



South Carolina House of Representatives

Legislative Update

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

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HOUSE WEEK IN REVIEW

Members of the House of Representatives returned to the capitol on Tuesday, January 12, 2010, to commence the second legislative year of the 118th South Carolina General Assembly.

The House amended, adopted, and sent to the Senate **H.4219**, a **RESOLUTION CENSURING THE GOVERNOR**. The concurrent resolution provides that the members of the South Carolina General Assembly censure Marshall C. Sanford, Jr., Governor of South Carolina, for dereliction in his duties of office, for official misconduct in office, and for abuses of power while in office that has brought ridicule, dishonor, shame, and disgrace to himself, the State of South Carolina, and to its citizens.

The House amended, approved, and sent to the Senate **H.4303**, a joint resolution requiring certain immediate **ADMINISTRATIVE ACTIONS OF THE EMPLOYMENT SECURITY COMMISSION** to begin to remedy the insolvency of the Unemployment Insurance Trust Fund. The legislation requires the Employment Security Commission to enforce disqualification parameters under which an insured worker is ineligible for unemployment compensation benefits if the commission finds that he has been discharged from work for gross misconduct. Gross misconduct includes such activities as: possession or consumption of illegal drugs on employer property; blood alcohol content of .08 percent or higher while on the job; assault or battery; abuse of a patient or child under professional care; willful or reckless damage to employer property in excess of two hundred dollars; theft causing loss in excess of two hundred dollars; insubordination; sleeping on the job; neglect of duty; poor attitude; poor work quality; and, absenteeism or tardiness. The legislation directs the commission to increase eligibility reviews and investigations of fraud and abuse. The commission is required to prohibit new claims filed by an employer whose contributions paid for all past periods is less than the total benefits charged to the employer's account for all past periods. The legislation imposes certain requirements for record keeping and making reports to the legislature. The commission is also directed to continue to work with the South Carolina Budget and Control Board and Office of Research and Statistics to develop and continuously improve a customer service portal, including increased interagency integration and data sharing, and keep the General Assembly regularly informed of its progress in upgrading its computer system through a possible multistate compact in cooperation with the federal government.

The House approved and sent to the Senate **H.4299**, a joint resolution providing temporary **FUNDING FLEXIBILITY PROVISIONS FOR SCHOOL DISTRICTS** and special schools. For fiscal year 2010-2011, school districts and special schools of this State may transfer and expend funds among appropriated state general fund revenues, Education Improvement Act funds, Education Lottery Act funds, and funds received from the Children's Education Endowment Fund for school facilities and fixed equipment assistance, to ensure the delivery of academic and arts instruction to students. A school district may not, however, transfer funds required for debt service or bonded indebtedness. For fiscal year 2010-2011, school districts may: (1) suspend professional staffing ratios and expenditure regulations and guidelines at the sub-function and service area level, except for four-year-old programs; (2) delay from April fifteenth to May fifteenth the date that contracts are issued to teachers. A teacher who is reemployed by

