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Legislative Update

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

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MAJOR ISSUES FROM THE 2012 LEGISLATIVE SESSION

This report highlights activity of the second regular session of the 119th South Carolina General Assembly. This document summarizes many of the key issues that have passed the General Assembly this year. Since this document focuses on key issues, not all provisions of legislation are included in the summaries.

This report is a guide to, not a substitute for, the full text of the legislation summarized. Bill summaries in this document are prepared by staff of the South Carolina House of Representatives and are not the expression of the legislation's sponsor(s) or the House of Representatives. The summaries 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.

CONTENTS

2012 Legislative Overview	03
2012-2013 Appropriations.....	09
Business, Employment, and Economic Development.....	12
Consumer Protection and Safety	17
Court Administration	21
Criminal Justice	21
Education.....	28
Family and Health	33
Government.....	38
Heritage and Holidays.....	42
Insurance and Banking.....	43
Military	45
Natural Resources, Environmental Affairs and Agriculture	48
Retirement Systems Reform	53
Transportation and Traffic Safety	56

2012 LEGISLATIVE OVERVIEW

Legislative Update, August 6, 2012
MAJOR ISSUES

This year the General Assembly approved comprehensive **retirement systems revisions** as a means of securing long term financial health for South Carolina's employee pension plans. The legislation makes revisions to the South Carolina Retirement System (SCRS), which serves public school teachers and most state government employees, and the Police Officers Retirement System (PORS) by establishing eligibility criteria that require new employees to work longer in order to retire with full benefits. Existing employees retain their eligibility criteria for full retirement. The legislation increases the employee contribution rate by one percent for both SCRS and PORS, corresponding to a one percent increase in the employer contribution rate recently approved by the Budget and Control Board. The legislation eliminates the current provisions for awarding cost of living adjustments to SCRS retirees that tie COLAs to inflation, and, instead establishes benefit adjustment provisions that award SCRS and PORS retirees a guaranteed 1% annual increase in benefits up to cap of \$500. The legislation phases out the Teacher and Employee Retention Incentive (TERI) Program so that it is eliminated by July 1, 2018. New restrictions are placed on those who retire under SCRS or PORS and return to work in state government or in another position covered by the pension plans. Beginning in 2013, such employees would be subject to a yearly earning limitation of ten thousand dollars. Once this cap is exceeded, retirement allowances would be discontinued for the remainder of the year. Anti-spiking measures are applied to new employees to prevent eleventh hour raises and other steps taken at the end of service from distorting pension benefits. The legislation creates the Public Employee Benefit Authority to assume responsibility for the day-to-day administration and operation of the state's pension systems, the Employee Health Insurance Program, and the Deferred Compensation Program. PEBA is to be governed by an eleven-member board of directors composed of gubernatorial and legislative appointees, four of which are representative members participating in the pension systems as either active state employees or retirees and seven of which are unaffiliated with the retirement systems and must have expertise in such areas as accounting and financial management of pension or insurance plans. The legislation also revises the General Assembly Retirement System by increasing the employee contribution rate by one percent and closing the system to newly-elected legislators beginning in 2012.

The General Assembly approved a joint resolution that proposes to amend the South Carolina Constitution to provide for the **joint election of the Governor and Lieutenant Governor** beginning with the general election of 2018. Under the revised system, a gubernatorial candidate would select a running mate for the post of Lieutenant Governor in a manner comparable to the selection of the President and Vice President at the federal level. The legislation eliminates the Lieutenant Governor's legislative duties. Under this legislation, the Senate would every four years elect a President from among its members to preside over the Senate and perform other duties as provided by law. The legislation revises how vacancies in the office of Lieutenant Governor are filled. Under this legislation, the Governor would appoint, with the advice and consent of the Senate, a successor to fulfill an unexpired term. The proposed amendments to the South Carolina Constitution will be submitted to the state's voters at the next general election.

The General Assembly approved legislation creating the office of the **State Inspector General** to address allegations of fraud, waste, abuse, mismanagement, misconduct, violations of law and wrongdoing in state agencies. The office is authorized to investigate any authority, board, branch, commission, committee, department, division, or other instrumentality of the executive branch of state government. The State

Legislative Update, August 6, 2012
MAJOR ISSUES

Inspector General is appointed by the Governor with the advice and consent of the Senate for a term of four years.

Lawmakers approved a \$6.7 billion **state government budget** for fiscal year 2012-2013. The budget provides small business tax relief by initiating a gradual reduction of the tax rate for income derived from pass-through trade and business arrangements, such as sole proprietorships, partnerships, and "S" corporations. The first of three \$20 million installments is included in order to reduce this income tax rate from 5% to 3% over the course of three years. \$77 million is devoted towards paying off the unemployment insurance loan that the state had to obtain from the federal government when South Carolina's jobless benefit fund became insolvent. This State Unemployment Tax Authority (SUTA) debt funding is provided to reduce the unemployment insurance taxes that all the state's businesses pay for their employees, amounting to an average savings of 12.3% or \$51.11 for each worker. The Harbor Deepening Reserve Fund is created within the State Ports Authority and \$300 million is provided to cover the full cost of deepening the Charleston Harbor so that South Carolina can remain competitive in maritime shipping with a port capable of accommodating the larger vessels that will pass through the newly-expanded Panama Canal. An additional \$30 million is included for the state's counties and municipalities through the Local Government Fund. The budget provides for a 3% state employee pay raise and fully funds the increases needed for the Employee Health Insurance Program in order to avoid an increase in premiums or a reduction in coverage. Full funding is provided for the employer share of the increases needed for the state's retirement systems. An additional 2% pay raise is provided for Class One law enforcement officers at the Department of Public Safety, The Department of Probation, Pardon, and Parole Services, and the Department of Natural Resources who earn less than \$50,000 a year. When combined with the general 3% state employee pay raise, this amounts to a 5% salary increase for these employees. An additional \$152 million in Education Finance Act funding is included for K-12 education, allowing for an increase in the Base Student Cost to \$2,012 per student. An additional \$48 million is included in the Education Improvement Act salary supplement to guarantee a 2% state-funded pay raise for all teachers. Full funding is provided for the LIFE, HOPE, and Palmetto Fellows higher education scholarship programs. Over \$19 million is devoted to worker training through the Ready SC Program at the state's technical colleges. An additional \$15 million is provided for the Deal Closing Fund that the Department of Commerce uses to recruit new business to the state. The budget legislation also provides that this economic development fund is to receive \$10 million from South Carolina's share of the multi-state mortgage settlement reached with the nation's major lending institutions. The budget provides for the full funding of the General Reserve Fund and the Capital Reserve Fund, the financial reserve accounts that the state draws upon to cope with budget shortfalls. \$549 million goes to the state's residential property tax relief fund. Funding is provided for additional Circuit Court and Family Court judges to cope with increased caseloads. Full funding is provided for the Medicaid program's Maintenance of Effort which allows the program to continue to offer services at the current level. Full funding is provided for Medicaid express lane eligibility for children to allow the state's health insurance program for low-income residents to accommodate the inclusion of around 70,000 children who already qualify for participation in the program, but had not yet been enrolled. The Department of Health and Environmental Control is provided \$1 million for the AIDS Drug Assistance Program, \$1 million for child immunizations, \$1.8 million for community health centers, an additional \$800,000 for local health departments, and \$500,000 for the Rural Physician Program. Funding is increased by \$8 million for the destination-specific tourism

