



South Carolina House of Representatives

Legislative Update

Robert W. Harrell, Jr., Speaker of the House

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CONTENTS

HOUSE WEEK IN REVIEW	02
HOUSE COMMITTEE ACTION	02
BILLS INTRODUCED IN THE HOUSE THIS WEEK.....	07

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HOUSE WEEK IN REVIEW

By adopting resolution **H.4546**, the House of Representatives revised its rules so as to establish **DISCLOSURE REQUIREMENTS RELATING TO EARMARK PROJECTS AND PROGRAMS** in appropriations bills. An earmark project or program includes an appropriation or budget proviso for a specific program or project not originating with a written agency budget request or not included in an appropriations bill from the prior fiscal year. Under the new provisions, every request for an earmark project or program included in an appropriations bill must be made in writing utilizing designated forms and must include such information as the name of the House Member making the request and a brief explanation the program or project. The new rule provides for how the list of earmarks with their identifying information is to be compiled and distributed to the membership. The list of earmark projects and programs included in the House Ways and Means Committee version of an appropriations bill must also be posted on the General Assembly's web site. A two-thirds vote of the membership present and voting is required in order to include an earmark project or program in an appropriations bill or a conference/ free conference committee report without adhering to the new disclosure requirements.

A second rule change approved under **H.4546** provides that Senate legislation received *by* May 1, rather than *prior to* May 1, may be taken up for consideration by the full House without the two-thirds' affirmative vote that is required for considering Senate legislation received after the deadline. The change brings the House and Senate deadlines into conformity.

The House approved **S.999**, which pertains to **BAG LIMITS ON ANTLERED DEER**, and enrolled the bill for ratification. The legislation provides that in Game Zone 5 there is no daily or season limit on antlered deer.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full committee did not meet this week.

EDUCATION AND PUBLIC WORKS

The full committee did not meet this week.

JUDICIARY

The full House Judiciary Committee met on Tuesday, January 22, and reported out several bills.

The committee gave a report of favorable with amendments on **H.4400**, a bill providing for comprehensive **IMMIGRATION REFORM** provisions.

Harboring Illegal Aliens

The legislation provides that it is a felony offense to transport or harbor illegal aliens so as to further their illegal entry into the United States or circumvent their detection or apprehension by state or federal authorities. A violation is punishable with a fine of up to five thousand dollars and/or imprisonment for up to five years. Specific exemptions are established for providing health care treatment and for providing shelter that is offered for strictly humanitarian purposes or in compliance with the Violence Against Women Act.

“Sanctuary Cities” Prohibited

Political subdivisions are prohibited from adopting provisions that limit or deny the enforcement of state laws pertaining to immigration. Political subdivisions are also prohibited from adopting immigration provisions that are more stringent than state laws.

Public Employment

The legislation prohibits the State and its political subdivisions from entering into a qualifying service contract unless: (1) the contractor and subcontractors participate in the federal work authorization program to verify citizenship status of all new employees; or (2) the contractor agrees to employ only workers who possess valid South Carolina driver's licenses or identification cards, are eligible to receive such identification, or possess valid driver's licenses or identification from other states that have licensure requirements at least as stringent as South Carolina's. A contractor or subcontractor who violates these provisions forfeits to the public employer a penalty of five percent of the gross amount of the contract. A public employer complies with these provisions by obtaining a written statement from the contractor certifying compliance with the requirements. Knowingly filing fraudulent certification is a felony offense that is subject to a fine set at the court's discretion and/or imprisonment for up to five years.

Private Sector Employment

The legislation caps at six hundred dollars the amount that a taxpayer is allowed to claim each year on state income taxes as a deductible business expense for wages paid to an employee unless the employee is authorized to work in the United States under federal law. This deductible business expense cap does not apply to the wages of employees whose legal status is verified through possession of valid South Carolina driver's licenses or identification cards, eligibility to receive such identification, or possession of valid driver's licenses or identification from other states that have licensure requirements at least as stringent as South Carolina's.

The legislation's state income tax provisions address not only direct employment situations, but also compensation paid for contract work that is reported on Form 1099. In such situations, state income tax must be withheld at the rate of six percent of the

amount of compensation if the employed individual fails to provide a taxpayer identification number or social security number.