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written notification shall notify the board of trustees of the district in writing of his acceptance of the contract within ten days of such notification or May twenty-fifth, whichever occurs later. Failure on the part of the teacher to notify the board of acceptance within the specified time limit is conclusive evidence of the teacher's rejection of the contract; (3) uniformly negotiate salaries below the school district salary schedule for the 2010-2011 school year for retired teachers who are not participants in the Teacher and Employee Retention Incentive Program; and (4) if not prohibited by an applicable employment contract, furlough teachers for up to five noninstructional days, provided that district administrators are furloughed for twice the number of days. To further ensure resources are maximized, school districts are encouraged to reduce expenditures by such means as: (1) limiting the number of low enrollment courses; (2) reducing travel for the staff and the school district's board; (3) reducing and limiting activities requiring dues and memberships; (4) reducing transportation costs for extracurricular and academic competitions; and (5) expanding virtual instruction. Education related entities that require dues from school districts are encouraged to consider cost-saving measures for school districts including, but not limited to, coordination and reductions in dues, workshops, and professional training initiatives. Prior to implementing these flexibility provisions, school districts must provide to public charter schools the per pupil allocation due to the charter schools for each categorical program. The legislation requires written certification reports from school districts implementing these funding flexibility measures. For fiscal year 2010-2011, implementation of formative assessments for grades one, two, and nine, the foreign language program assessment and the physical education assessment, must be suspended. New textbook adoptions may be suspended. School districts and the State Department of Education must be granted permission to purchase the most economical type of bus fuel. In order for a school district to take advantage of the flexibility provisions provided in this joint resolution and for the fiscal year 2010-2011 only, at least sixty-five percent of the school district's per pupil expenditures must be utilized within the categories of instruction, instructional support, and noninstruction pupil services of the "In\$ite" financial analysis model for education programs utilized by the State Department of Education. No portion of the sixty-five percent may be used for business services, debt service, capital outlay, program management, and leadership services, as defined by In\$ite. By August 1, 2011, the school district shall report to the State Department of Education the actual percentage of its per pupil expenditures used for classroom instruction, instructional support, and noninstruction pupil services for the school year ending June 30, 2011. For fiscal year 2010-2011, school districts must maintain a transaction register that includes a complete record of all funds expended over one hundred dollars, from whatever source for whatever purpose. The register must be prominently posted on the district's Internet website and made available for public viewing and downloading. For fiscal year 2010-2011, the joint resolution suspends the statutory provision establishing the level of financial effort per pupil required of each school district.

The House amended, approved, and sent to the Senate **H.3941**, a bill revising **PYROTECHNIC SAFETY** provisions relating to the licensure and regulation of persons handling fireworks. The legislation increases the State Board of Pyrotechnic Safety from six to seven members, adding a member to represent pyrotechnics wholesalers. The legislation provides licensure requirements for the manufacturing, sale, or storage of fireworks. The Department of Labor, Licensing and Regulation is authorized to investigate complaints. The legislation: provides grounds for disciplinary action; requires

liability insurance; requires the reporting of fires and explosions; and, provides criminal and civil penalties for violations.

H.3279, a **PROPOSED STATE CONSTITUTIONAL AMENDMENT AUTHORIZING THE GOVERNOR TO APPOINT THE SECRETARY OF STATE**, received simple majority affirmative votes in the House of Representatives on January 13 and January 14, 2010, but the legislation failed to receive the two-thirds affirmative vote that is necessary to approve a proposed amendment to the South Carolina Constitution. The joint resolution proposes to amend the South Carolina Constitution by removing the Secretary of State from the list of State officers that the constitution requires to be elected. Instead, the Secretary of State must be appointed by the Governor upon the advice and consent of the General Assembly for a term coterminous with the Governor. The joint resolution further provides that the General Assembly shall provide by law for the duties, compensation, and qualifications for the office and the procedures for removal from office.

HOUSE COMMITTEE ACTION

There were no full committee meetings that addressed legislation, which is covered by the *Legislative Update*, this week.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

H.4328 CONSTRUCTION, DEMOLITION, AND LANDCLEARING LANDFILLS

Rep. R. L. Brown

This bill outlines a specific manner in which a sanitary landfill for the disposal of construction and demolition debris waste must be constructed.

EDUCATION AND PUBLIC WORKS

H. 4300 RAILROAD CROSSING SIGN AND SIGNAL REQUIREMENTS Rep.

G.M. Smith

This bill requires the DOT to publish a ranked list of planned railroad crossing installations; to develop criteria to determine such a ranking (with traffic stop signs

provided until arms can be installed) and mandates contingent on funding for additional installations throughout the state.

H. 4330 COMMISSIONERS OF PUBLIC WORKS Rep. Sellers

This bill strikes the provision that “two additional commissioners apply only to boards of commissioners of public works founded after 1920.”

H. 4346 DISABLED VETERAN SPECIAL LICENSE PLATES Rep. Barfield

This bill provides that the DMV shall issue disabled veteran special license plates.

JUDICIARY

H. 4324 INTERNET VOTER REGISTRATION Rep. Funderburk

This bill allows eligible persons to register to vote by Internet.

