



South Carolina House of Representatives

Legislative Update

ROBERT W. HARRELL, Jr., Speaker of the House

Vol. 23

March 21, 2006

No. 11

CONTENTS

HOUSE WEEK IN REVIEW	02
HOUSE COMMITTEE ACTION	06
BILLS INTRODUCED IN THE HOUSE THIS WEEK.....	10

NOTE: THESE SUMMARIES ARE PREPARED BY THE STAFF OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES AND ARE NOT THE EXPRESSION OF THE LEGISLATION'S SPONSOR(S) OR THE HOUSE OF REPRESENTATIVES. THEY ARE STRICTLY FOR THE INTERNAL USE AND BENEFIT OF MEMBERS OF THE HOUSE OF REPRESENTATIVES AND ARE NOT TO BE CONSTRUED BY A COURT OF LAW AS AN EXPRESSION OF LEGISLATIVE INTENT.

HOUSE WEEK IN REVIEW

The House of Representatives amended, approved, and sent to the Senate legislation revising the power of **EMINENT DOMAIN**, which authorizes a governmental entity to take private real estate for public use, with or without the permission of the owner.

The House amended, approved, and sent to the Senate **H.4502**, a joint resolution proposing a **STATE CONSTITUTIONAL AMENDMENT ON THE EXERCISE OF EMINENT DOMAIN**. The legislation proposes to amend the South Carolina Constitution so as to expressly prohibit a public body from exercising its powers of eminent domain to condemn a private property and thereafter transfer it to another private party unless the owner of the property consents. However, condemned property could be transferred to a private party in the following situations:

- Condemning property that constitutes a danger to the safety and health of the community because of dilapidation, deleterious land use, or lack of ventilation, light and sanitary facilities. This exception would allow for the condemnation of slum areas and blighted property as permitted by statutes.
- Granting non-possessory interests for financing purposes, such as financing interests or deeds in trust.
- Condemning property necessary for transportation or utility facilities or transmission systems.
- Conveying less than fee simple interests--i.e. leasehold interests--to a privately owned business for purposes of providing retail services in a public building, such as the canteens operated in state office buildings.

The proposed amendment also eliminates certain provisions regarding blight from the Constitution. If approved by the General Assembly, the proposed constitutional amendment would be put before voters at the next general election.

The House amended, approved, and sent to the Senate **H.4503**, a bill placing new requirements on a public body's acquisition of private property through the **EXERCISE OF EMINENT DOMAIN OR CONDEMNATION**. The legislation provides that a public body has the burden of proving in any proceeding related to a condemnation, by clear and convincing evidence, that: (1) a proposed condemnation is for a public use; (2) the public entity will own, operate, and retain control over the condemned property (except as permitted by the South Carolina Constitution); and (3) the property that is the subject of the condemnation provides a necessary and direct benefit to the public at large. A benefit to the public that is merely incidental, indirect, pretextual, or speculative is not a public use. A mere public purpose or public benefit, including economic development, does not constitute the requisite public use for property to be condemned by eminent domain. The legislation provides that all statutes relating to or involving eminent domain or condemnation must be strictly construed against the condemnor. These restrictions do not apply to public utilities and electric cooperatives granted condemnation powers.

Legislative Update, March 21, 2006

Under the legislation a county council must provide written authorization before the county or any of its agents or subdivisions may exercise the authority of eminent domain. A town or city council must provide such authorization in the case of municipalities. The legislation provides that, with the exception of counties and municipalities, the only public entities that may exercise directly the right of eminent domain are: (1) the South Carolina Department of Transportation; (2) the South Carolina Public Service Authority; and (3) the Department of Commerce. All other public entities must obtain approval from the State Budget and Control Board to exercise the right of eminent domain.

The legislation provides that if real property is not used for the public purpose or use for which it was condemned within ten years, the former owner may repurchase the property for its appraised value or the original condemnation award, whichever is smaller. This provision does not apply to property acquired to protect a future transportation corridor from development. The legislation also allows the former owner a right of first refusal if the condemnor wishes to transfer the property to another person or entity. The right of first refusal of the landowner for less than current appraised value does not apply if doing so would violate federal law or result in a loss of federal funding or if the sale is between two entities with the power of eminent domain.

The legislation establishes strict and specific criteria for what may be considered blighted property for purposes of condemnation. The legislation requires counties and municipalities condemning properties for purposes of redeveloping slum and blighted areas to undertake a cost-benefit analysis of the condemnation and determine whether the value of taking the property exceeds the just compensation due to the owner. Alternatives must be identified for redeveloping the areas other than taking the property. Local government officials must meet with the property owners to discuss the taking and the cost-benefit analysis. A written report must be issued on the analysis used to determine whether to take the property.

The legislation revises Tax Increment Financing Act provisions to incorporate new definitions for blighted areas and agricultural real property.

