on New Urbanist ideals<sup>39</sup>, have been built across the state, including Ion Village in Mt. Pleasant, the Lake Carolina subdivision in Columbia, and the Village of Baxter in Fort Mill. Recently, the Urban League Institute and the University of South Carolina's Real Estate Center joined forces to create the South Carolina Quality Growth Initiative. In January of this year, the Initiative's Statewide Committee published a report entitled *Growing by Choice or Chance: State Strategies for Quality Growth in South Carolina*. The Statewide Committee's report included a number of "recommended state actions to improve the economic and social well being of South Carolina's communities through more sustainable land use decisions."<sup>40</sup> Two of the committee's recommendations in particular directly relate to the issue of transportation infrastructure:

**Recommendation 4.1:** The state should use financial and other incentives to foster regional coordination of local land use plans and infrastructure investments. State funds, such as the infrastructure bank and economic development funds, should be used to encourage regional planning and cooperation.

and also

*Recommendation 4.3: Infrastructure investments should be better coordinated at a regional level and should be consistent with local comprehensive plans. Regions should be encouraged through the use of incentives to develop strategies to reduce infrastructure cost. For instance:*

- *State Department of Transportation capital spending plans should be consistent with local and regional plans and should address the implications of investments on surrounding land use.*

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<sup>37</sup> Robert H. Freilich, *From Sprawl to Smart Growth*, 230 (1999).

<sup>38</sup> *Ibid.*

<sup>39</sup> For additional information on the New Urbanism movement, please refer to Andres Duany's *Suburban Nation* listed in the appendix on *Additional Resources*.

<sup>40</sup> Introductory letter to *Growing by Choice or Chance: State Strategies for Quality Growth in South Carolina* from Joseph P. Riley, Jr. and James J. Chaffin, Jr. (Winter 2004)

For a smart growth plan to have any chance of success in South Carolina, it would need to build upon the recommendations included in the Statewide Committee's report. More importantly, any proposed smart growth plan also would need to be customized to fit the particular needs of the state.

Due to a variety of different reasons, Oregon's growth management plan is probably not compatible with South Carolina's needs. To begin with, many of the complaints made by UGB opponents would likely be even more pronounced in South Carolina. If South Carolina adopted a UGB, its effects on the state's relatively low-income citizens could be ruinous if their property values increase dramatically. In addition, a majority of communities in South Carolina lack the adequate public transportation networks that are so important to the success of UGB plans. More importantly, however, UGB programs by their very nature do not adequately address South Carolina's problem with its transportation infrastructure maintenance.

South Carolina could also adopt a statewide zoning regime similar to both the Maryland Smart Growth program and the Richland County Town and Country plan. In order to do so, members of South Carolina's political leadership would be forced to make difficult choices regarding which areas of the state would be designated for growth (thereby receiving state funding) and which regions would be reserved for agricultural/conservation purposes. Regrettably, it is unlikely given the state's current political climate that such a vast array of interests could be successfully brought together to agree on this type of radical growth management plan. To do so would require an amount of cooperation between both the legislative and executive branches and members of the Republican and Democratic parties that would seem improbable at this time.

Indeed, it would probably take an event of crisis proportions<sup>41</sup> to move the necessary parties to act in such a cooperative fashion.

Another obstacle that could potentially block passage of a statewide growth management plan would be if the state's rural counties were to file suit over the potential funding structure in line with the current Abbeville v. State<sup>42</sup> educational lawsuit. In this case, many of South Carolina's lower-income counties have instituted action against the state for what they perceive as unequal funding for their school districts. These counties have alleged that the state unfairly favors its more populous, higher-income counties to the detriment of the children of these under-funded areas. It seems likely that if South Carolina were to adopt a zoning regime that designated some areas of the state for growth while reserving others for conservation purposes, many of these same counties would be negatively impacted. Any disparate treatment by South Carolina of its forty-six counties could result in additional lawsuits against the state. The prospect of such a case would likely make this approach to South Carolina's road maintenance problems untenable.

### **The Proposed Solution: The South Carolina State Transit Authority**

The solution with perhaps the greatest chance of long-term success in South Carolina would likely be for the state to create a new transportation agency similar in nature to the Georgia Regional Transit Authority. This new agency could be tasked with some of the same rights and responsibilities that GRTA enjoys, including veto power over all new highways proposed by the SCDOT as well as all city and county zoning land-use decisions. Unlike GRTA, which was formed largely in reaction to federal

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<sup>41</sup> For example, the prospect of many S.C. municipalities facing bankruptcy due to their water and sewage infrastructure needs might prompt such action.