H. 4326 THREATENING A MEMBER OF THE ARMED FORCES Rep. Limehouse

This bill creates the offense of threatening a member (or family) of the Armed Forces of the United States. The legislation establishes a felony with the penalty of a fine and imprisonment.

H. 4327 WINE AND BEER LICENSES Rep. Sottile

This bill provides for a “Seventh Day Option” license for those establishments already licensed.

H. 4339 ESTABLISHES THE VULNERABLE ADULT ABUSE AND NEGLECT REGISTRY Rep. Sellers

This bill establishes the “Vulnerable Adult Abuse, Neglect and Exploitation Registry” under SLED. The bill provides how a person is placed on the registry; requires investigations; provides coordination of reports; what information is maintained on the registry and data for determining incidence; provides for the confidentiality of records and reports; requires reporting to the General Assembly and the Office of the Lt. Governor. The bill provides for persons convicted of offenses related to adult abuse to be entered on the registry.

H. 4345 REGARDING EMPLOYMENT PROTECTIONS AND REPORTS Rep. Funderburk

This bill requires that a summary of Title 8, Chapter 27 of the SC Code (employment protection for reports of violations of state or federal law or regulation) be available on a public body’s website or if not posted, provided to its employees. The bill adds “oral allegation” to the list of reports, increases the reporting time and adds sworn testimony to the SC House or Senate as a report.

LABOR, COMMERCE AND INDUSTRY

H.4298 INSURANCE REVISIONS Rep. Brady

This bill enacts “Michelle’s Law” by establishing requirements for health insurance issuers to permit a dependent child on a medically necessary leave of absence from a

postsecondary educational institution to continue dependent coverage. The legislation revises the definition of “creditable coverage” for group health insurance coverage and special enrollment in group health insurance coverage, both under the Health Insurance Portability and Accountability Act of 1996, so as to add coverage of an individual under the State Children’s Health Insurance Program and to enact federal requirements set forth in the Children’s Health Insurance Program Reauthorization Act of 2009 to provide for special enrollment of an employee or an employee’s dependent in the case of termination of Medicaid coverage or coverage under a state children’s health insurance program or the individual becoming eligible for assistance in the purchase of employment-based coverage. The legislation revises the definition of “creditable coverage” for the South Carolina Health Insurance Pool, so as to add coverage of an individual under the State Children’s Health Insurance Program. The legislation revises capitalization requirements for captive insurance companies, so as to provide that the Director of Insurance may consider the net amount of risk retained for an individual risk when arriving at a finding relating to additional capital or net assets requirements. The legislation revises submission of the report required of an association captive insurance company and industrial insured group. The legislation revises provisions for inspections and examinations of a captive insurance company, so as to permit the director to grant access to, use, and make public certain information discovered or developed during the course of an examination. The legislation revises provisions relating to the application of the provisions of Title 38 to captive insurance companies, so as to specify that regulations promulgated pursuant to applicable statutes also apply to captive insurance companies and to provide a listing of those provisions of Title 38 that apply to certain captive insurance companies. The legislation revises provisions relating to the application of the provisions of Title 38 to special purpose financial captives, so as to specify that regulations promulgated pursuant to applicable statutes also apply to special purpose financial captives. The legislation revises provisions relating to the privacy of genetic information, so as to: enact federal requirements set forth in the Genetic Information Nondiscrimination Act of 2008 to prohibit discrimination on the basis of genetic information; provide for the requirements relating to the collection of genetic information; and provide for the scope of the chapter.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.4329 *PHYSICAL THERAPISTS’ GROUNDS FOR SANCTIONS* Rep.

Bingham

This bill deletes the reference to “wages” as a means of engaging in the prohibited conduct. It further specifies arrangements that may exist between a physical therapist and a physician which may not be considered conduct subject to sanctions by the Board of Physical Therapy Examiners.

H.4341 *AUTISM SPECTRUM DISORDER STUDY COMMITTEE* Rep. Hutto

This joint resolution creates the Autism Spectrum Disorder Study Committee on Early Intervention. Autism spectrum disorder is a bio-neurological developmental disability that generally appears before the age of three. The committee will study the prevalence, screening, diagnosis and intervention of this disorder. The resolution further outlines its

purpose, members and duties. The study committee must submit its findings and recommendations no later than December 1, 2011, at which time the study committee is abolished.