Wrongful Termination

The legislation provides a civil right of action for wrongful termination against an employer who knowingly terminates an employee, without proper cause, while retaining in substantially the same job category a person the employer knows or should know is an illegal alien. The recovery for an individual who brings a civil suit under this provision is limited to the reinstatement of his former position and lost wages.

Higher Education

The legislation provides that illegal aliens are not eligible to attend the state's public institutions of higher learning. Illegal aliens are not eligible to receive state scholarships, other public assistance, or resident tuition at a private institution of higher learning.

Public Benefits

The legislation requires the validation of citizenship status in order for an individual who is at least eighteen years old to be eligible to receive public benefits. Every applicant is required to execute an affidavit verifying the lawfulness of his presence in the country. In the case of an individual claiming legal alien status, the affidavit serves as temporary authorization for receiving benefits while further verification is conducted through the federal Systematic Alien Verification of Entitlement (SAVE) program. An individual who executes a fraudulent affidavit or assists others in making fraudulent claims is guilty of a felony offense and must be imprisoned for up to five years and/or fined at the discretion of the court.

Exceptions are provided to cover such circumstances as receiving disaster relief, benefits for certain emergency medical treatment, public health assistance for immunization, prenatal care, assistance for victims of domestic violence, and access to certain programs and services for the homeless such as soup kitchens, crisis counseling, and short-term shelters.

Restitution for Identity Fraud

The legislation provides that an individual found guilty of financial identity fraud or identity fraud involving the falsification of documents that enables an illegal alien to receive public benefits must make restitution to the agency or political subdivision that administered the benefit or entitlement program.

The legislation establishes a civil cause of action for an individual who suffers an ascertainable loss as a result of such identity fraud relating to illegal immigration. A plaintiff is entitled to treble damages.

State Grand Jury

Legislative Update, January 29, 2008

The legislation expands the jurisdiction of the State Grand Jury to include matters involving the large-scale production of false documentation for the purposes of illegal immigration or financial identity fraud.

Firearms

The legislation provides that it is unlawful for an illegal alien to store, keep, buy, transport, distribute, manufacture, or possess a firearm or to permit another to engage in these activities. A violation is a felony offense punishable with a fine of up to ten thousand dollars and/or imprisonment for up to ten years.

The legislation provides that it is unlawful for an individual, directly or indirectly, to sell, rent, give away, or otherwise provide a firearm to an illegal alien. A violation is a misdemeanor offense punishable with a fine of up to two thousand dollars and/or imprisonment for up to three years.

Bond Consideration

The legislation allows an accused individual's illegal alien status to be used as a consideration for determining bond.

Detention of Illegal Aliens

The legislation requires law enforcement to make a reasonable attempt to ascertain the immigration status of every person charged with a criminal offense is confined, for any period, in a local, regional, or state jail or other correctional facility. If verification of lawful status cannot be made from documents in the possession of the person and the person is not a United States citizen, verification must be made within seventy-two hours through a query to the Law Enforcement Support Center (LESC) of the United States Department of Homeland Security or other designated office or agency. If the prisoner is determined to be an illegal alien, the United States Department of Homeland Security must be notified. An account must be kept of the daily expenses incurred for detaining an illegal aliens and an invoice must be sent to the United States Department of Homeland Security for reimbursement of those costs.

Cooperation Between State and Federal Law Enforcement

The legislation directs the chief of the South Carolina Law Enforcement Division to enter into negotiations with federal authorities in order to reach an understanding on: (1) the enforcement of federal immigration laws by state and local law enforcement; (2) the detention of illegal immigrants by state and local law enforcement officials and the costs associated with those detentions; (3) the removal of detained illegal immigrants by federal authorities or the deportation of illegal immigrants by state and local law enforcement officials; (4) relevant training for state and local law enforcement officials; and (5) further communication and cooperation between federal law enforcement and state and local law enforcement officials in the area of immigration enforcement.