H.4503 enacts the “**JUST COMPENSATION FOR LAND USE RESTRICTIONS ACT.**” The legislation provides that if a public entity enacts or enforces a land use regulation that restricts the use of private real property and has the effect of reducing the fair market value of the property, the owner of the property must be paid just compensation. This requirement for just compensation does not apply to a land use regulation: (1) restricting or prohibiting an activity recognized as a public nuisance by law; (2) restricting or prohibiting an activity for the protection of public health and safety, such as fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, and pollution control regulations; (3) to the extent the land use regulation is required to comply with federal law; (4) restricting or prohibiting the use of a property for the purpose of selling pornography or performing nude dancing; (5) enacted before the date of acquisition of the property by the owner; (6) regulating hunting, fishing, trapping, releasing of animals, and protecting fish and wildlife and their habitats; (7) governing the establishment and maintenance of private driveways; (8) that are adopted as part of an unincorporated area’s initial adoption of land use regulations; (9) enacted for the operation or protection of a military institution or facility; (10) restricting or prohibiting an activity for the protection of a church or other religious institution; or (11) restricting or prohibiting an activity for the protection of a property that is listed in the National Register

Legislative Update, March 21, 2006

of Historic Places. Before commencing an action for just compensation, a property owner must submit a notice of claim and demand for pre-litigation mediation. If mediation is not successful or if the mediated settlement is not approved by the local legislative governing body, a property owner must commence an action for compensation in the circuit court within thirty days. Instead of payment of just compensation, the public entity responsible for enacting the land use regulation may modify, remove, create a variance, or not apply the land use regulation or land use regulations to allow the owner to use the property for a use permitted at the time the owner acquired the property. If a claim is not paid within two years, the owner must be allowed to use the property as permitted at the time the owner acquired the property.

The House and Senate adopted the conference report on **S.1061**, authorizing bonded indebtedness for the **SOUTH CAROLINA HERITAGE TRUST PROGRAM**, and enrolled the bill for ratification. The legislation authorizes the governing board of the Department of Natural Resources, which serves as the trustee of the Heritage Trust, to issue bonds to acquire, restore, improve, and manage additional properties suitable for inclusion in the program. The debt is secured by a pledge of the revenues derived from the portion of the state deed recording fee dedicated to the Heritage Land Trust Fund.

The House approved **S.1114** and enrolled the bill for ratification. This legislation revises the **MEMBERSHIP OF THE STATE BOARD OF FINANCIAL INSTITUTIONS** so as to provide that one member of the board must be a restricted or supervised lender recommended by the Independent Consumer Finance Association.

The House amended, approved, and sent to the Senate **H.4678**, relating to **SAFE HAVENS FOR ABANDONED INFANTS OR "DANIEL'S LAW"**. Current law provides that a person who abandons a newborn cannot be prosecuted for abandonment if he takes the unharmed baby to an employee at a hospital or hospital outpatient facility. The law applies to infants up to 30 days old. This bill provides that an infant may be left at a hospital or hospital outpatient facility, a law enforcement agency, a fire station, an emergency medical services station, or any staffed house of worship. The bill requires these other designated safe havens to transport an infant to a hospital. An annual report must be submitted to the General Assembly containing data on infants that are left in these designated safe havens.

The House amended, approved, and sent to the Senate **H.4471**, a bill relating to the **JURISDICTION OF ACTIONS PERTAINING TO A COMMERCIAL LEASE RELATIONSHIP**. In a commercial lease relationship, this bill provides that the magistrate has unlimited jurisdiction over a commercial ejectment action. An ejectment action arising out of a commercial lease which is filed in magistrate's court must not be transferred to the circuit court, regardless of the amount of the claim. The bill further provides that the magistrate shall sever and transfer all claims, compulsory counterclaims, or permissive counterclaims the commercial tenant files which exceed the jurisdictional limit; except the magistrate shall retain jurisdiction of the commercial ejectment action. If a commercial tenant appears and contests ejectment, **H.4471** further provides that the magistrate shall hear and determine the case as any other civil case. Upon motion of either party or upon his own motion, the magistrate may order that the case be heard at the next term of court following the tenant's appearance. The court may order the tenant to tender payment for all rent due and accruing as of and during the pendency of the action. The order may require the payments to be made directly to the commercial landlord, or to the clerk of court, to be held until final disposition of the

case, or through the magistrate's office. If payments are to be made through the magistrate's office, a fee of three percent of the rental payment must be added to the amount paid through the office. Upon failure of the tenant to tender rent due within five days of the magistrate's order or as it accrues during pendency of the action, the tenant is considered to have waived his right to a jury trial and the action must be placed on the nonjury docket for consideration like any other civil case.

The House amended, approved, and sent to the Senate **H.4532**. This bill increases from fifteen to twenty-five thousand dollars the amount of the **SURETY BOND AN APPLICANT FOR LICENSURE AS AN AUTOMOBILE WHOLESALER OR A DEALER** must provide to the Department of Motor Vehicles and increases from fifteen to twenty-five thousand dollars the aggregate liability of the surety for claims on each bond and the amount of the actual loss incurred.