Legislative Update, August 6, 2012
MAJOR ISSUES

advertising program at the Department of Parks, Recreation, and Tourism. \$2 million is provided to the Department of Agriculture for the marketing and branding of South Carolina produce. Funding is increased for the Forestry Commission to enhance the state's capabilities in fighting forest fires.

Lawmakers approved legislation **revising the governance and operation of the state's charter schools**. Notably, it provides that charter school students are eligible to compete for, and if selected, participate in any extracurricular activities not offered by the student's charter school which are offered at the resident public school the student would otherwise attend, including activities governed by the South Carolina High School League that are not offered at the student's charter school. Among other things, the comprehensive legislation authorizes single gender charter schools; allows state institutions of higher learning the option of sponsoring a charter school; addresses issues relating to converting traditional schools to charter schools; allows for enrollment priority for eligible siblings and students who reside within the former attendance area of a traditional public school that is converted into a charter school; revises membership requirements for boards of directors that govern charter schools; and establishes in the State Treasurer's Office a Charter School Facility Revolving Loan Program for the construction, purchase, renovation, and maintenance of public charter school facilities. Additionally, the legislation establishes a mechanism that allows a local school district to create a school of choice that operates under exemptions from various state laws and regulations similar to the exemptions enjoyed by charter schools.

Lawmakers approved the "**Equal Access to Interscholastic Activities Act**," which affords home school students and Governor's school students new opportunities for participating in interscholastic activities, including athletics, music, speech, and other extracurricular activities, at local public schools.

The General Assembly approved the "**Jason Flatt Act**" to include two hours of training in **youth suicide awareness and prevention** within requirements for the renewal of credentials for middle and high school teachers.

The General Assembly approved legislation to provide for a **complete disqualification from unemployment compensation for those who are fired for misconduct** so that such individuals are ineligible to receive any of the twenty total weeks of jobless benefits available in this state. In cases where the employee has been discharged for a cause that does not involve the intentional harm or extreme negligence of misconduct, the Department of Employment and Workforce retains its authority to provide for a partial disqualification from unemployment compensation, setting the length of the ineligibility period on a case-by-case basis according to the seriousness of the cause for discharge.

The General Assembly approved legislation providing for several **right to work law enhancements**. The legislation authorizes "Your Rights as a Worker in South Carolina" notifications that may be posted in workplaces in order to inform employees of the state's laws guaranteeing 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 authorizes the award of treble damages as a remedy available to a worker for a violation of his right to work and provides for significant increases in both the fines for criminal violations of right to work laws and the civil penalties that the Department of Labor, Licensing and Regulation assesses employers, labor organizations, or others for violations.

Legislative Update, August 6, 2012
MAJOR ISSUES

Lawmakers approved new provisions for **online electronic voter registration** to allow a person who is qualified to register to vote and who has a valid South Carolina driver's license or state identification card to submit an application for voter registration electronically on the website of the State Election Commission.

The General Assembly approved legislation that expands and enhances penalties for **human trafficking** and implements other measures to combat the practice of trafficking in persons where victims are subjected to involuntary servitude, sex trafficking, or debt bondage by means of physical restraint, extortion, control of immigration documents, drug dependency, or other forms of coercion.

The General Assembly approved legislation to further address the threat of **synthetic marijuana and other synthetic drugs** by adding 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 the general public to purchase, sell, distribute, manufacture, or possess. The legislation also enhances the Department of Health and Environmental Control's authority to make changes to the schedules of controlled substances while the General Assembly is not in session and when changes occur in federal law regarding controlled substances.

Legislators created the **South Carolina Medal of Valor** to be awarded to a South Carolinian, or an individual with certain ties to South Carolina, who is killed in battle or dies as a result of service in a military combat zone. Recipients shall have their names entered on the South Carolina Medal of Valor roll maintained by the Adjutant General and the medal is to be presented to the families of these fallen service members on behalf of the people of the State of South Carolina. This year the **Honor and Remember Flag** was designated as the Official State Emblem of Service and Sacrifice by those in the United States Armed Forces who have given their lives in the line of duty.

The General Assembly approved legislation authorizing the Department of Motor Vehicles to include a **veteran status designation on the front of a driver's license** or special identification card. Legislators authorized **discounted tuition rates on higher education distance learning courses for active duty military personnel**. Lawmakers approved new **requirements for institutions of higher education to accommodate military service duties** by allowing students to complete assignments or take make-up examinations when absences are caused by participation in military service, training, or disaster relief efforts. The General Assembly also approved legislation authorizing the issuance of one-year **temporary professional and occupational licenses for spouses of active duty military personnel** assigned to a duty station in this state.

Lawmakers established the **Blue Alert Program** within the South Carolina Law Enforcement Division as a means of rapidly disseminating information to assist in apprehending someone suspected of killing, seriously injuring, or abducting a law enforcement officer. The program is designed to make use of the Amber Alert infrastructure established for the rapid recovery of missing and abducted children, including messages to motorists posted on South Carolina Department of Transportation electronic traffic signs and releases to broadcast media, to distribute timely information that can help locate a fleeing suspect who poses a serious public safety threat.

Legislative Update, August 6, 2012
MAJOR ISSUES

The General Assembly approved legislation making it **unlawful for an inmate to utilize any internet-based social networking website for purposes of harassing, intimidating or otherwise contacting a crime victim**. This new misdemeanor offense also applies to someone acting on the inmate's behalf or enabling the inmate to engage in these prohibited activities.

The General Assembly approved legislation that addresses the **application of the Pollution Control Act** which regulates the discharge of sewage, industrial waste, and other pollutants through permitting programs at the Department of Health and Environmental Control. The legislation responds to a recent South Carolina Supreme Court ruling as it relates to the issues of who has standing to file a lawsuit under South Carolina's Pollution Control Act and whether the act addresses waters, such as Carolina Bays and other isolated wetlands, for which DHEC has no permitting program. The legislation specifies that no private cause of action is created by or exists under the Pollution Control Act, provides that the act's requirements do not apply to discharges for which the department has no regulatory permitting program, and imposes other limitations on the application of the act. The legislation also creates the "Isolated Wetlands and Carolina Bays Task Force" to study and make recommendations concerning issues that impact these areas.