WAYS AND MEANS

H.4301 REFERENDUM REQUIRED FOR A MUNICIPAL GOVERNING BODY TO

***ESTABLISH A TAX INCREMENT FINANCING DISTRICT* Rep. Harvin**

This bill provides that, before a municipal governing body may establish a tax increment financing district, the qualified electors of that municipality must first approve of its establishment in a referendum called for this purpose by the municipal governing body. If the results of the referendum are unfavorable, no subsequent referendum for that district or a substantially similar district may be held again for a period of two years thereafter.

H.4310 LOCAL OPTION TOURISM DEVELOPMENT FEE REVENUES Rep. Clemmons

This bill revises local option tourism development fee provisions to allow amounts up to twenty percent of the revenue to be used for property tax relief for owner-occupied residential property and for tourism-related capital projects beginning in the second rather than the third year of imposition of the fee. The legislation requires the amounts used for these purposes to be retained by the municipality with at least twenty percent of the amount returned used as a credit against the property tax liability of owner-occupied residential property. The legislation specifies how the credit is to be calculated. The legislation provides for the use of credits when the municipal property tax liability has been exceeded.

H.4325 REVISIONS TO ACTIONS REQUIRED BY THE STATE BUDGET AND CONTROL BOARD TO AVOID YEAR-END DEFICITS Rep. Kirsh

This bill provides that, if at the end of the third quarter, in addition to the first and second quarters, of any fiscal year quarterly revenue collections are two, rather than four, percent or more below the amount projected for that quarter by the Board of Economic Advisors, the State Budget and Control Board, within fifteen days of that determination, shall take action to avoid a year-end deficit.

H.4331 POLITICAL SUBDIVISIONS REQUIRED TO GRANT FULL-TIME LAW ENFORCEMENT OFFICERS PAID ADMINISTRATIVE LEAVE WHEN PHYSICALLY ATTACKED IN THE PERFORMANCE OF OFFICIAL DUTIES Rep. M.A. Pitts

This bill provides that, if a law enforcement officer employed in a full-time equivalent position (FTE) by a political subdivision of this State suffers bodily harm as a result of a physical attack on the officer while in the performance of his official duties, the officer's employer shall grant the officer a total of at least one hundred eighty days of paid administrative leave before requiring the officer to use paid sick leave available to the officer under the employer's personnel policies.

H.4336 DEADLINE EXTENSION FOR THE SOUTH CAROLINA TAXATION

REALIGNMENT COMMISSION REPORT Rep. Cooper

This joint resolution extends from March 15, 2010, to November 15, 2010, the date by which the principal report and recommendations of the South Carolina Taxation Realignment Commission are due to be completed and delivered.

H.4343 *SOUTH CAROLINA AIR SERVICE INCENTIVE AND DEVELOPMENT FUND Rep. Wylie*

This bill establishes the South Carolina Air Service Incentive and Development Fund under the South Carolina Aeronautics Commission to provide grants to regional economic development entities or air service development task forces to provide more flight options, more competition for air travel and more affordable air fares for the citizens of the region and this state. The legislation establishes the selection criteria and selection process for these grants to be made from funds provided to or appropriated for the fund by the General Assembly.

H.4347 *REVENUE IMPACT STATEMENTS Rep. Cooper*

This bill revises provisions relating to tax bills and revenue impact statements, so as to provide that the revenue impact statement must be signed by the Chief Economist of the Office of Research and Statistics of the State Budget and Control Board. The legislation revises provisions relating to the certification of a revenue impact of a provision for purposes of its inclusion in the annual general appropriations bill and changes in the official revenue estimate, so as to provide that the revenue impacts must be certified by the Chief Economist of the Office of Research and Statistics of the State Budget and Control Board and that the Board of Economic Advisors shall adjust its estimates to reflect these certifications and make other adjustments it considers necessary in the final version of the annual general appropriations bill.

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