The House amended, approved, and sent to the Senate **H.3109**, pertaining to **SCHOOL BUS DRIVERS**. An existing Department of Education regulation requires each school bus driver to have a physical examination by a physician. This bill codifies that regulation and amends it to allow the physical examination to be performed and signed by a physician, physician's assistant or a nurse practitioner.

The House amended, approved, and sent to the Senate **H.4460**. Current law defines "**HAIR BRAIDING**" to mean the weaving or interweaving of natural human hair for compensation without cutting, coloring, permanent waving, relaxing, removing, or chemical treatment and does not include the use of hair extensions or wefts. This bill amends the statutory definition of hair braiding to allow use of hair extensions but not wefts. Hair extension adds hair (human or synthetic) to natural hair by braiding to create a longer hairstyle. A weft is artificial hair sewn on a fine base and used in the process of hair weaving. Wefted hair may be attached to natural hair with glue.

The House approved and sent to the Senate **H.4448**. This bill revises the boundaries of **GAMES ZONES 1 AND 2**. Relating to the open season for taking antlered deer, this bill revises the open season in Game Zone 1 and the equipment that may be used during certain periods. Relating to bear hunting in Game Zone 1, this bill revises the open season for taking bear and the equipment that may be used during certain periods, as well as the procedures that must be followed when a bear is taken.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The Agriculture, Natural Resources and Environmental Affairs Committee met on Tuesday, March 14.

H.4448 received a favorable report from the full committee. This bill revises the boundaries of **GAMES ZONES 1 AND 2**. Relating to the open season for taking

Legislative Update, March 21, 2006

antlered deer, this bill revises the open season in Game Zone 1 and the equipment that may be used during certain periods. Relating to bear hunting in Game Zone 1, this bill revises the open season for taking bear and the equipment that may be used during certain periods, as well as the procedures that must be followed when a bear is taken.

H.4572, relating to **GAME ZONE REVISIONS**, received a favorable report. Currently, the State is divided into eleven game zones. This bill reduces the number of game zones from eleven to six. Along with the revised boundaries of the game zones, the bill also amends various game hunting seasons and requirements.

H.4660, relating to **COASTAL TIDELANDS AND WETLANDS**, received a favorable with amendment report. With regards to the restrictions on construction or reconstruction seaward of the baseline or between the baseline and the setback line, this bill provides an exception for the following:

- above-ground pools constructed of a synthetic material such as, but not limited to, plastic or fiberglass may be placed above grade, and
- traditional in-ground pools may be reconstructed if they are landward of an existing, functional erosion control structure or device.

EDUCATION AND PUBLIC WORKS

The full Education and Public Works Committee did not meet this week.

JUDICIARY

The full Judiciary Committee met on Tuesday, March 14, 2006.

H.4678, relating to **SAFE HAVENS FOR ABANDONED INFANTS OR “DANIEL’S LAW,”** received a favorable with amendment report. Current law provides that a person who abandons a newborn cannot be prosecuted for abandonment if he takes the unharmed baby to an employee at a hospital or hospital outpatient facility. The law applies to infants up to 30 days old. This bill provides that an infant may be left at a hospital or hospital outpatient facility, a law enforcement agency, a fire station, an emergency medical services station, or any staffed house of worship. The bill requires these other designated safe havens to transport an infant to a hospital.

The full committee recommitted **S.370**, which relates to **COSTS AND ATTORNEYS FEES FOR ELECTION PROTESTS AND QUALIFIED CIVIL IMMUNITY FOR POLL WORKERS**, to the Elections Laws Subcommittee.

The committee adjourned debate on the following bills:

- **H.4559**, which provides a **UNIFORM METHOD OF FILLING VACANCIES IN AN ELECTED OR APPOINTED OFFICE WHEN A PERSON MOVES HIS**

RESIDENCE OUTSIDE OF THE AREA FROM WHICH HE WAS ELECTED OR APPOINTED

- **H.4509**, which relates to the **REVOCATION OF A LICENSE OF A PERSON WHO IS OUT OF COMPLIANCE WITH AN ORDER FOR CHILD SUPPORT**

LABOR, COMMERCE AND INDUSTRY

The full House Labor, Commerce and Industry Committee met on March 14 and reported out several bills.

The committee gave a report of favorable with amendment on **H.4427**, a bill revising the **WORKERS' COMPENSATION** system, which provides disability payments for workers who sustain injuries in the course of their employment. The legislation provides that the burden of proof in a workers' compensation claim is on the employee. Causation must be proven with expert medical evidence stated to a reasonable degree of medical certainty in all claims except those pertaining to an occupational disease or a change of condition. In claims for an occupational disease, the employee must establish that the occupational disease arose directly and naturally from hazards peculiar to the particular employment by clear and convincing medical evidence. In claims for a change of condition, the employee must establish by clear and convincing evidence that there has been a physical change of condition caused by the original injury subsequent to the last payment of compensation. The legislation establishes a definition for an expert witness.