The General Assembly passed legislation establishing **new requirements for promptly reporting and investigating sewage spills from wastewater utilities**.

Responding to the recent resurgence of pertussis, the highly contagious bacterial disease that causes uncontrollable, violent coughing, known as whooping cough, the General Assembly passed legislation **requiring a hospital to provide parents of newborns information on pertussis and the availability of a protective vaccine**.

Legislators approved more **expansive provisions for hunting coyotes, feral hogs and armadillos** to reduce the rising populations of these nuisance animals.

2012-2013 APPROPRIATIONS

The General Assembly approved H.4813, the General Appropriations Bill, and H.4814, the joint resolution appropriating Capital Reserve funds, which together comprise the \$6.7 billion state government budget for fiscal year 2012-2013.

The budget provides small business tax relief by initiating a gradual reduction of the tax rate for income derived from pass-through trade and business arrangements, such as sole proprietorships, partnerships, and "S" corporations. The first of three \$20 million installments is included in order to reduce this income tax rate from 5% to 3% over the course of three years.

\$77 million is devoted towards paying off the unemployment insurance loan that the state had to obtain from the federal government when South Carolina's jobless benefit fund became insolvent. This State Unemployment Tax Authority (SUTA) debt funding is provided to reduce the unemployment insurance taxes that all the state's businesses pay for their employees, amounting to an average savings of 12.3% or \$51.11 for each worker.

The Harbor Deepening Reserve Fund is created within the State Ports Authority and \$300 million is provided to cover the full cost of deepening the Charleston Harbor so that South Carolina can remain competitive in maritime shipping with a port capable of accommodating the larger vessels that will pass through the newly-expanded Panama Canal. The amount provided is sufficient to cover the entire cost of the project even if federal funds do not become available.

An additional \$30 million is included for the state's counties and municipalities through the Local Government Fund. A flexibility provision is included that allows a political subdivision to reduce its support of any state mandated program or requirement by up to a percentage equal to the reduction in the Local Government Fund below its prescribed level. Local governments may not, however, reduce support for solicitors, public defenders, or any judicial functions.

The budget provides for a 3% state employee pay raise and fully funds the increases needed for the Employee Health Insurance Program in order to avoid an increase in premiums or a reduction in coverage. Full funding is provided for the employer share of the increases needed for the state's retirement systems.

An additional 2% pay raise is provided for Class One law enforcement officers at the Department of Public Safety, The Department of Probation, Pardon, and Parole Services, and the Department of Natural Resources who earn less than \$50,000 a year. When combined with the general 3% state employee pay raise, this amounts to a 5% salary increase for these employees.

An additional \$152 million in Education Finance Act funding is included for K-12 education, allowing for an increase in the Base Student Cost to \$2,012 per student.

An additional \$48 million is included in the Education Improvement Act salary supplement to guarantee a 2% state-funded pay raise for all teachers. A Joint Teacher Salary Study Committee is created to examine potential changes to the state's teacher

Legislative Update, August 6, 2012
MAJOR ISSUES

salary schedule and related issues including a pay for performance model, step increases, frozen salary schedules, and National Board Certification Incentive.

\$36 million is included for the education of students with special needs to replace the possible loss of federal Individuals with Disabilities Education Act (IDEA) funds.

An additional \$5 million is provided for the state's Public Charter School District.

\$5.95 million in certified unclaimed Education Lottery prize money is provided for purchasing school buses and an additional \$6.2 million in uncertified unclaimed prize funds may be available for bus purchases.

Full funding is provided for the LIFE, HOPE, and Palmetto Fellows higher education scholarship programs.

Capital Reserve funds are included for deferred maintenance projects at the state's universities, colleges, and technical schools.

Over \$19 million is devoted to worker training through the Ready SC Program at the state's technical colleges.

An additional \$15 million is provided for the Deal Closing Fund that the Department of Commerce uses to recruit new business to the state. The budget legislation also provides that this economic development fund is to receive \$10 million from South Carolina's share of the multi-state mortgage settlement reached with the nation's major lending institutions.

The budget provides for the full funding of the General Reserve Fund and the Capital Reserve Fund, the financial reserve accounts that the state draws upon to cope with budget shortfalls. \$549 million goes to the state's residential property tax relief fund.

Funding is included for three additional at-large Circuit Court judges and six additional at-large Family Court judges to cope with increased caseloads.

Full funding is provided for the Medicaid program's Maintenance of Effort which allows the program to continue to offer services at the current level. Full funding is provided for Medicaid express lane eligibility for children to allow the state's health insurance program for low-income residents to accommodate the inclusion of around 70,000 children who already qualify for participation in the program, but had not yet been enrolled.

The Department of Health and Environmental Control is provided \$1 million for the AIDS Drug Assistance Program, \$1 million for child immunizations, \$1.8 million for community health centers, an additional \$800,000 for local health departments, and \$500,000 for the Rural Physician Program.

Over \$17 million is devoted towards restoring funding at the Department of Mental Health.

\$3.6 million is provided to Vocational Rehabilitation for a nearly complete match of available federal funds.

Legislative Update, August 6, 2012
MAJOR ISSUES

Funding is increased by \$8 million for the destination-specific tourism advertising program at the Department of Parks, Recreation, and Tourism.

\$2 million is provided to the Department of Agriculture for the marketing and branding of South Carolina produce. \$50,000 in Capital Reserve funds is included for an appraisal regarding proposed land purchases at the State Farmer's Market.

Funding is increased for the Forestry Commission to enhance the state's capabilities in fighting forest fires, with \$2.4 million devoted to firefighters and \$3.5 million for equipment upgrades.

The Arts Commission continues to be funded under the budget.

The budget legislation continues the funding rationale that eliminates all general funds for South Carolina Educational Television, but allows SCETV to retain revenue derived from contracts for the use of its broadcast towers, signal spectrum and other facilities and services in order to fund its operations.

STATUS: Having passed the General Assembly, H.4813, the General Appropriations Bill, was ratified on June 29, 2012, (R.330). On July 5, the Governor vetoed certain items within the legislation. The House of Representatives and the Senate subsequently sustained some of the vetoes, but overrode other vetoes to allow those items, along with provisions not vetoed by the Governor, to become law. Having passed the General Assembly, H.4814, the joint resolution appropriating Capital Reserve funds, was ratified on June 29, 2012, (R.331). On July 5, the Governor vetoed certain items within the legislation. Legislators subsequently sustained one of the vetoes, but overrode the others to allow those items, along with provisions not vetoed by the Governor, to become law.

