



South Carolina House of Representatives

Legislative Update

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

Vol. 29

February 7, 2012

No. 05

CONTENTS

HOUSE WEEK IN REVIEW	02
HOUSE COMMITTEE ACTION	03
BILLS INTRODUCED IN THE HOUSE THIS WEEK.....	04

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 H.3793, a bill addressing **SYNTHETIC MARIJUANA AND OTHER SYNTHETIC DRUGS**. The legislation adds numerous materials, chemical compounds, mixtures and preparations, including those commonly known as bath salts, spice, and K2, to the list of Schedule I controlled substances, which are unlawful for members of the general public to purchase, sell, distribute, manufacture, or possess.

The House amended, approved, and sent to the Senate H.4614, legislation establishing procedures and requirements relating to **COURT-ORDERED JOINT CUSTODY OF CHILDREN**. Among other things, the legislation requires parents to jointly prepare and submit a parenting plan, which the court must consider before issuing temporary and final custody orders; however, the failure by a party to submit a parenting plan to the court does not preclude the court from issuing a temporary or final custody order. The legislation requires the court to make final custody determinations in the best interest of the child based upon the evidence presented. The court may award joint custody to both parents or sole custody to either parent. It requires the court to consider joint custody if custody is contested or if either parent seeks it and to state findings of fact as to why or why not joint custody was awarded. The legislation provides matters that may be included in a custody order, provides factors the court may consider in issuing or modifying a custody order when considering the best interest of the child, and authorizes a parent to seek arbitration of an issue that cannot be resolved between the parents. The family court retains jurisdiction to modify a joint custody order based upon a substantial change of circumstances.

The House amended, approved, and sent to the Senate H.4595, a bill revising a 2011-2012 General Appropriations Act proviso that directs the Department of Education to transfer certain funds to meet federal **MAINTENANCE OF EFFORT REQUIREMENTS FOR THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT** (IDEA).

The House approved and sent to the Senate H.4664, a bill revising the **MEMBERSHIP OF THE BOARD OF DIRECTORS OF THE SOUTH CAROLINA RURAL INFRASTRUCTURE AUTHORITY** by providing that the members appointed by the Speaker of the House of Representatives and the Chairman of the House Ways and Means Committee may be members of the General Assembly. Such members must reside in or represent all or some portion of the counties designated as distressed or least developed, and if appointed, must serve on the board in an ex officio capacity.

The House amended, approved, and sent to the Senate H.4571. This bill makes revisions pertaining to the **REPEAL OF SECTION 56-1-754, WHICH RELATES TO THE SUSPENSION OF A DRIVER'S LICENSE OF A PERSON CONVICTED OF A CONTROLLED SUBSTANCE VIOLATION**. This particular code section was repealed by the General Assembly last year by Act 13 of 2011. This legislation enacts language in order to carry out the intentions of the General Assembly when it enacted this legislation to discontinue the suspension of the driver's license of a person who was charged with a controlled substance violation before April 12, 2011, but whose conviction occurred on or after April 12, 2011.

HOUSE COMMITTEE ACTION

JUDICIARY

The full Judiciary Committee met on Tuesday, January 31, 2012, and reported out one bill. **H.3248** received a favorable with amendment report. Relating to the **STATUTE OF LIMITATIONS FOR PROSECUTING CERTAIN ETHICS VIOLATIONS**, this legislation provides that in the case of a public official, public member, or public employee who is alleged to have violated the provisions a prosecution may also be commenced within three years after the person leaves public office or employment.

LABOR, COMMERCE AND INDUSTRY

The Labor, Commerce and Industry Committee met on February 2 and reported out three bills.

The committee gave a report of majority favorable with amendments, minority unfavorable, on **H.4652**, a bill providing for **RIGHT TO WORK LAW ENHANCEMENTS**. The legislation authorizes notifications that may be posted in workplaces in order to inform employees of South Carolina's public policy that a person's right to work must not be denied or abridged because of membership or nonmembership in a labor union or labor organization. The legislation prohibits state and local government contracts from including project labor agreements which require that unionized labor comprise a set percentage of the workforce on a project. A governmental unit is prohibited from making the award a contract, grant, tax abatement, or tax credit conditional upon the adherence to a collective bargaining agreement or the refusal to enter into a collective bargaining agreement. The legislation establishes requirements for a labor organization to file reports with the Department of Labor, Licensing and Regulation concerning its finances and governance. The legislation requires signed written or electronic authorization from an employee in order for labor organization membership dues to be deducted from wages and allows the employee to rescind this authorization at any time. The legislation revises criminal penalties for a violation of right to work laws, by increasing the minimum fine from ten dollars to one thousand dollars and the maximum fine from one thousand dollars to ten thousand dollars. The legislation authorizes the award of treble damages as a remedy available to a worker for a violation of his right to work and requires a person seeking relief to demonstrate a factual basis for a claim. The legislation increases from one hundred dollars to ten thousand dollars the maximum civil penalty that the Department of Labor, Licensing and Regulation may assess for a violation. The committee gave a favorable report on **S.929**, "**BENJI'S LAW**", which establishes new **SAFETY REQUIREMENTS FOR MINIATURE TRAINS** operated as amusement rides in public parks. Before the Department of Labor, Licensing and Regulation may issue or renew a permit for a miniature train amusement ride, the legislation requires: (1) the ride to have a properly operating speedometer; (2) the ride to be equipped with a regulating device that restricts the train's maximum speed; (3) all drivers operating the

ride to satisfy new training requirements; and (4) the ride to pass safety inspections that must be conducted on an annual basis, if not more frequently.