The legislation defines "accident" as an event or strain identifiable by the time and place of occurrence and excludes an injury where work was a triggering or precipitating factor. Stress, mental injury, heart attack, stroke, embolism or aneurism arising out of employment must be accompanied by other physical injury and it must be established by clear and convincing medical evidence that the stressful employment conditions leading to such injury were extraordinary and unusual. Also, no recovery is authorized for such conditions if they are the result of events incidental to the employment like disciplinary actions, work evaluations, transfers, promotions, demotions, salary reviews or termination except if these actions are taken in an unusual manner.

The legislation contains provisions geared towards combating workers' compensation fraud. The definition of "false statement and misrepresentation" is expanded to include intentional false report of business activities or miscount or misclassification by an employer of its employees to obtain a favorable insurance premium, payment schedule or other economic benefit. The legislation enhances the crime classification and penalties for intentionally making a false statement or misrepresentation. The Attorney General's Office is authorized to hire a forensic accountant to be assigned to the Insurance Fraud Division.

The legislation provides that a physician, surgeon or other healthcare provider may discuss and otherwise communicate an employee's medical history, diagnosis, causation, course of treatment, prognosis, work restrictions and impairments with representatives of the insurance carrier, the employer, the employee, their respective attorney, rehabilitation professional or the Workers' Compensation Commission with the permission of the employee. The legislation defines "medical and vocational

information” and provides that a health care facility shall provide such information to insurance carriers, employers, employees, their attorneys or rehabilitation professionals within 14 days of receipt of written request.

H.4427 revises the state's Second Injury Fund, an insurance program that reduces risks employers may bear for future claims from previously injured workers. The legislation eliminates most of the items in the list of covered preexisting conditions of the Second Injury Fund so as to limit it to: (1) amputated foot, leg, arm or hand; (2) loss of sight of one or both eyes or uncorrected vision of more than 75% bilateral; or (3) ruptured intervertebral disc. The legislation also provides that the Second Injury Fund will be dissolved if the Budget and Control Board determines that paid claims of the fund are \$8 million or more during the 2011-2012 fiscal year.

The provisions of **H.4427** take effect January 1, 2007, if the provisions of this act result in a ten percent cumulative cost savings of providing workers' compensation coverage in this State over the period January 1, 2007, to December 31, 2012. The Department of Insurance, using an outside actuary, shall perform the studies and computations necessary to make this calculation and report the results to the General Assembly not later than December 31, 2006.

The committee gave a favorable report on **S.511**, a bill relating to the **USE OF INSURANCE PROCEEDS TO RECONSTRUCT DAMAGED PROPERTY GOVERNED BY THE HORIZONTAL PROPERTY ACT**. The legislation provides for such repair or reconstruction upon a vote of eighty percent of the co-owners, or more if required by the property bylaws, and further provides for distribution of insurance proceeds.

The committee gave a favorable report on **S.1114**. This bill revises the **MEMBERSHIP OF THE STATE BOARD OF FINANCIAL INSTITUTIONS** so as to provide that one member of the board must be a restricted or supervised lender recommended by the Independent Consumer Finance Association.

The committee gave a report of favorable with amendments on **H.4532**. This bill increases from fifteen to twenty-five thousand dollars the amount of the **SURETY BOND AN APPLICANT FOR LICENSURE AS AN AUTOMOBILE WHOLESALER OR A DEALER** must provide to the Department of Motor Vehicles and increases from fifteen to twenty-five thousand dollars the aggregate liability of the surety for claims on each bond and the amount of the actual loss incurred.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full House Medical, Military and Municipal Affairs Committee met on Tuesday, March 14 and gave consideration to three bills.

H.3109, pertaining to **SCHOOL BUS DRIVERS**, received a favorable with amendment report. An existing Department of Education regulation requires each school bus driver to have a physical examination by a physician. This bill codifies that regulation and amends it to allow the physical examination to be performed and signed by a physician, physician's assistant or a nurse practitioner.

The full committee gave a favorable with amendment report to **H.4460**. Current law defines “**HAIR BRAIDING**” to mean the weaving or interweaving of natural human hair for compensation without cutting, coloring, permanent waving, relaxing, removing, or chemical treatment and does not include the use of hair extensions or wefts. This bill amends the statutory definition of hair braiding to allow use of hair extensions but not wefts. Hair extension adds hair (human or synthetic) to natural hair by braiding to create a longer hairstyle. A weft is artificial hair sewn on a fine base and used in the process of hair weaving. Wefted hair may be attached to natural hair with glue.

The full committee tabled **H.4560**, pertaining to **COSMETOLOGISTS CONTINUING EDUCATION REQUIREMENTS**.