BUSINESS, EMPLOYMENT & ECONOMIC DEVELOPMENT

AGRITOURISM AND TOURISM ORIENTED SIGNAGE PROGRAM

The General Assembly and the Governor signed into law **S.105**, which directs the Department of Transportation (DOT) to create and supervise a coordinated, self-funded, statewide program providing directional signs along the state's major rural highways and non-interstate scenic byways leading to tourism and agritourism-oriented facilities. Participating facilities are responsible for the cost of the signs and their installation and maintenance. The statewide program shall be operated according to standards and regulations consistent with the Manual on Uniform Traffic Control Devices authorized to be adopted and promulgated by DOT. DOT shall coordinate with the Department of Agriculture and the Department of Parks, Recreation and Tourism (PRT) to allow those departments to promote tourism and agritourism facilities participating in this directional signage program. The criteria for selection of qualified agritourism facilities shall be recommended by the Department of Agriculture and the criteria for the selection of qualified tourism facilities shall be recommended by PRT to be incorporated into DOT regulations. The approval of applications for signs for agritourism and tourism oriented facilities must be determined by an oversight committee composed of representatives from these government agencies and representatives from the state's tourism and outdoor advertising industries. The Department of Agriculture and PRT must develop logos to be utilized for the signage. These logos may be used by the departments for other promotional purposes associated with tourism and agritourism.

STATUS: Having been approved by the General Assembly, S.105 was ratified June 12, 2012, (R.261) and signed into law by the Governor on June 18 (Act No. 224).

“ARCHITECTS’ AND ENGINEERS’ VOLUNTEER ACT”

The General Assembly approved **S.1137**, the “Architects’ and Engineers’ Volunteer Act”. The legislation provides immunity from legal liability for licensed architects and licensed engineers who provide volunteer services during declared emergencies.

STATUS: Having passed the General Assembly, S.1137 was ratified on June 22, 2012 (R.314) and signed into law by the Governor on June 26 (Act No. 280).

COMPUTER AND DIGITAL FORENSICS REGISTRY ACT

The General Assembly approved **S.580**, to establish the Computer and Digital Forensics Registry Act. The legislation establishes within the State Law Enforcement Division (SLED) a registry of those engaged in the search for or collection of evidence from

Legislative Update, August 6, 2012
MAJOR ISSUES

computer systems, computer networks, cellular telephones, personal digital assistants (PDAs), and all other electronic storage media, in a standardized and well-documented manner to maintain its admissibility and probative value in a legal proceeding. This bill provides that provisions governing the licensure and regulation of private security and investigation agencies do not apply to a person based solely on his being engaged in computer or digital forensic services, the acquisition, review, or analysis of digital or computer-based information, or system vulnerability testing.

STATUS: Having passed the General Assembly, S.580 was ratified on June 12, 2012 (R.265). On June 18, the Governor vetoed the legislation.

ECONOMIC DEVELOPMENT INCENTIVES

The General Assembly approved H.3506, legislation that makes revisions to economic development incentives provisions. The legislation expands the availability of the tire manufacturer credits to include companies that invest at least \$400 million in capital investment and employ at least 1200 full time employees by 2022. The legislation authorizes the Department of Revenue to waive penalties for a late electronic tax filing due to a reasonable cause, such as a data breakdown.

The General Assembly also approved H.3720, to revise economic development incentives. The legislation revises the jobs tax credit requirements of a qualifying service-related facility by decreasing the required numbers of new jobs produced in order for a facility to qualify for the credit. The legislation revises eligibility for the jobs tax credit for a technology intensive research and development facility to specifically include research and development in biotechnology, physical, engineering, and life sciences and encompass data processing, hosting, and related services. The legislation revises tax credits for providing infrastructure, so as to increase the maximum aggregate credit to four hundred thousand dollars annually. The legislation establishes provisions revising and simplifying fee in lieu of taxes arrangements entered into by businesses and counties. The legislation provides a ten year extension for fee in lieu of taxes arrangements provided for certain enhanced investments. The legislation establishes a sales tax exemption for computers, computer equipment, computer hardware and software purchases for a datacenter and electricity used by a datacenter.

STATUS: Having passed the General Assembly, H.3506 was ratified on June 12, 2012 (R.286) and signed into law by the Governor on June 18 (Act No. 233). Having passed the General Assembly, H.3720 was ratified on June 5, 2012 (R.232) and signed into law by the Governor on June 7 (Act No. 187).

MOTOR FUEL BLENDING

The General Assembly approved H.3478, a bill relating to motor fuel blending. This legislation provides that the requirements relating to the sale of unblended and preblended petroleum products apply to every terminal operator, supplier, permissive supplier, refiner, and all others involved in the bulk transfer of motor fuel in the state. The legislation provides that it is not considered a violation of requirements when compliance is hindered by a catastrophic event such as a natural disaster, severe

Legislative Update, August 6, 2012
MAJOR ISSUES

weather event, act of God, or acts of terrorism, fire, war, or riot. The legislation establishes conditions under which a refiner, supplier, wholesaler, or retailer is not liable for damages caused by the use of incompatible motor fuel dispensed at a retail site.

STATUS: Having passed the General Assembly, H.3478 was ratified on June 5, 2012 (R.230) and signed into law by the Governor on June 7 (Act No. 185).

RIGHT TO WORK LAW ENHANCEMENTS

The General Assembly approved H.4652, a bill providing for right to work law enhancements. The legislation authorizes “Your Rights as a Worker in South Carolina” notifications that may be posted in workplaces in order to inform employees of the state’s laws guaranteeing 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 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. An individual seeking relief from a court for a violation of his right to work must file with the director of the Department of Labor, Licensing and Regulation a copy of the court pleadings or an affidavit stating the legal and factual basis for his 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 an employer, labor organization, or other person for a right to work violation. The legislation requires a labor organization with members that work in South Carolina to file with the state’s Department of Labor, Licensing and Regulation copies of the documents required to be filed with the U.S. Secretary of Labor under federal law.

STATUS: Having passed the General Assembly, H.4652 was ratified on June 6, 2012, (R.254) and signed into law by the Governor on June 7, 2012 (Act No. 197)

SMALL BUSINESS INCOME TAX RELIEF

The General Assembly approved H.5418 which provides for small business income tax relief by gradually reducing, from 5% to 3%, the tax rate for income derived from pass-through trade and business arrangements, such as sole proprietorships, partnerships, and "S" corporations. The reduction is to be phased in over the course of three years so that the rate will be set at 3% after 2013. Funding is included in H.4813, the Fiscal Year 2012-2013 General Appropriations Act, to accommodate the first phase of the tax rate reduction.