<sup>42</sup> The full caption of this case, which is currently still in progress, is The County of Abbeville School District et al. v. The State of South Carolina.

pollution violations in the Atlanta metro area, any new transportation agency created in South Carolina should immediately be given jurisdiction over the entire state in order to adequately address its road maintenance problems. The problem of inadequate road maintenance in South Carolina is a statewide predicament and any sound solution to it would require the same level of review.

Therefore, this paper's proposed solution to South Carolina's road maintenance problems is the creation of the State Transit Authority. This committee would be composed of ten members nominated by the Governor and confirmed by a plurality vote of the State Senate. Ideally, the ten candidates proposed by the Governor would represent the ten separate COG regions of the state and come from differing political backgrounds. A suggested list of potential members has been attached infra. It is important to note, however, that this list does not fully represent the ten COG regions of the state. It is intended only as a starting point and not as a final solution.

As mentioned previously, the SCSTA would have full veto power over both SCDOT and community land-use decisions. In an ideal world, the SCSTA would work in close coordination with the State Transportation Infrastructure Bank<sup>43</sup> and the newly created Land Conservation Bank in determining the transportation projects<sup>44</sup> that would be consistent with the state's long-term land-use goals.

### **Conclusion**

The state of South Carolina will soon face an impending crisis of monumental proportion if its current road and bridge maintenance schedule is extended into the

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<sup>43</sup> The State Transportation Infrastructure Bank currently provides funding for all transportation infrastructure projects that exceed \$100 million in total value.

<sup>44</sup> This includes both the construction of new infrastructure projects and the maintenance of South Carolina's highway and secondary roads and bridges.

foreseeable future. If a solution to this problem is to be found, South Carolina will need to consider a variety of alternatives ranging from a simple motor fuel tax increase to a complex system of connecting the state's transportation and land-use decisions. Some of these approaches may initially seem radical in nature. However, given the gravity of its infrastructure maintenance problems, South Carolina will likely need to adopt an approach that at best could be considered "non-traditional". The creation of the South Carolina State Transit Authority would be a bold, brazen approach requiring cooperation from all of the state's various political factions. Nevertheless, in order for South Carolina to preserve its plentiful natural reserves while encouraging additional economical development, it must aggressively pursue a land-use/transportation system that recognizes the importance of quality growth.

*Potential Members of SCSTA*

Tee Hooper  
Commission Chairman Appointee  
South Carolina Department of Transportation

Don Leonard  
Chairman  
South Carolina Transportation Infrastructure Bank

Charles Lane  
Board Member  
South Carolina Conservation Bank

Joseph P. Riley, Mayor, City of Charleston  
Cochair  
South Carolina Quality Growth Initiative's Statewide Coordinating Committee

Elliot E. Franks, III  
President & CEO  
South Carolina Jobs-Economic Development Authority

S. Hunter Howard  
President & CEO  
South Carolina Chamber of Commerce

Robert Zuelsdorf  
President, Chairman & CEO  
South Carolina Transportation Policy and Research Council

Gary M. Loftus  
Director  
Coastal Carolina University  
Center for Economic and Community Development

Brad Wyche  
Executive Director  
Upstate Forever

A. Foster Chapman  
President & CEO  
Johnson Development Associates

### *Additional Resources*

John R. Nolon, *Well Grounded: Using Local Land Use Authority to Achieve Smart Growth* (2001).

Andres Duany et al., *Suburban Nation* (2000).

Henry L. Diamond & Patrick F. Noonan, *Land Use in America* (1996).

Douglas R. Porter, *Managing Growth in America's Communities* (1997).

The Maryland Office of Smart Growth  
<http://www.smartgrowth.state.md.us/>

Georgia Regional Transit Authority  
<http://www.grta.org>

The Urban Land Institute  
<http://www.uli.org>

The American Planning Association  
<http://www.planning.org>

The South Carolina Transportation Policy and Research Council  
<http://www.sctransportation.com>

Reconnecting America  
<http://www.reconnectingamerica.org>