The committee gave a favorable report on **H.4639**. This bill adopts the 2009 Edition of the International Energy Conservation Code as the **STATE ENERGY STANDARD** for building code purposes, updating the current statutory reference to the 2006 edition of the code.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

S.1095 SAVANNAH RIVER DREDGING Sen. Lourie

This concurrent resolution is in regard to the Department of Health and Environmental Control Board's vote to approve the United States Corps of Engineer's application to dredge the Savannah River. The resolution outlines that the Board acted without any independent consideration and analysis, and neglected its duty, to protect the environment in South Carolina. The resolution also calls upon the Board to reconsider the matter and overturn the application approval.

S.1115 ISSUES PERTAINING TO THE SAVANNAH RIVER Sen. McConnell

This joint resolution suspends the authority of the South Carolina Department of Health and Environmental Control for all decisions subsequent to 2007, pertaining to the navigability, depth, dredging, wastewater and sludge disposal, and related collateral issues of the South Carolina portion of the Savannah River. Further, the resolution states that the authority of the Savannah River Maritime Commission supersedes and replaces the authority of the South Carolina Department of Health and Environmental Control with regard to all actions concerning the South Carolina portion of the Savannah River.

H.4703 NATIONAL OCEAN COUNCIL Rep. Pitts

This concurrent resolution opposes and refuses to recognize or enforce the Coastal and Marine Spatial Plans created in South Carolina pursuant to the Authority of the National Ocean Council.

H.4716 MOWING ROADSIDE VEGETATION-DILLON COUNTY Rep. Hayes

This bill provides that the Department of Transportation may maintain and mow roadside vegetation beyond thirty feet from the pavement adjacent to the Exit 190, along Interstate Highway 95 in Dillon County.

H.4721 "BUSINESS FREEDOM TO CHOOSE ACT" Rep. Bingham

Relating to county solid waste programs, this bill adds the "Business Freedom to Choose Act" which provides that a county ordinance that restricts solid waste disposal at a permitted facility or impedes the development or implementation of a recycling program

is inconsistent with the state requirements of the Solid Waste Management Plan. The bill also makes technical corrections and deletes obsolete language.

JUDICIARY

H.4699 ADDITIONAL CIRCUIT COURT JUDGES AND FAMILY COURT JUDGES Rep. Bannister

This legislation increases the number of at-large circuit court judges from thirteen to nineteen. The legislation also adds six additional family court judges who shall be at large and must be elected without regard to their county or circuit of residence.

H.4717 EXPEDITED PLACEMENT OF A CHILD WITH A RELATIVE OF THE FIRST OR SECOND DEGREE WHEN A CHILD REMAINS IN THE LEGAL CUSTODY OF THE DEPARTMENT OF SOCIAL SERVICES FOLLOWING THE PROBABLE CAUSE HEARING Rep. Brannon

Relating to the expedited placement of a child with a relative of the first or second degree when a child remains in the legal custody of the Department of Social Services following the probable cause hearing, this legislation provides that if the court finds that continuing the child in the home would be contrary to the welfare of the child, the court may order placement with a relative of the first or second degree, which includes a grandparent. The legislation further provides that the court shall consider certain characteristics of the relative and how these would impact the child. If the court places a child with a relative of the first or second degree, the relative must be named as a party for the duration of the case.

H.4719 SATISFACTION OF DEBT FOR CHIROPRACTIC CARE INCURRED FOR INJURIES GIVING RISE TO A CIVIL CAUSE OF ACTION Rep. Hayes

This legislation provides that where a plaintiff seeks chiropractic care for the treatment of injuries in connection with ongoing litigation, the debt incurred by the plaintiff to the chiropractor for that treatment must be satisfied before an award from the defendant or their insurer is relinquished to the plaintiff. Upon entry of judgment in favor of a plaintiff indebted to a chiropractor for chiropractic care stemming from injuries which gave rise to the underlying litigation, or when the parties reach a settlement, the defendant or his insurer must pay from that judgment or settlement any debt owed by the plaintiff for chiropractic care. The remainder of the judgment or settlement then must be remitted to the plaintiff upon complete satisfaction of the chiropractic care debt.