STATUS: Having passed the General Assembly, H.5418 was ratified on June 28, 2012, (R.328) and signed into law by the Governor on June 28 (Act No. 287). Having passed the General Assembly, H.4813, the General Appropriations Bill, was ratified on June 29, 2012, (R.330). On July 5, the Governor vetoed certain items within the legislation. The House of Representatives and the Senate subsequently sustained some of the vetoes, but overrode other vetoes to allow those items, along with provisions not vetoed by the Governor, to become law.

"SOUTH CAROLINA BENEFIT CORPORATION ACT"

The General Assembly approved and the Governor signed into law H.4766, which enacts the "South Carolina Benefit Corporation Act". This legislation establishes a mechanism for organizing as, or converting to, a benefit corporation, which is a domestic corporation arrangement that involves not only accountability to the interests of corporate shareholders but also adherence to third-party standards for benefiting the public welfare through environmental, religious, charitable, scientific, literary, or educational missions and similar pursuits. With regard to accountability, benefit corporations are required to consider the impact of their decisions not only on shareholders but also on workers, community, and the environment. Additionally, benefit corporations must publicly report annually on overall social or environmental performance against a third party standard. A benefit corporation may include in its governing documents other corporate purposes, including engaging in any lawful business. This status has no tax implication for the corporation. A benefit corporation may terminate its status by amending its governing documents.

STATUS: Having passed the General Assembly, H.4766 was ratified on June 12, 2012, (R.306) and signed into law by the Governor on June 14 (Act No. 277).

TRANSFER FEE COVENANTS DISALLOWED

The General Assembly approved H.3095, legislation disallowing transfer fee covenants, which are provisions purporting to run with the land or bind current owners or successors in title to specified real property that obligate a transferee or transferor of all or part of the property to pay a fee or charge to a third person upon transfer of an interest in all or part of the property, or in consideration for permitting this transfer. The legislation provides a transfer fee covenant recorded after the effective date of this legislation, or any lien to the extent that it purports to secure the payment of a transfer fee, is not binding on or enforceable against the affected real property or any subsequent owner, purchaser, or mortgagee of any interest in the property. The legislation establishes requirements for filing documentation that must be met in order for a transfer fee covenant recorded before the legislation's effective date to be valid and enforceable.

STATUS: Having passed the General Assembly, H.3095 was ratified on January 26, 2012 (R.113) and signed into law by the Governor on February 1 (Act No. 106).

UNEMPLOYMENT COMPENSATION DISALLOWED FOR THOSE WHO ARE FIRED FOR MISCONDUCT

The General Assembly approved S.1125, legislation to provide for a complete disqualification from unemployment compensation for those who are fired for misconduct so that such individuals are ineligible to receive any of the twenty total weeks of jobless benefits available in this state. Misconduct is limited to conduct demonstrating such willful and wanton disregard of an employer's interests as is found in deliberate violations or disregard of standards of behavior which the employer has the right to

Legislative Update, August 6, 2012
MAJOR ISSUES

expect of his employee, or in the carelessness or negligence of such degree or recurrence as to manifest equal culpability, wrongful intent, or evil design, or to show an intentional and substantial disregard of the employer's interest or of the employee's duties and obligations to his employer. No finding of misconduct may be made for a discharge resulting from an extreme hardship, emergency, sickness, or other extraordinary circumstance. In cases where the employee has been discharged for cause other than misconduct, the Department of Employment and Workforce retains its authority to determine the length of the ineligibility period on a case-by-case basis according to the seriousness of the cause for discharge. These disqualification provisions for misconduct and for cause do not apply to a discharge resulting from substandard job performance due to inefficiency, inability, or incapacity. An employer's account is not to be charged when the department determines that the individual making the claim for unemployment benefits has been discharged for misconduct. The legislation also provides that, upon the determination of fraudulent overpayments of unemployment benefits, an employer from whose account the overpayment was debited must be credited for the amount of the overpayment regardless of the outcome of the action for recoupment or recovery of the overpayment.

STATUS: Having passed the General Assembly, S.1125 was ratified on June 12, 2012, (R.274) and signed into law by the Governor on June 18 (Act No. 247).

WORKERS' COMPENSATION INSURANCE FEE SCHEDULES

The General Assembly approved H.3111, legislation that authorizes the Workers' Compensation Commission to adopt criteria to establish a new schedule of workers' compensation insurance fees for attorneys, physicians, and hospitals or adjust an existing fee schedule based in whole or in part on the requirements of a federally funded program. If the commission adopts these adjustments to an existing fee schedule, the adjustments must be adopted on an annual basis and they may not exceed the percentage change indicated by the federally funded program. A review process is established for the commission to decide whether to approve proposed adjustments that would increase or reduce these fees by more than ten percent annually.

STATUS: Having passed the General Assembly, H.3111 was ratified on June 5, 2012, (R.228) and signed into law by the Governor on June 7 (Act No. 183).

CONSUMER PROTECTION AND SAFETY

“BENJI’S LAW” (SAFETY REQUIREMENTS FOR MINIATURE TRAIN AMUSEMENT RIDES)

Legislative Update, August 6, 2012
MAJOR ISSUES

The General Assembly approved and the Governor signed into law **S.929**, which enacts “Benji’s Law”. This legislation establishes new safety requirements for miniature train 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.

STATUS: Having been approved by the General Assembly, S.929 was ratified March 7, 2012, (R.136) and signed into law by the Governor on March 13 (Act No. 129).

CEASE AND DESIST ORDERS ISSUED BY THE SECURITIES COMMISSIONER

In South Carolina, the Attorney General also serves as the Securities Commissioner, and as such, he is responsible for the enforcement of securities and investment-related laws addressed by the state’s Uniform Securities Act. Lawmakers approved and the Governor signed into law **S.1354**, legislation requiring all cease and desist orders issued by the Securities Commissioner to be public documents subject to the Freedom of Information Act and to be published on the Attorney General’s website searchable by the name of the parties involved. Also, a copy of a final order must be forwarded to the Department of Revenue and the Secretary of State’s Office.

STATUS: Having been approved by the General Assembly, S.1354 was ratified June 12, 2012, (R.279) and signed into law by the Governor on June 18 (Act No. 251).