Registration of Immigration Assistance

The legislation establishes and provides for the enforcement of standards of ethics in the profession of immigration assistance by private individuals who are not licensed attorneys. The legislation limits what immigration assistance a nonlawyer may provide

as well as restricts certain activities of these nonlawyers providing immigration assistance for compensation. Exceptions are provided for attorneys and their staff, certain not-for-profit organizations, and other organizations employing or desiring to employ an alien so long as the organization does not seek compensation for the services provided. A person performing immigration assistance services is required to obtain appropriate business licenses; the bill outlines procedures for obtaining and renewing licenses with the Secretary of State. The legislation requires nonattorneys to post signs and give notice in advertisements and communications clearly indicating that they are not attorneys or authorized to give legal advice or accept fees for legal services. Civil and criminal penalties are provided and violations are also subject to the provisions of the South Carolina Unfair Trade Practices Act.

The committee amended **S.392**, the “**SOUTH CAROLINA ILLEGAL IMMIGRATION REFORM ACT**,” to replace its provisions with those of **H.4400**.

The committee gave a favorable report on **H.4347**. This joint resolution directs the Attorney General to pursue all available remedies and seek **REIMBURSEMENT FROM THE FEDERAL GOVERNMENT FOR COSTS INCURRED BY THE STATE FOR THE INCARCERATION AND PROVISION OF GOVERNMENTAL SERVICES TO ILLEGAL IMMIGRANTS**. This joint resolution also requires the cooperation of State agencies in providing information on illegal immigration and illegal immigrants to the Attorney General.

The committee gave a favorable report on **S.94**. This bill revises provisions for a **SURVIVING SPOUSE’S RIGHTS TO AN ELECTIVE SHARE, HOMESTEAD ALLOWANCE, AND EXEMPT PROPERTY**, so as to provide for the voluntary waiver of those rights upon fair and reasonable disclosure by the other spouse.

S.369, a bill **PROHIBITING SMOKING IN A MOTOR VEHICLE OCCUPIED BY CHILDREN** under the age of ten, was recommitted to the Criminal Laws Subcommittee.

LABOR, COMMERCE AND INDUSTRY

The full House Labor, Commerce and Industry Committee met on January 22 and gave a favorable report on **S.588**, a bill establishing requirements, powers, duties, and restrictions for a **SMALL EMPLOYER HEALTH GROUP COOPERATIVE**. The legislation authorizes small employers to form cooperatives for the purpose of providing lower health insurance costs to their employees. The legislation requires the Department of Insurance and Office of Research and Statistics of the Budget and Control Board to submit to the Governor and the General Assembly by January 1, 2010, a report on the effectiveness of the health group cooperative in expanding the availability of health insurance coverage for small employers.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full committee did not meet this week.

WAYS AND MEANS

The full committee did not meet this week.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

H. 4542 BEACH EROSION CONTROL POLICY Rep. Hagood

This bill defines "full and complete access" under the current beach erosion control policy.

H. 4547 MIGRATORY WATERFOWL PROVISIONS Rep. Vick

This bill provides for the cost of migratory waterfowl stamps and the manner in which they are sold. This bill also does not require persons (sixty-four years old and older) with lifetime hunting and fishing licenses to have a migratory game bird permit. In addition, this bill makes it unlawful to harm, disturb or take actively nesting waterfowl or damage waterfowl nest box.

H.4548 CATCH LIMITS FOR FISHING IN CERTAIN WATERS Rep. Umphlett

This bill repeals the current daily limits on game fish; striped bass or rockfish in certain waters and establishes new catch limits and length limits pertaining to striped bass in certain waters.

EDUCATION AND PUBLIC WORKS

H.4528 SPECIAL MOTOR VEHICLE LICENSE PLATES Rep. Crawford

This bill allows the Department of Motor Vehicles to issue 'South Carolina Educator' vehicle license plates to public and private kindergarten through twelfth grade school teachers for private motor vehicles registered in their names.

H.4539 SOUTH CAROLINA STATE UNIVERSITY BOARD Rep Govan

This bill revises the membership of the Board of Trustees and the selection process, effective July 1, 2008.

