

Chairman Martin,

On behalf of all South Carolinians thank you for taking on the task of chairing the SHaPE Taskforce. As you are aware I spent my career working at DHEC and would like to share my thoughts concerning this effort.

I am not one who proclaims that splitting DHEC or putting it in the Cabinet cannot work. That model is utilized in other States. However, I do strongly believe South Carolina's current arrangement with health and environment in the same agency is the best option. During my career, I served on numerous national committees with other state health officials and attended meetings with leadership of state agencies that managed only environmental matters. At that time the majority of the health officials expressed a firm belief that having health and environment under one agency is the best model. In 1989 after extensive research of the nation's public health and environmental agencies, The Institute of Medicine published a report which confirmed the need to have the two linked. **Their report indicated It is essential that states have an organization that allows professionals not political appointees to make critical public health and environmental decisions.** I spent my entire career working alongside DHEC staff who were committed to promoting health and protecting our state's environment. DHEC's history is certainly not perfect. That said, I believe a fair review of history will reveal that the Agency has done a good job of protecting and improving the lives of South Carolinians. Most times with prevention which is the cornerstone of public health there is no clear indicator when it works. The public only becomes aware when there is an outbreak or disaster. It is unfortunately the paradox of public health that when you do your job well, nothing happens.

The Agency continues to have excellent, dedicated and well-trained staff. However, due to the budget reductions in 2008 and 2009 and significant organizational changes during the past 10 years the depth or "bench strength" of expertise has been significantly reduced.

#### Checks and Balances

Currently, we have a Governor who is trustworthy and makes decisions based on what he believes are in the best interest of our State. However, history tells us that there are those elected to political office who will place self-interest above what is in the best interest of citizens. The vital functions that fall within DHEC's purview should not be placed totally under one person's direct control where the abuse of power could have detrimental consequences.

The current agency structure with health and environment in a single Agency governed by a citizen board was established in the early 1970's and thoroughly studied during the 1992-93 restructuring debate. The structure was designed to allow for input and participation by citizens as well as the Executive and Legislative branches of government. The Board is appointed by the Governor and confirmed by the Senate. All members except the Chairman have four-year terms. The Chairman serves at the will and pleasure of the Governor. Therefore, the Governor has direct input into the policy making activities of the agency without the ability to go too deeply into the daily operation. The DHEC Board members are selected by Congressional Districts thus they represent all regions of our State. The Board members have professional expertise and provide representation that is close to the people they serve. They are aware of the issues that affect their communities and constituencies. After a marathon debate concerning DHEC's organization during the Restructuring Act of 1992, the General Assembly wisely decided to have Board members appointed with staggered terms. This decision allows for consistent

leadership at the Board level when there are changes in the Governor's office. I served as the legislative liaison for DHEC during that time and participated in all of the subcommittee and committee debates. The agreement to leave DHEC out of the Cabinet was one of the most debated topics during restructuring. Former Senator Tommy Moore and former Chairman of Ways and Means, Rep. Billy Boan, led the Senate and House Conference Committee on Restructuring and can validate this information. The logic used in 1992 still applies today. Under this arrangement no Governor could immediately remove the entire Board along with the Agency's senior leadership. Making DHEC a cabinet agency will remove the Board members, the local representatives and eliminate the "grassroots connection" of government by the people. If DHEC were in the Cabinet every new governor would appoint "their" CEO to take charge of the agency. It takes time to learn the complex issues and make sound policy decisions concerning many complex issues under DHEC's control. Of late, we have seen a glimpse of how the cabinet would impact DHEC. Governor Sanford allowed all of the Board members terms to expire. His lack of action allowed Governor Haley to appoint an entirely new Board and install a new Director. During the past 10 years DHEC has had a "revolving door" of Directors most with no background in health, environment or leadership experience needed to lead a large State agency. In some instances, because of the new Directors, DHEC lost critical amounts of senior leadership. When these employees left or were forced to retire, vital institutional knowledge went with them. After 2012, the agency has been reduced to a fraction of the service capacity that existed between 1980-2012. Some of the challenges faced in responding to the COVID pandemic can be traced in large part to the loss of professional staff that resulted from the total change of the Board and revolving door of new Directors. As stated earlier, DHEC still has a core of excellent and well-trained staff. However, their numbers have been significantly reduced since 2010. There is a need for consistent competent leadership concerning matters involving public health and protection of the environment. There also needs to be a "back stop" against placing too much power in one office or one person's ability to suddenly change policies and leadership which has been proven to work. The potential for incompetence and corruption increases when only one public official has appointment power.

There are a number of questions that should be asked before moving DHEC into the Cabinet. Again, these are questions that were thoroughly debated in 1992.

The head of the Department of Commerce is appointed by the Governor. If DHEC is placed in the cabinet would a DHEC director be in a position to say no or thoughtfully review permits for a heavily recruited industrial project? The previous leadership at DHEC understood the importance of economic development and the impact of a strong economy on reducing poverty. Good jobs generally go hand in hand with a healthy population and access to care. That said, decisions about development were thoughtfully made based on the law and regulations.