HEALTH AND SANITARY REQUIREMENTS FOR HOME-BASED FOOD PRODUCTION OPERATIONS

The General Assembly approved and the Governor signed into law **H.4689**. The legislation provides health and sanitary requirements for home-based food production operations, in which individuals operating out of their dwellings, prepare, process, package, store and distribute non-potentially hazardous foods, such as candy and baked goods, for sale directly to a person. A home based food production operation is not allowed to engage in wholesale activities and is only allowed to sell food items directly to a person for his or her own use and not for resale. The legislation establishes requirements that a home based food production operation must follow to maintain a clean and sanitary facility and provides that operators must take all reasonable steps to protect food items from contamination, such as keeping pets off the premises, prohibiting the involvement of those infected with communicable diseases, maintaining direct supervision over the operation, and prohibiting all domestic activities in the kitchen during the operation. All food items packaged at the operation for sale must be properly labeled, complying with all federal laws and regulations. The label must include the name and address of home based food operation; the name of the product being sold; the ingredients used to make the product in descending order of predominance by weight; and the conspicuous statement printed in all capital letters, “NOT FOR RESALE - PROCESSED AND PREPARED BY A HOME BASED FOOD PRODUCTION

Legislative Update, August 6, 2012
MAJOR ISSUES

OPERATION THAT IS NOT SUBJECT TO SOUTH CAROLINA'S FOOD SAFETY REGULATIONS". The requirements do not apply to an operation with net earnings of less than five hundred dollars annually. A home-based food production operation may apply for an exemption from inspection and label review by the South Carolina Department of Agriculture if its annual sales are less than fifteen thousand dollars.

STATUS: Having passed the General Assembly, H.4689 was ratified on June 5, 2012 (R.236) and signed into law by the Governor on June 7 (Act No. 190).

LIFEGUARD REQUIREMENTS FOR PUBLIC SWIMMING POOLS

The General Assembly approved and the Governor signed into law S.1351. This legislation replaces current requirements for lifeguards at state and local government pools that strictly tie lifeguard staffing requirements to pool size with new requirements that allow for more flexibility in that they also take into account the number of patrons using the pool.

STATUS: Having passed the General Assembly, S.1351 was ratified on May 8, 2012, (R.179) and signed into law by the Governor on May 14, 2012 (Act No. 159).

MOTOR VEHICLE GLASS REPAIR

The General Assembly approved H.4042, legislation addressing motor vehicle glass repair issues. The legislation provides that when an insured has suffered damage to the glass of a motor vehicle, both the insurer providing glass coverage and the third party administrator that administers glass coverage for that insurer must not require that repairs be made to the insured's vehicle by a particular provider of glass repair work. The legislation designates certain activities as unlawful trade practices for motor vehicle glass repair businesses, including the submission of unauthorized or falsified insurance claims, deliberate expansion of damage prior to repair, and misrepresentations made to insurers and customers.

STATUS: Having passed the General Assembly, H.4042 was ratified on June 12, 2012 (R.295) and signed into law by the Governor on June 18 (Act No. 236).

PRENEED FUNERAL CONTRACTS

The General Assembly approved H.4763, legislation that revises preneed funeral contract provisions to improve consumer protection. The legislation establishes a biennial term for preneed funeral contract licensure and provides for a \$250 initial licensure fee and a \$200 fee for each license renewal application. The Department of Consumer Affairs is directed to use half of the renewal fee for administration and deposit the other \$100 dollars of each license renewal fee into the Preneed Loss Reimbursement Fund, which is used to make reimbursements in cases of fraud where

Legislative Update, August 6, 2012
MAJOR ISSUES

payments have been made in advance for contractual funeral services that were never provided. The legislation eliminates the provision that sets the maximum amount of the Preneed Loss Reimbursement Fund at five hundred thousand dollars with a five percent adjustment compounded annually. Restrictions are placed on the transfer of preneed funeral contracts. The legislation enhances criminal penalties for those who enter into preneed funeral contracts but fail to provide promised funeral services when the beneficiary dies. New felony offenses are established for violations involving larger dollar amounts. Those convicted of a misdemeanor or felony offense may be prohibited from entering into further preneed funeral contracts when the department finds the offense sufficiently grievous. The department is also authorized to make use of a warning notice of deficiency, additional education requirements, or a cease and desist order in responding to violations.

STATUS: Having passed the General Assembly, H.4763 was ratified on June 12, 2012 (R.305) and signed into law by the Governor on June 18 (Act No. 261).

PROHIBITING THE RESALE OF RETURNED MEAT

The General Assembly approved and the Governor signed into law S.220. The legislation provides that fresh meat or fresh meat products sold to a consumer may not be offered to the public for resale for human consumption if they have been returned by the consumer.

STATUS: Having passed the General Assembly, S.220 was ratified on May 23, 2012, (R.199) and signed into law by the Governor on May 25, 2012 (Act No. 173).

SOUTH CAROLINA COMMUNITY LAND TRUST ACT

Lawmakers approved and the Governor signed into law H.3676, which enacts the "South Carolina Community Land Trust Act". This legislation authorizes the formation and operation of a community land trust, which is a nonprofit community organization that safeguards land in order to provide affordable housing opportunities. The legislation provides that a community land trust must have as its primary purpose to hold legal and equitable title to land and the leasing of land for the purpose of preserving the long-term affordability of housing created for predominately low income and moderate income households. The legislation makes certain findings and provides the manner in which community land trusts are funded and provides the process by which community land trusts operate.

STATUS: Having been approved by the General Assembly, H.3676 was ratified June 12, 2012, (R.289) and signed into law by the Governor on June 18 (Act No. 256).

COURT ADMINISTRATION

ADDITIONAL JUDGES

The General Assembly approved and the Governor signed into law H.4699, legislation providing for additional judges to cope with increased caseloads. Specifically, the legislation increases the number of at-large circuit court judges from thirteen to sixteen. 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.

STATUS: Having been approved by the General Assembly, H.4699 was ratified June 12, 2012, (R.303) and signed into law by the Governor on June 18 (Act No. 241).

FILING COURT DOCUMENTS BY ELECTRONIC MEANS

The General Assembly approved H.4821. The Governor vetoed the legislation; however, the veto was overridden by the House of Representatives and Senate to allow the legislation to become law. The legislation authorizes the collection of a fee for filing court documents by electronic means from a South Carolina Judicial Department integrated electronic filing (e-filing) system. The amount of the fee is to be set by the Chief Justice of the South Carolina Supreme Court, and all fees collected must be dedicated to the support of court technology.

STATUS: Having been approved by the General Assembly, H.4821 was ratified June 6, 2012, (R.258). The Governor vetoed the legislation on June 11. The veto was overridden by the House of Representatives on June 19 and by the Senate on June 20 to allow the legislation to become law (Act No. 269).

CRIMINAL JUSTICE

BLUE ALERT PROGRAM

The General Assembly approved and the Governor signed into law H.4636, legislation establishing the Blue Alert Program within the South Carolina Law Enforcement Division. This program is a means of rapidly disseminating information to assist in apprehending a suspect who allegedly kills, seriously injures, or abducts a law enforcement officer. It is designed to make use of the Amber Alert infrastructure established for the rapid recovery of missing and abducted children, including messages to motorists posted on South Carolina Department of Transportation electronic traffic signs and releases to broadcast media, to distribute timely information that can help locate a fleeing suspect who poses a serious public safety threat.