H.4560 EMERGENCY WAIVERS OF REGISTRATION AND LICENSING REQUIREMENTS Rep. Walker

This bill allows the Department of Motor Vehicles to issue emergency waivers of registration and licensing requirements of motor carriers providing humanitarian relief during the time of an emergency.

H.4563 PROVISION FOR CHARTER SCHOOLS Rep. Limehouse

Currently, the Department of Education maintains a list of vacant and unused buildings that are owned by school districts that may be suitable for the operation of charter schools. This bill adds that no school district shall charge rent to a charter school for a lease or use of a building that is owned by the district.

JUDICIARY

S.890 PROVISIONS FOR DNA DATABASE Senator Malloy

This bill addresses the following:

- Requires DNA samples upon lawful custodial arrest for felony offense that carries a sentence of five years or more from juveniles.
- Requires DNA samples to be provided before a person is released on parole, released from confinement, or released from an agency's jurisdiction.
- Deletes requirement that persons authorized must be certain types of health professionals; however, requiring authorized persons to be appropriately trained.
- Provides for the coordination between SLED and local law enforcement agencies to prevent collection and processing of duplicate samples
- Provides for expungement at no costs when charges are dismissed, nolle prossed, or reduced below the DNA sample requirement

Provides that the state will pay for the cost of collecting and processing DNA samples and provides that fees collected shall be remitted to the general fund of the state and credited to SLED

**H.4523 NO PAROLE AND LIFE SENTENCES DEFINITIONS EXPANDED
Rep. Erickson**

This bill expands the definition of life sentences for persons convicted of certain offenses by adding the offense of committing or attempting a lewd act upon a child under the age of sixteen to the current list. This same offense is also added under the "No Parole Offense" definition.

**H.4526 EXPANDING LIST OF OFFENSES DEFINED AS VIOLENT
Rep. Erickson**

This bill includes burglary in the second degree when a person enters a dwelling with intent to commit a crime in addition to burglary to the list of violent offenses. This same offense is also included in the list of offenses relating to life sentences.

H.4531 UNITED STATES MARINE CORPS' FLAG Rep. Crawford

This bill requires the United States Marine Corps' flag to be flown atop of the state house dome on November 10th, the founding date of the Marine Corps.

H.4534 PROCEDURES FOR MAKING ARRESTS Rep. M. A. Pitts

This bill establishes procedures for the Department of Natural Resources enforcement officers to use the official department summons for arrests for violations of laws and regulations of the Department of Natural Resources, and all other misdemeanors within the jurisdiction of the magistrates, municipal, or family court.

**H. 4538 "GOVERNMENT ACCOUNTABILITY ACT OF 2008" Rep.
Funderburk:**

This legislation makes numerous changes pertaining to the operation of state government. The changes include, but are not limited to, the following:

- Violations of state or federal law may be written, oral, or testimony to a legislative committee;
- Requires standing committees of the general assembly to review and study the operations of state agencies within the committee's jurisdiction;
- Provides a process for investigations;
- Requires certain reports and recommendations to be programmatic format;
- Allows the Attorney General to replace the Comptroller General of the Budget and Control Board;
- Repeals Chapter 5 of Title 1 relating to the Secretary of State;
- Transfers certain powers and duties from the Attorney General to the Secretary of State;
- Allows for the Governor to appoint the Commissioner of Agriculture with the advice and consent of the Senate. Repeal Section 46-3-40, relating to the election and term of the Commissioner of Agriculture;
- Provides methods by which the Governor may remove certain officers;
- Creates the Office of the State Inspector General and provide for the appointment and authority given to this position;
- Establishes a Department of Administration as an agency of the executive branch, providing for the method for establishing this department;
- Establishes the division of the State Chief Information Officer within the Department of Administration, providing for its functions and responsibilities.

H. 4540 REINSTATEMENT OF PERMANENTLY REVOKED DRIVER'S LICENSE

Rep. Walker

Currently certain persons may petition the circuit court for reinstatement of driver's license. This bill now requires that the director of the Department of Motor Vehicles be involved in the petition process.