WAYS AND MEANS

The full Ways and Means Committee did not meet this week.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

S.1146 *AUTHORITY OF THE DEPARTMENT OF NATURAL RESOURCES TO PLACE AIDS TO NAVIGATION AND REGULATORY MARKERS IN THE WATERS OF THIS STATE UNDER CERTAIN CONDITIONS* Sen. Campsen

This bill provides that the Department of Natural Resources may promulgate regulations for the uniform marking of the waters of the State and may regulate the operation of all vessels, watercraft, and water devices through the placement of aids to navigation and regulatory markers. The regulations shall establish a marking system compatible with the system of aids to navigation prescribed by the United States Coast Guard or its successor agency. No city, county, or person shall mark or obstruct the waters of this State in any manner so as to endanger the operation of watercraft or conflict with the marking system prescribed by the department.

The bill further provides that the operation of any vessel, watercraft, or water device within a prohibited area is negligent operation unless the seriousness of the operation within a prohibited area constitutes reckless operation.

H.4854 *DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL EXPEDITED REVIEW PROGRAM* Rep. Cooper

This bill establishes within the Department of Health and Environmental Control (DHEC) the Expedited Review Program to provide a voluntary expedited process for review of permit applications. DHEC is required to promulgate regulations for the administration of the program, including expedited process application fees. The bill also creates a pilot program to test and evaluate the economic and administrative benefits of a statewide review program.

EDUCATION AND PUBLIC WORKS

H.4798 PUBLIC HIGHWAYS STUDY COMMITTEE Rep. R. Brown

This joint resolution creates and provides for a Public Highways Study Committee to review state and local highway needs and recommend legislative changes to ensure that all local, regional, and state agencies involved in planning, construction, and maintenance of highways ensure that their efforts are not duplicated. The study committee is required to report to the General Assembly and the Governor by February 20, 2007, at which time the study committee is dissolved.

H.4820 MAXIMUM SPEED LIMITS Rep. Martin

This bill provides that a commercial vehicle traveling along a highway must not be operated at a speed in excess of five miles below the maximum posted speed for an automobile.

H.4843 NAMING OF ROADS, BRIDGES, OR OTHER HIGHWAY FACILITIES Rep. Viers

This bill provides that a road, bridge, or other highway facility may not be dedicated and named in honor of a person who has been suspended or disbarred from the practice of law. Additionally, the bill requires the Department of Transportation to remove the name of a person from a highway facility dedicated and named in that person's honor if the person subsequently is suspended or disbarred from the practice of law.

H.4844 SMOKING IN CARS WITH YOUNG CHILDREN Rep. Clyburn

This bill makes it unlawful for a driver or occupant of a private or public passenger motor vehicle to smoke a tobacco product while a preschool-aged child is also an occupant of the motor vehicle. A conviction for violation of this provision is a misdemeanor punishable by a fine of not more than two hundred dollars or imprisonment for not more than ten days.

H.4845 "PUBLIC EMPLOYEE" SPECIAL LICENSE PLATES Rep. McCraw

This bill authorizes and provides for the Department of Motor Vehicles (DMV) to issue "Public Employee" special license plates to vehicle owners employed by this State or a political subdivision, including a school district. The fee for the special plate would be twenty dollars every two years in addition to the regular license plate fee. Revenues from the additional fee would first be used to defray the DMV's costs for producing, administering, and distributing the plate, and the remainder of the revenue would be distributed to the South Carolina State Employees Association for its Annie Agnew Scholarship Program.

H.4846 UNIVERSITY OF SOUTH CAROLINA BOARD OF TRUSTEES Rep. Vaughn

This bill revises current provisions regarding the University of South Carolina Board of Trustees (the Board). The bill provides that the Board must be composed of : the Governor or his designee, the State Superintendent of Education, and the President of the Greater University of South Carolina Alumni Association (all serving ex-officio); one at-large member appointed by the Governor; and sixteen members elected by the General Assembly (two members from each of the State's Congressional Districts and

four from the State at-large). The bill also provides for terms of office and for filling vacancies for unexpired terms on the Board.

H.4848 “SOUTH CAROLINA STATE UNIVERSITY MATCHING ENDOWMENT” Rep. Scott

This bill establishes and provides for the “South Carolina State University Matching Endowment,” to be funded annually from appropriations from the Education Lottery Account with minimum funding of five million dollars per year for at least eight years. The endowment would be used to implement an endowed professorship at S.C. State University to help attract or retain productive faculty scholars who are making or will make substantial contributions to the intellectual life of the State.

H.4853 LICENSE PLATE SPECIFICATIONS Rep. McLeod

This bill requires that the name of the county in which a vehicle is registered and property taxes are paid must be shown on the vehicle license plate.