Legislative Update, August 6, 2012
MAJOR ISSUES

STATUS: Having passed the General Assembly, H.4636 was ratified February 21, 2012, (R.134) and signed into law by the Governor on February 27 (Act No. 124).

BOND FOR CRIMINAL OFFENSES

The General Assembly approved and the Governor has signed into law H.3895 and S.45. Both pertain to bond for criminal offenses. Highlights of the legislation include the following.

Bond Hearings

Prior to or at the time of the bond hearing, the arresting law enforcement agency rather than the particular arresting officer may provide the court with information about the criminal record of the accused and any other information that will assist the court in determining conditions of release.

Any person charged with the offense of burglary in the first degree may have his bond hearing for that charge in summary court unless the solicitor objects.

Circuit Court Reconsideration of Bond

Circuit courts, at their discretion, may review and reconsider bond for general session offenses set by summary court judges. Also, circuit courts may consider motions regarding reconsideration of bond for general session offenses set by summary court judges.

After a circuit court judge has heard and ruled upon a defendant's motion to reconsider a bond set by a summary court judge, further defense motions to reconsider may be heard by the circuit court based upon the defendant's prima facie showing of a material change in circumstances which have arisen since the prior motion to reconsider. In addition, the circuit court may hear further defense motions to reconsider based on the length of time the defendant has been held for trial after six months. After a circuit court judge has heard and ruled upon the state's motion to reconsider a bond set by a summary court judge, further state motions to reconsider may be heard by the circuit court only upon the state's prima facie showing of a material change in circumstances which have arisen since the prior motion to reconsider.

Motions by the State to revoke or modify a bond must be made in writing, state with particularity the grounds for revocation or modification, and set forth the relief or order sought. Motions must be filed with the clerks of court, and a copy must be served on the chief judge, defense counsel of record, and bond surety, if any. If the State's motion to revoke or modify bond includes a prima facie showing of imminent danger to the community, or imminent danger to the defendant, or flight by the defendant, the chief judge or presiding judge shall conduct or order an emergency bond hearing to be conducted by the circuit court judge within 48 hours of receiving the state's motion or as soon as practical. The legislation provides procedures for conducting these proceedings. Defense motions to reconsider revocation must be filed with the clerk of court and served on the solicitor and bond surety.

Legislative Update, August 6, 2012
MAJOR ISSUES

Surety Relief of Liability

There are new provisions relating to a bond surety's relief of liability. Unless a bench warrant is issued, an appearance recognizance or an appearance bond is discharged upon adjudication, a finding of guilt, a deferred disposition, or as otherwise provided by law. An appearance bond is valid for a period of three years from the date the bond is executed for a charge triable in circuit court and eighteen months from the date the bond is executed for a charge triable in magistrates or municipal court. In order for the surety to be relieved of liability on the appearance bond when the time period has run, the surety must provide 60 days written notice to the solicitor, when appropriate, and the respective clerk of court, chief magistrate, or municipal court judge with jurisdiction over the offense of the surety's intent to assert that the person is no longer subject to a valid appearance bond. If the appropriate court determines the person has substantially complied with his court obligations and the solicitor does not object within the required 60 days by demanding a hearing, the court shall order the appearance bond converted to a personal recognizance bond and the surety relieved of liability. These provisions which allow a surety to be relieved of an appearance bond under certain circumstances are retroactive and apply to all existing and future appearance bonds.

If the defendant is incarcerated by the surety or a law enforcement agency as a result of a bench warrant, current law requires the surety to file an affidavit with the court stating that the defendant is incarcerated in the appropriate facility as a result of the bench warrant as well as the violation of the specific term or terms of the bail bond stated on the bench warrants. New provisions require the affidavit to not only be filed but also served on the defendant in order for the surety to be relieved of all liability on the bail bond by the court unless otherwise ordered by the circuit court within fourteen calendar days of the filing of the affidavit, or, if there is no term of court within the fourteen day period, at the ensuing term of court.

STATUS: Having been approved by the General Assembly, H.3895 was ratified January 26, 2012, (R.122) and was signed into law on February 1 (Act No. 115). Having been approved by the General Assembly, S.45 was ratified June 29 (R.329) and signed into law by the Governor on the same day (Act No. 286).

DEMOLISHING VEHICLES - NEW REQUIREMENTS TO REDUCE THE LIKELIHOOD THAT STOLEN PROPERTY IS BEING TURNED OVER TO JUNK DEALERS, VEHICLE DEMOLISHERS, AND SECONDARY METALS RECYCLERS

Lawmakers approved and the Governor signed into law **S.1031**, legislation imposing new requirements relating to demolishing vehicles to reduce the likelihood that stolen property is being turned over to junk dealers, vehicle demolishers, and secondary metal recyclers. The legislation imposes new requirements for turning over a valid title certificate with a vehicle to a demolisher in order for the vehicle to be demolished. The legislation establishes alternate means of satisfying proof of ownership to allow a vehicle to be demolished without producing a title to apply in situations where vehicles have been obtained through sheriffs' sales, public auctions of abandoned vehicles, and similar lawful transactions. The legislation establishes a procedure allowing someone to turn over older derelict vehicles for demolishing without a title or other proof of ownership. Such vehicles, including wrecks abandoned on one's property, must be at least twelve model years old and must lack an engine or be otherwise totally inoperable. Before completing a transaction on such older vehicles, the demolisher or secondary metals recycler must verify with the Department of Motor Vehicles whether the vehicle has been reported stolen. If a vehicle has been reported stolen, the transaction must not be completed and the demolisher or secondary metals recycler must notify the appropriate law enforcement agency. The legislation enhances record keeping requirements for businesses and criminal penalty provisions for violations. First offenses remain misdemeanors, and second and subsequent offenses are felonies subject to a fine of up to one thousand dollars and/or imprisonment for up to three years. Falsifying a required application, form or affidavit is a felony offense. In lieu of criminal penalties, the director of the Department of Motor Vehicles may issue an administrative fine of up to one thousand dollars for each unintentional violation. Also, a vehicle used to transport a vehicle or vehicle parts unlawfully may be subject to seizure by law enforcement.

STATUS: Having been approved by the General Assembly, S.1031 was ratified on June 12, 2012, (R.269) and signed into law by the Governor on June 18 (Act No. 242).

CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE

Lawmakers approved and the Governor signed into law **H.3667**. This legislation establishes the felony offense of criminal sexual conduct in the third degree when the actor is over the age of fourteen and commits certain acts with a child under the age of sixteen; the legislation includes an exception for certain consensual conduct when the actor is eighteen years of age or less and the other person is at least fourteen years of age. The legislation also repeals a current code provision

relating to committing or attempting to commit a lewd act upon a child under the age of sixteen. Other code sections are updated to reflect these changes.