H.4551 PRESCRIPTION MEDICINE ADVERTISEMENTS Rep. Rice

This bill establishes that beginning July 1, 2008, pharmaceutical companies may not advertise prescription medicines or other controlled substance that may be sold only by prescription. This bill also establishes civil penalties for violations.

H.4552 UTILITY POLICE OFFICERS Rep. Harrison

Currently, Article 13 addresses constables and special officers. This bill will add utility police officers to that article; and define term and procedures for the appointment of utility police officers.

LABOR, COMMERCE AND INDUSTRY

H.4525 UNFAIR PRACTICES AMONG MOTOR VEHICLE MANUFACTURERS, DISTRIBUTORS, AND DEALERS Rep. Branham

This bill revises provisions specifying acts that are considered to be unfair methods of competition and unfair or deceptive acts or practices among motor vehicle manufacturers, distributors, and dealers. The legislation provides that to use or consider the performance of certain franchised new motor vehicle dealers relating to the sale of a

manufacturer's new motor vehicle or the ability to satisfy its minimum sales or market share quotas or responsibilities is a violation of these provisions when they are used to determine a dealer's eligibility to purchase certain motor vehicles from the manufacturer, or the availability or amount of any discount, credit, rebate or sales incentive the dealer is eligible to receive from the manufacturer for the purchase of a program, certified, or other used motor vehicle offered for sale by the manufacturer. The legislation provides that it is a violation for a motor vehicle manufacturer, distributor, or dealer to discriminate against certain motor vehicle dealers, or use a financial services company, or leasing company owned or controlled by a manufacturer or distributor engaged in illegal activity.

**H.4554 RESTRICTIONS ON LOCAL GOVERNMENT PROFESSIONAL TAXES
AND FEES ON REAL ESTATE BROKERS-IN-CHARGE**

Rep. Cobb-Hunter

This bill provides that the governing body of a county or municipality may not impose a license, occupation, or professional tax or fee upon real estate licensees, except upon the broker-in-charge at the place where the real estate licensee maintains a principal or branch office. The legislation provides that a municipality may impose an occupation, license, or professional tax or fee upon real estate brokers-in-charge based upon gross receipts only for real estate transactions with respect to property located within its corporate limits, and a county governing authority may impose an occupation, license, or professional tax or fee upon real estate brokers-in-charge based upon gross receipts only for real estate transactions with respect to property located within the unincorporated areas of the county.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.4527 BODY PIERCING TECHNICIAN REQUIREMENTS Rep. Crawford

This bill adds the American Safety and Health Institute as a certifying agency for body piercing technicians and training automated external defibrillator users.

H.4529 PENALTIES FOR ILLEGALLY DISPENSING CONTACT LENSES

Rep Weeks

This bill provides relief in the administrative law court for contested cases.

WAYS AND MEANS

**S.422 CRITERIA FOR TAX ASSESSMENT RATIO ALLOWED
OWNER-OCCUPIED RESIDENTIAL PROPERTY Sen. McConnell**

This bill provides that the owner-occupant of residential property qualifies for the special four percent property tax assessment ratio allowed owner-occupied residential property if the owner has made the proper certificate to the county assessor and if the residence that is the subject of the application is: (A) listed as the owner's address on either the owner's South Carolina voter registration card or South Carolina driver's license; (B) he address listed for the owner's personal property tax notices; and (C) not rented for more

than ninety days in a calendar year and a rental commission, however described, is not paid to anyone in connection with the rental of the residence

H.4519 SALES TAX EXEMPTION FOR ELECTRICITY, NATURAL GAS, AND OTHER FUELS USED BY HOUSES OF WORSHIP Rep. Vick

This bill revises sales and use tax exemptions, so as to extend to houses of worship the exemption allowed for residential use of electricity, natural gas, and other fuels.

H.4520 FINANCING UNDER THE HIGHER EDUCATION REVENUE BOND ACT

Rep. Cooper

This bill revises provisions relating to issuance of revenue bonds by colleges and universities, so as to clarify and further specify what facilities are eligible to be financed under the Higher Education Revenue Bond Act. The legislation eliminates a provision relating to certain limitations on the issuance of revenue bonds.