JUDICIARY

S.1050 “FAMILY COURT REFORM ACT OF 2006” Sen. Ritchie

This comprehensive bill makes a variety of changes relating to family court. Revisions include, but are not limited to the following:

- This bill clarifies that an action in family court is subject to the South Carolina Frivolous Civil Proceedings Sanctions Act.
- This bill provides if adultery does not occur until after one year from the date of the filing of an action for divorce or separate maintenance and support, the court may award alimony or separate maintenance and support if it finds that the adultery did not materially affect the economic circumstances of the parties or did not materially contribute to the breakup of the marriage.
- In making an award of alimony or separate maintenance and support or child support, the bill requires the court to order that the payments be made through the clerk of court and allocate responsibility for the service fee in connection with the award to the payor, unless the payor spouse demonstrates to the satisfaction of the court that he will not default on his court ordered support obligation, or provides for security for the payment of the support.
- While making an award of alimony or separate maintenance and support, the bill provides that the court must give additional weight to both the award and the amount of the award of alimony or separate maintenance and support to the spouse seeking alimony or support when the court finds:
 - (a) that the spouse seeking alimony or support has not engaged in adultery; and
 - (b) that the other spouse has engaged in adultery prior to the earliest of either the formal signing of a written property or marital settlement agreement, or the entry of a permanent order of separate

maintenance and support or of a permanent order approving a property or marital settlement agreement between the parties.

The degree of additional weight given by the court to the award or the amount of the award of alimony or separate maintenance and support must be in the court's discretion.

- The bill makes provisions for family court hearing officers by enacting the "South Carolina Family Court Hearing Officer Act."
- The bill authorizes the Department of Social Services to bring a civil action to recover the costs of the department's investigation and proceedings associated with a claim of abuse or neglect made maliciously or in bad faith.
- The bill enacts the "South Carolina Family Law Mediation Act."

S.1116 VULNERABLE ADULTS Sen. McConnell

This bill establishes a Vulnerable Adults Investigations Unit within the South Carolina Law Enforcement Division. This unit shall receive and coordinate the referral of all reports of allegations of abuse, neglect and exploitation of vulnerable adults in facilities operated by, or contracted with, the Department of Mental Health or the Department of Disabilities and Special Needs. This unit shall investigate or refer to appropriate law enforcement those reports in which there is reasonable suspicion of criminal conduct. The unit shall also investigate vulnerable adult fatalities.

The bill further provides that the Long Term Care Ombudsman Program must not delegate its responsibility to investigate non-criminal reports of alleged abuse, neglect and exploitation.

The bill establishes a multi-disciplinary Vulnerable Adults Fatalities Review Committee. The stated purpose of this committee is to decrease the incidence of preventable vulnerable adult deaths. Meetings of this unit and committee are closed to the public, when the unit or committee is discussing individual cases of vulnerable adult deaths. All information and records acquired by this unit or committee are confidential and not subject to disclosure under the Freedom of Information Act.

H.4801 MASTERS-IN-EQUITY FEES Rep. Delleney

Currently, masters-in-equity may charge twenty-five dollars for preparation of a deed; this bill increases this fee to fifty dollars. This bill also revises the maximum commission on certain sales of land. Currently, the maximum commission is two thousand, five hundred dollars; this bill increases the maximum commission to five thousand dollars.

H.4804 "PROTECTION OF PETS AND COMPANION ANIMALS ACT OF 2006" Rep. McGee

This bill provides that it is unlawful to knowingly steal a companion animal or pet with the purpose or intent of selling the companion animal or pet to a research facility, whether or not federally licensed pursuant to the federal Animal Welfare Act, to be used for the performance of scientific research. A person who violates the provisions of this section

is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

H.4808 ISOLATION AND QUARANTINE OF INDIVIDUALS Rep. Harrison

This bill revises definitions used in the Emergency Health Powers Act. The bill amends the definition of "qualifying health condition" to include an illness or health condition caused by a natural disaster. The bill amends the definition of the term "trial court" to provide that if that court is unable to function because of the isolation, quarantine, or public health emergency, the trial court is a circuit court designated by the Chief Justice upon petition and proper showing by the Department of Health and Economic Control.

Relating to isolation and quarantine of individuals and penalties for noncompliance, this bill establishes penalties of a maximum fine of one thousand dollars or thirty days in prison, or both, for noncompliance.

The bill provides that an employer may not fire or discriminate against an employee subject to isolation or quarantine orders; however, an employer may require an employee subject to isolation or quarantine to use annual or sick leave to comply with such an order.

Relating to isolation and quarantine procedures, this bill provides that before the declaration of a public health emergency isolation and quarantine orders issued must be undertaken in accordance with the Emergency Health Powers Act.

Relating to appointment and use of in-state and out-of-state health personnel in a state of public health emergency, this bill provides that law pertaining to government volunteers and coverage under the South Carolina Tort Claims Act applies to such public health emergency volunteers, with certain exceptions. The bill further provides for immunity from civil liability for these volunteers, with certain exceptions.

H.4830 SEXUAL DEVICES Rep. Davenport

Relating to disseminating, procuring, or promoting obscenity, this bill adds to the dissemination, procurement, and promotion of sexual devices to the delineated obscenity offenses.

**H.4831 COMMUNITY DOMESTIC VIOLENCE COORDINATING COUNCILS
Rep. Cobb-Hunter**

This bill provides that each circuit solicitor, rather than the Department of Social Services (DSS), shall facilitate the development of these councils in each county or judicial circuit. The bill further adds a representative of DSS to the recommended participants on the councils and provides that members on such councils shall establish memoranda of agreement among and between these members.