H.4726 ESTABLISHMENT AND CONSTRUCTION OF A SEWER LATERAL COLLECTION LINE Rep. Pitts

This legislation relates to the powers of public service district and special purpose district commissions, including, among other things, the power to assess the cost of the establishment and construction of a sewer lateral collection line. This legislation provides that if a residential subdivision received conceptual approval from the Department of Health and Environmental Control for septic tank use and subsequently five or more lots in the subdivision were denied permits by the department, an assessment may be levied on the abutting parcels in the subdivision for the actual costs of the sewer lateral collection lines, transmission lines, and associated infrastructure. It further provides that a letter or certificate of the department establishes these conditions authorizing the assessment.

LABOR, COMMERCE AND INDUSTRY

H.4706 COTTAGE FOOD OPERATIONS Rep. Sandifer

This bill establishes regulations governing cottage food operations which involve individuals producing or packaging in their home kitchens food products such as jams, jellies, dried fruit, candy, cereal, granola, dry mixes, vinegar, dried herbs, and baked goods that do not require temperature control for safety.

H.4718 EXCLUSIVE STATE REGULATION OF THE RETAIL SALE OF FIREWORKS Rep. Bales

This bill provides that the retail sale of fireworks is an activity solely subject to state regulation and is specifically not subject to regulation by ordinances of political subdivisions of this State, including zoning ordinances of political subdivisions, if the retailer has a valid state retail license issued by the South Carolina Department of Revenue, complies with all state safety and building requirements, and has a valid fireworks license issued by the State Board of Pyrotechnic Safety.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.4705 EDUCATIONAL INFORMATION FOR PARENTS OF NEWBORNS Rep. Brady

During the postpartum period and prior to discharge, each hospital shall provide parents of newborns educational information on pertussis disease and the availability of a vaccine to protect against pertussis. This educational information must include, but is not limited to, information on the Center for Disease Control's recommendation that parents receive the tetanus, diphtheria, and pertussis vaccine during the post partum period to protect their newborns from the transmission of pertussis. Pertussis is a highly contagious bacterial disease that causes uncontrollable, violent coughing.

H.4707 PERSONAL EMERGENCY RESPONSE SYSTEM (PERS) DEVICES Rep. Herbkersman

This bill provides that the Department of Health and Human Services shall issue personal emergency response system (PERS) devices to Medicaid recipients that include a nurse triage component. The bill further specifies requirements for a PERS device containing the nurse triage component.

WAYS AND MEANS

H.4697 SOUTH CAROLINA ARTS COMMISSION Rep. Harrison

This bill requires an annual transfer to the South Carolina Arts Commission of fifteen percent of the general fund portion of the previous year's state admissions tax revenues, after other required transfers from this revenue have been made. The legislation requires the South Carolina Arts Commission to expend at least seventy percent of appropriated state funds on grants to support the statewide improvement of learning and enrichment opportunities for children and communities through educational and cultural programs with proven research-based strategies.

**H.4698 INTERGOVERNMENTAL PARTICIPATION IN REDEVELOPMENT
PROJECTS Rep. Bingham**

For purposes of the tax increment financing law, this bill authorizes a municipality and one or more taxing entities to, at any time, provide by intergovernmental agreement that they shall participate in a redevelopment project on a partial and modified basis.

H.4709 "THE CUT, CAP, AND BALANCE ACT OF 2012" Rep. G. R. Smith

This bill enacts "The Cut, Cap, and Balance Act of 2012" so as to provide that the limit on general fund appropriations for a fiscal year is the total amount of the general fund revenue estimate as of February 15, 2011, for fiscal year 2011-2012, increased annually and cumulatively by a percentage determined by population increases and increases in the consumer price index. The legislation provides for the limitation to be suspended for a fiscal year for a specific amount upon a special vote of the General Assembly. The legislation establishes the Spending Limit Reserve Fund to which all surplus general fund revenues must be credited. The Spending Limit Reserve Fund must first be used for needed replenishment of the general reserve fund. After such replenishment, any remaining balance in the Spending Limit Reserve Fund may be appropriated for temporary tax reductions, infrastructure improvements, school buildings, school buses, and expenses incurred by this State as a result of natural or other disasters declared by the President of the United States. Appropriation of these revenues must be made by a joint resolution originating in the House of Representatives. The legislation provides that these spending limitations first apply for fiscal year 2012-2013.

**H.4710 TEMPORARY FINANCIAL FLEXIBILITY FOR LOCAL
GOVERNMENTS**

Rep. White

This joint resolution suspends for fiscal year 2012-2013 the code provision that places restrictions on amending or repealing provisions in the State Aid to Subdivisions Act. The joint resolution provides that, for fiscal year 2012-2013, counties may transfer among appropriated state revenues as needed to ensure the delivery of services.

The *Legislative Update* is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (<http://www.scstatehouse.gov>) and click on “*Publications*,” then click on “*Legislative Updates*.” 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 “TRACK LEGISLATION” (ON THE VERTICAL MENU BAR).