H.4524 REVISIONS TO SALES TAX EXEMPTION FOR DURABLE MEDICAL EQUIPMENT AND MEDICAL SUPPLIES Rep. Bingham

This bill clarifies that in order to qualify for the sales tax exemptions allowed for durable medical equipment and medical supplies these goods must be sold according to written prescription or certificate of medical necessity. The legislation revises the schedule of the phase-in of the sales tax exemption for durable medical equipment and related supplies and eliminates the revenue growth requirement for the phase-in of this exemption.

H.4543 USE OF ACCOMMODATIONS TAX REVENUES TO ATTRACT AND PROVIDE FOR DAY VISITORS Rep. Scarborough

This bill adds a definition for "day visitor" under the state accommodations tax provisions. "Day visitor" means a person who travels outside of his community or environment, regardless of the distance traveled, for the primary purpose of engaging in a leisure or recreational activity for no more than one day per visit. "Day visitor" does not include a person that spends a night in the new community or environment. The legislation authorizes the use of accommodations tax revenues to attract and provide for day visitors.

H.4549 MOTOR VEHICLE TAX REVENUES DEVOTED TO HIGHWAY, ROAD, AND BRIDGE MAINTENANCE Rep. Harrell

This bill provides for a phased-in transfer of motor vehicle sales, use, and casual excise tax revenues to the State Highway Fund to be used exclusively for highway, road, and bridge maintenance. The legislation provides that, in fiscal year 2008-2009, ten million dollars of these tax revenues must be credited to the State Highway Fund. In each succeeding fiscal year, an additional thirty million dollars must be added to the cumulative total amount credited to the State Highway Fund in the preceding fiscal year, until and after which all of the specified revenues must be so credited. The legislation establishes a "hold harmless" provision for the Education Improvement Act (EIA) Fund under which income tax revenues are, in each fiscal year, transferred from the state's general fund to the Education Improvement Fund an amount sufficient to offset sales tax revenues that are redirected under this legislation.

H.4550 INCOME TAX RATE REDUCTION FOR MARRIED TAXPAYERS

Rep. Harrell

This bill establishes a schedule for income tax rate reductions for married taxpayers by annually reducing the current three percent income tax rate over the course three years so as to ultimately set the rate at two percent.

**H.4553 INCREASE IN INCOME TAX DEDUCTIONS FOR RETIREMENT
INCOME AND SENIOR CITIZENS**

Rep. Bales

This bill increases the maximum state individual income tax deduction allowed for retirement income from three thousand to thirty thousand dollars. The legislation increases from fifteen thousand dollars to thirty thousand dollars the state individual income tax deduction allowed all individuals who have attained the age of sixty-five years.

H.4561 "BEACHFRONT FINANCE ACT" Rep. Hagood

This bill enacts the "Beachfront Finance Act" so as to provide that a county or municipality may issue bonds to finance the cost of controlling and repairing waterfront erosion. The bill revises provisions for the use of revenue from the state accommodations tax, so as to provide that a municipality or county may issue bonds to finance the cost of controlling and repairing waterfront erosion. The bill revises provisions relating to the administration of the state accommodations tax, so as to provide that the State Treasurer may not withhold accommodation tax funds from a local government that collects four hundred thousand dollars or more if the local government has within its boundaries a beach that is ranked among the most at-risk beaches in the state by the Office of Ocean and Coastal Resource Management. The legislation provides that a local government with one of the most at-risk beaches within its boundaries may issue a beach renourishment bond or may use the funds retained for the purpose of controlling or repairing waterfront erosion. The bill requires the Office of Ocean and Coastal Resource Management to rank the most at-risk beaches in the state in its Annual State of the Beaches Report.

H.4564 SALES TAX EXEMPTION FOR FUNERAL IMPLEMENTS

Rep. J. M. Neal

This bill provides a sales tax exemption for hardware and materials classified as tangible personal property including caskets, vaults, urns, and markers, together with all attendant parts, components, and attachments, used in the burial or cremation of human beings.

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*

Legislative Update, January 29, 2008

Update are listed in numeric order. Links to the specific text of the *Legislative Update* issue are provided in the bill summary index.

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