H.4832 LIMITING THE NUMBER OF BILLS A MEMBER OF THE GENERAL ASSEMBLY MAY FILE Rep. Rice

This bill provides that a member of the General Assembly may not file more than six bills during any regular session of the General Assembly including any extensions, special, or extraordinary sessions occurring during that year. The bill does provide for certain exceptions.

H.4833 AMENDMENTS TO THE FREEDOM OF INFORMATION ACT

Rep. Sinclair

Relating to meetings that may be closed to the public under the Freedom of Information Act, this bill provides that no chance meeting may be used to discuss a matter within the jurisdiction of a public body.

H.4834 AMENDMENTS TO THE FREEDOM OF INFORMATION ACT

Rep. Sinclair

Relating to the right to inspect or copy public records under the Freedom of Information Act and the fees for copying those records, this bill provides that the charge made by a public body for copies of public records may not exceed certain specified amounts.

H.4835 AMENDMENTS TO THE FREEDOM OF INFORMATION ACT

Rep. Sinclair

Relating to the right to inspect or copy public records under the Freedom of Information Act, this bill provides that a request must be answered within three days of receipt and further that when a request is granted the documents must be made available immediately.

H.4836 AMENDMENTS TO THE FREEDOM OF INFORMATION ACT

Rep. Sinclair

Relating to meetings which may be closed to the public pursuant to the Freedom of Information Act, this bill requires that a public body holding a meeting closed to the public prepare and attach to the minutes of the meeting an affidavit identifying the specific purpose or purposes of the closed meeting and certifying that no other topics were discussed nor was any action taken in the closed meeting.

H.4837 LAWFUL STORAGE AND TRANSPORTATION OF FIREARMS IN A LOCKED VEHICLE LOCATED IN CERTAIN AREAS

Rep. Duncan

The stated intent of this legislation is to reinforce and protect the right of each law-abiding citizen to enter and exit a parking lot, parking facility, or space used for the parking of motor vehicles while the person is lawfully transporting and storing a firearm in the motor vehicle and the firearm is locked in or locked to the motor vehicle, to avail himself of temporary or long-term parking or storage of a motor vehicle, and to prohibit any infringement of the right to lawful possession of firearms when the firearms are being transported and stored in a vehicle for a lawful purpose.

H.4841 "JUDICIAL ENHANCEMENT ACT OF 2006"

Rep. McLeod

This comprehensive bill makes numerous revisions relating to the judiciary. Revisions include, but are not limited to the following:

- The bill directs each county clerk of court to report certain information to court administration regarding indictments.
- The bill outlines a procedure for the assignment of a single circuit court judge to complex civil actions.
- This bill empowers a family court judge to appoint a hearing officer to hear matters instituted in the family court.

Legislative Update, March 21, 2006

- The bill outlines certain factors for the family court to consider when determining attorney's fees.
- Relating to the schedule of fees and costs to be collected by magistrates, the bill increases the fee in all civil actions, for issuing a summons and copy for the defendant, and for filing judgment with or without a hearing from forty-five dollars to one hundred twenty dollars.
- Relating to the division of the state into judicial circuits, this bill increases the number of at-large circuit court judges from thirteen to sixteen.
- Relating to post-conviction relief procedures, the bill revises the procedure for judicial review of post-conviction relief filings to include the issuance of a certificate of probable cause.
- Relating to family court judicial circuits, this bill increases by one the number of judges in the fifth, seventh, and sixteenth circuits.
- Relating to the civil jurisdiction of magistrates courts, the bill increases the civil jurisdiction from seven thousand five hundred dollars to fifteen thousand dollars.
- Relating to transfer of certain cases from general sessions court to magistrates court, this bill deletes the existing provisions and provides that a case may be transferred to magistrates court if the penalty for the crime does not exceed one year or is a crime classified as a misdemeanor.
- Relating to service of a sentence by a person who commits a "no parole offense", this bill allows the director of the Department of Corrections to further reduce an offender's sentence below the mandated eighty-five percent requirement down to seventy-five percent under certain circumstances.

H.4842 "JUDICIAL CANDIDATES ELECTION ACT OF 2006" Rep. McLeod

Relating to procedures for the election of judicial candidates, this bill provides that members of the General Assembly are not ineligible to be elected to a judicial office elected at-large. The bill also repeal Section 1-23-525, relating to administrative law judges.

H.4847 *SELLING TICKETS TO AN ATHLETIC CONTEST, SPORTING, ENTERTAINMENT, OR AMUSEMENT EVENT FOR MORE THAN THE PRESCRIBED AMOUNT* Rep. Clemmons

Relating to selling tickets to an athletic contest, sporting, entertainment, or amusement event for more than the prescribed amount, this bill provides an exception for the sale or offer for sale of a ticket when authorized by an operator of the event or the venue.