The head of SLED is appointed by the Governor. Would DHEC's Drug Control Officials or environmental investigators have the same autonomy to pursue violators?

DHEC houses some of the most sensitive data found anywhere in our State to include:

- List of individuals, by name, who have been infected with HIV and other reportable conditions;
- Birth and death records; and
- In some instances, the environmental permitting staff have access to protected trade secrets involved in environmental permitting activities.

All of the data listed above is sensitive and could be detrimental if gathered and used for political purposes.

#### Accountability and Public Access

Accountability and access are built into the current system. Citizens have the opportunity to appear at the DHEC Board meetings to express their concerns on relevant issues. If every citizen with a complaint or concern about an agency had to reach the Governor or cabinet member it gives one cause to ponder how this would be better access for the public? The current process of having Board members that come from their communities and have specific areas of expertise is more logical. Politics should not drive the public health or environmental regulatory process. **Policies should be based on sound science and technical expertise.** I served under Board members like John Burriss, Dr. Bill Hull, Brad Wyche, Dr. Larry Chewing, the late Rod Grandy, and the late Mark Kent. All of these members were successful in business, medicine and the legal profession thus providing a “real world prospective” to DHEC’s policies, strategic plan and organization. Under cabinet government the Governor is directly responsible for every action. In DHEC every environmental permit could be impacted by political pressure. If the technical evaluation shows a company meets the minimum requirements set by law and a Governor insists on denying that permit or vice versa, then politics has driven the decision. Each permit decision can result in costly legal appeals. In 1992, the US Supreme Court ruled that South Carolina was involved in “takings” and was required to pay for the loss of economic benefit and property. The Lucas vs Coastal Council resulted in our State paying approximately \$1 million for the improper denial of the permit. Permit decisions have consequences and should not be guided by political influence.

#### Linking Public Health and the Environment

As time passes we forget that many of the early advances in public health were due to environmental actions. Improvements in water quality and discharge practices helped to eliminate water-borne disease such as cholera, dysentery and typhoid. As mentioned earlier “The Future of Public Health”, a report by the Institute of Medicine, concludes that public health agencies must have direct operational involvement in environmental issues. The report urges strengthening state health agencies capacity for identifying, understanding, and controlling environmental problems that present health hazards. With both health and environmental priorities under its purview, DHEC currently is able to balance the need to protect the environment and yet aide economic development that helps to reduce poverty and the potential health implications associated with poverty.

One of the mantras of the South Carolina General Assembly, is “we don’t want to be like Washington DC”. A move to separate DHEC and place both the health and environmental activities in the cabinet will do exactly that. The Federal Government has an alphabet soup of agencies led by political appointees that deal with segments of health and the environment. Citizens are often confused about who to trust concerning very technical matters. Do they listen to CDC, EPA, ADSTR, FDA, DHHS or other federal agencies about their health and the quality of their environment? The maze of agencies in the Federal system increases duplication of services and regulatory authority.

There are numerous examples of where DHEC, an agency where health and environmental control are linked, has served citizens well. Just a few are Hurricane Hugo, Suffolk Chemical, Albright and Wilson toxic release in Charleston, and the Graniteville train accident in Aiken. In all of these events the needs

and demands of the public clearly required clear uniform communication based on science and technical expertise.

As you consider the link of health and environment, I suggest you consider the following questions:

- Are the blood lead levels in children an environmental or a health issue - it is both;
- Is a food poisoning event at a restaurant an environmental or health issue - it is both;
- Is a contaminated public water system an environmental or health issue - it is both;
- Are issues of shellfish sanitation water quality, fish tissue sampling and recreational waters testing environmental or health issues - they are both.

In each instance professionals from both medicine and the environment are needed to fully understand and address these issues.

#### Consolidation and Balancing Environmental Decisions

Consolidation and reducing costs were some of the goals of the 1992 Restructuring Act. DHEC successfully incorporated the environmental permitting activities from the former Water Resource Commission, Land Resources Commission, and the Coastal Council (Ocean and Coastal Resources). Utilizing an advisory group composed of citizens, environmental groups, and industry, DHEC established a streamline permitting system which eliminated duplicative permitting activities and submitted the necessary legislative changes to allow for the consolidation of these activities. Reports were filed with the General Assembly following Restructuring to document these actions. I am unsure if there is any additional consolidation or elimination of environmental permitting that can be accomplished and still comply with existing laws and regulations.