LABOR, COMMERCE AND INDUSTRY

S.798 *EMPLOYERS AUTHORIZED TO ADVERTISE FOR NONSMOKER EMPLOYEES* Sen. Gregory

This bill provides that an employer may advertise that employees cannot smoke in the workplace and designate in his advertisement that the workplace is a nonsmoking environment.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.4838 "DENTAL HYGIENE PRACTICE ACT" Rep. Cato

This bill enacts the "Dental Hygiene Practice Act," which provides for the licensure and regulation of dental hygienists by the Department of Labor, Licensing and Regulation through the Dental Hygiene Advisory/Disciplinary Board.

H.4849 HOSPITAL FEES Rep. J.H. Neal

This bill provides that a hospital licensed in this State may not charge uninsured patients fees for services rendered that are in excess of the maximum fees charged for the same services rendered to insured patients.

WAYS AND MEANS

H.4800 BANK TAX Rep. Bannister

This bill allows the targeted tax credit, the income tax credit for establishing or adding to a corporate headquarters, and the tax credit allowed a corporation for construction or improvement of an infrastructure project to be claimed against the bank tax.

H.4809 INCOME TAX CREDIT FOR REHABILITATION OF HISTORIC STRUCTURE Rep. Kirsh

Regarding the state income tax credit currently allowed for qualified rehabilitative expenditures on certified historic structures, this bill defines "partner" for purposes of the application of the credit to pass-through entities. For this purpose, "partner" is defined as a partner, member, or owner of an interest in the pass-through entity, as applicable.

H.4813 PENALTY FOR COLLECTING EXCESSIVE SALES TAX Rep. Kirsh

This bill establishes and provides for a penalty against a retailer who collects from a purchaser a state or local sales tax in excess of the legal amount authorized or required.

H.4829 "INSURANCE SERVICES CONSOLIDATION AND EFFICIENCY ACT" Rep. W.D. Smith

This bill establishes within the State Budget and Control Board (the Board) and under its management and direction a separate administrative component to manage the operations of the State Accident Fund (the Fund). This component of the Board would be administered by a director appointed by the Executive Director of the Board. The bill also requires the Board to complete by July 1, 2007, a study of the fiscal impact of contracting for all administrative services performed by the Fund. If the Board determines that it is in the State's best interests to contract out the administrative services of the Fund, the Board shall then procure these services by means of competitive bids, as provided in the bill.

H.4839 PAYMENT OF TAXES BY CREDIT CARD Rep. Kirsh

This bill redesignates the current section of law which provides for payment of taxes by credit card so as to reflect it as a general power of the Department of Revenue.

H.4840 “INDUSTRY PARTNERS ACT” Rep. Harrell

This bill establishes and provides for, within each of the three South Carolina Research Innovation Centers (SCRIC), a target program of excellence reflecting the basic research currently undertaken at each center and serving as the focal point of the State’s applied research and development in each of the program areas of excellence. The South Carolina Research Authority (SCRA) is authorized to implement and manage the specified programs and other programs as the SCRA determines in collaboration with the public and private sectors.

The bill establishes the “Industry Partnership Fund” at the SCRA for the acceptance of contributions for funding the programs. Financing methods include grants, loans, investment, and other incentives. The bill establishes and provides for a contributor, a tax credit against the state income or premium tax or license fee.

The bill also adds the Director of Savannah River National Laboratory as an ex-officio trustee of the SCRA.

H.4850 “SMALL BUSINESS HEALTH INSURANCE PREMIUM ASSISTANCE ACT” Rep. Agnew

This bill establishes and provides for the Small Business Health Insurance Premium Assistance Program within the Department of Health and Environmental Services. The purpose of the program is to provide health insurance premium assistance to small businesses for all employees and employee spouses who are at or under two hundred percent of the federal poverty level.

The program would be funded from a portion of an additional license tax on cigarettes of 1.6 cents per cigarette. The funds derived from this additional tax would also be used by the Department of Health and Environmental Control (\$3 million) for maternal and child health and smoking cessation and youth smoking prevention programs, and the South Carolina Department of Agriculture (\$2 million) for programs to market South Carolina grown agricultural products.

The *Legislative Update* is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (<http://www.scstatehouse.net>) and click on "*Publications*," then click on "*Legislative Update*." This will list all of the *Legislative Updates* by date. Click on the date you need. Also available on the website is a bill summary index, where bills referenced in one or more issues of the *Legislative Update* are listed in numeric order. Links to the specific text of the *Legislative Update* issue are provided in the bill summary index.

NOTE: THE LEGISLATIVE UPDATE IS AVAILABLE TO LEGISLATIVE TRACKING SUBSCRIBERS. YOU MAY REGISTER FOR THIS FREE SERVICE ON THE SOUTH CAROLINA GENERAL ASSEMBLY HOME PAGE BY CLICKING ON "BILL TRACKING & REPORTS" (UNDER "LEGISLATIVE RESOURCES").