Protection of the environment and successful economic development requires a delicate balance. Maintaining a balance and keeping environmental decisions free of conflict of interest was an impetus for re-combining the Pollution Control Authority with the Department of Health in the early 1970's. Protection of the independence of environmental decision making is vital to our State's continued economic growth as well as protection of natural resources. If the environmental permitting activities are placed in an agency designed to promote natural resources the tendency will be to focus on protection of the natural resources. If the permitting activities are placed in a stand-alone agency the focus will be solely on issuing permits. As currently organized, DHEC is designed to work with business, industry and the public to facilitate prudent economic development. Permits are issues which economically benefit the people of the State as well as protect health and the environment. DHEC's role has been one of balancing the economic, environmental and health issues. The agency makes difficult decisions based on the most current science. Science that includes information about what is appropriate under the law and best for public health and the ecosystem. I believe that the Agency's balanced approach can be confirmed by past Directors of the Department of Commerce such as Bob Royall and Charlie Way.

DHEC not only has State environmental laws to enforce but also delegated authority from EPA to operate most of the Federal Air, Land and Waste Management activities. If the Federal Government believes that "corners are being cut" in enforcing Federal programs, the delegated authority can be removed. This would mean that industry would be dealing with EPA staff in Atlanta or Washington rather than being able to continue working with the DHEC staff on federally delegated matters. Loss of

delegated authority would slow and greatly complicate industry's efforts to obtain and retain necessary permits.

If health is moved from DHEC there will be a need to hire additional staff to address the health impacts of many environmental situations. For example, ground water is the drinking water source for most in the State. If contamination is identified, the public wants to hear from health professionals concerning risk. There are numerous examples of these types of events such as leaking underground storage tanks and ground water run off pollution. The public isn't interested in talking with the engineering staff at DHEC, they want to know the health impacts from physicians or other health professionals. If the environmental section were not combined with health, then professionals such as physicians, epidemiologists and other health professionals would need to be hired. Again, this is example of duplicating the Federal model where multiple agencies have similar functions. This is only one example of how health and environment must work together. Splitting the two will lead to more not less government.

#### Consistent Policy Development and Strong Leadership

One of the demands that I frequently heard from industry and citizens was the need to have "fair and consistent decisions and rules." It is difficult to maintain such a standard when the Agency leadership potentially changes with each election cycle. As noted above with streamlined permitting, DHEC utilized advisory committees composed of stakeholders to determine how to proceed with permitting and regulatory changes. Having consistent leadership helps to build trust and communication with stakeholders. Generally, those relationships are developed over years. Nationally, the leadership of DHEC type agencies changes every 18-24 months. If the Director at DHEC changes every 18-24 months, it will be very difficult to develop the relationships needed to effectively lead. There can be change, such as we have seen during 2010-2020. However, I believe citizens are looking for changes that strengthens not weakens the agency's ability to provide services. I won't attempt to provide a chronology of the Agencies achievement, but I will provide a few examples of how long-term relationships resulted in positive outcomes for the State.

In 1995 South Carolina led the nation in immunization of children and became a national model. The partnerships between DHEC and private physicians led to an immunizations rate of 90% and took years to develop. It took a trust between the private sector and DHEC that promises would be kept. That process resulted in more than 120 public private partnerships being created between DHEC staff and private physicians. The success story of these partnerships was reported in "Medical Economic." That model changed the way immunizations and well child visits were managed. It was done by years of consistent dialogue between legislators, the DHEC Commissioner, DHEC staff, and private physicians.

On the environmental side DHEC has closed infectious and hazardous waste incinerators and was recognized for closing high level radiation tanks at the Savannah River Site.

The current organizational structure produced Commissioners (Directors) like Mike Jarrett, Earl Hunter and myself that were long time administrators committed to the Agency's mission. The three of us worked at the local level before moving into leadership positions. We understood what it was like to work with the public face to face and provide essential services. The Directors appointed during the past decade possessed neither the knowledge nor understanding about the daily operations of public health and environmental services. I mean no disrespect to the Directors appointed between 2010-2020,

however, I do not feel they were appropriately prepared to assume the Director's role. This comment is not intended to reflect on either Mr. David Wilson or Mr. Marshall Taylor who served as interim Directors. Mr. Wilson and Mr. Taylor provided excellent leadership and guidance during their tenure. Both were highly respected by the staff. I do not know the current Director and my comments are not intended to reflect on him or his abilities. I am hopeful that Dr. Simmer will bring back the level of professionalism and stability needed to serve the staff and public.

In summary, South Carolina currently has a public health and environmental system that has served the people well for more than 40 years. The concept of how to organize our State's health and environmental functions has been repeatedly vetted both in the 1970's and 1990's. It is my hope that your committee will study the issues and determine that the organizational structure enacted during past debates resulted in the best system for our State. The current organizational structure allows for decisions based on science not political influence. The structure also allows for appropriate input from both the Executive and Legislative branches of government. Separating health and environmental will result in more long-term cost and less efficient services to the public. Moving the two under the Cabinet will simply continue the inconsistent leadership provided during the past decade. Instead of focusing on a study of the organizational structure, it would be more productive to determine if the agency has the appropriate staffing, training, and funding to achieve its mission.

Thank you for the opportunity to provide comment on this important effort.

Doug Bryant

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