STATUS: Having been approved by the General Assembly, H.3667 was ratified on June 12, 2012, (R.288) and signed into law by the Governor on June 18 (Act No. 255).

ENHANCED ENFORCEMENT PROVISIONS FOR THEFT OF COPPER AND OTHER NONFERROUS METALS

The General Assembly approved and the Governor signed into law **S.1031**. This legislation makes revisions to the legislation enacted last year to address the problem of copper theft by enhancing penalties for unlawfully obtaining copper and other nonferrous metals and imposing new restrictions on the sales of such metals that require recyclers and others who sell, purchase and transport nonferrous metals to obtain permits from the sheriff. Notably, the legislation revises the criminal offense established for unlawfully obtaining metals so that it includes lead-acid batteries and steel propane gas tanks, but excludes aluminum cans. The legislation makes revisions regarding required permits. A statewide permit is authorized for transporting nonferrous metals that is valid for a period of two years, rather than one year. The legislation provides for the revocation of permits for violations. To strengthen the existing prohibition on cash transactions for the sale of copper, catalytic converters and beer kegs that requires recyclers to pay for such purchases by check alone, the legislation prohibits a recycler from cashing checks or making use of an automated teller machine (ATM) or other cash card system instead of a check. The legislation prohibits a recycler from purchasing or otherwise acquiring an iron or steel manhole cover or drainage grate. The restrictions placed on metal purchases are revised to establish several exemptions for governments, businesses and charities that have lawful reasons for dealing with scrap metal.

STATUS: Having been approved by the General Assembly, S.1031 was ratified on June 12, 2012, (R.269) and signed into law by the Governor on June 18 (Act No. 242).

FIELD SOBRIETY TESTS

The General Assembly approved and the Governor signed into law **S.263**, legislation pertaining to field sobriety tests. When a person is suspected of causing a motor vehicle incident resulting in the death of another person by the investigating law enforcement officer on the scene of the incident, this legislation requires the driver to submit to field sobriety tests if he is physically able to do so.

STATUS: Having been approved by the General Assembly, S.263 was ratified June 12, 2012, (R.263) and signed into law by the Governor on June 18 (Act No. 226).

HUMAN TRAFFICKING

The General Assembly approved and the Governor signed into law **H.3757**. This legislation expands and enhances penalties for human trafficking and implements other measures to combat the practice of trafficking in persons where victims are subjected to involuntary servitude, sex trafficking, or debt bondage by means of physical restraint, extortion, control of immigration documents, drug dependency, or other forms of coercion. Highlights of the legislation include the following.

Prosecution Provisions

Legislative Update, August 6, 2012
MAJOR ISSUES

The legislation provides expanded and enhanced felony offenses that apply to someone who knowingly attempts or actually recruits, entices, solicits, isolates, harbors, transports, provides, or obtains a victim for human trafficking purposes. These criminal offenses also apply to those who benefit financially from human trafficking ventures. Repeat offenses carry longer terms of imprisonment with a third or subsequent felony offense subjecting the offender to imprisonment for up to forty-five years. Additional penalties are provided if a victim is under the age of eighteen. A person who aids, abets, or conspires with another person to commit human trafficking violations is considered a trafficker under the legislation and must be punished accordingly. The legislation provides for criminal liability and loss of business licenses for business owners that use their businesses to participate in or aid in human trafficking. Property and assets used in human trafficking ventures are subject to seizure and forfeiture. The legislation provides for prosecution by the State Grand Jury when a trafficking in persons offense involves more than one county.

Victim Protection Provisions

The legislation provides mandatory restitution for victims of human trafficking and includes these crime victims under the provisions of the Victims' Bill of Rights so that they are entitled to compensation through the State Crime Victim's Compensation Fund. Confidentiality provisions are included for such victims. Victims of human trafficking are afforded an affirmative defense in certain criminal prosecutions and are authorized to bring civil actions. The legislation establishes provisions to safeguard a trafficking shelter, or domestic violence shelter by prohibiting the presence of human traffickers at shelters and creating a criminal offense for publishing or otherwise disclosing the location of a shelter or the whereabouts of a trafficking victim.

Legislative Update, August 6, 2012
MAJOR ISSUES

Prevention Provisions

The legislation establishes an interagency task force to develop and implement a State Plan for the Prevention of Trafficking in Persons and provides for the creation of public awareness programs on human trafficking issues.

STATUS: Having been approved by the General Assembly, H.3757 was ratified June 12, 2012, (R.292) and signed into law by the Governor on June 18 (Act No. 258).

PROHIBITING INMATES FROM UTILIZING ANY INTERNET-BASED SOCIAL NETWORKING WEBSITE FOR PURPOSES OF HARASSING, INTIMIDATING OR OTHERWISE CONTACTING A CRIME VICTIM

Lawmakers approved and the Governor signed into law H.3527. This legislation provides that it is unlawful for an inmate, or a person acting in behalf of or enabling an inmate, to utilize any internet-based social networking website for purposes of harassing, intimidating or otherwise contacting a crime victim. A violation is a misdemeanor subject to a fine of up to \$500 and/or imprisonment for not more than 30 days.

STATUS: Having been approved by the General Assembly, H.3527 was ratified on June 12, 2012, (R.287) and signed into law by the Governor on June 18 (Act No. 234).

RECKLESS VEHICULAR HOMICIDE

The General Assembly approved and the Governor signed into law S.263. This legislation provides that when the death of a person ensues within three years as a proximate result of injury by the driving of a vehicle in reckless disregard of the safety of others, the person operating the vehicle is guilty of reckless vehicular homicide; previously this was referred to as reckless homicide. Also, this legislation allows a judge to grant a route restricted license for this offense; previously a judge could grant a provisional license.

STATUS: Having been approved by the General Assembly, S.263 was ratified June 12, 2012, (R.263) and signed into law by the Governor on June 18 (Act No. 226).

SYNTHETIC DRUG THREATS (BATH SALTS, SPICE/SYNTHETIC MARIJUANA AND K2)

Lawmakers approved and the General Assembly signed into law H.3793. This 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 legislation also enhances the Department of Health and Environmental Control's authority to make changes to the schedules of controlled substances while the General Assembly is not in session and when changes occur in federal law regarding controlled substances.

STATUS: Having passed the General Assembly, H.3793 was ratified on March 29, 2012, (R.158) and was signed into law by the Governor on April 2 (Act No. 140).

THEFT OF TIMBER

The General Assembly approved and the Governor signed into law S.168. This legislation enhances penalties for cutting, destroying, removing, or transporting trees and other forest products without the consent of the landowner, by establishing a tiered system in which the severity of the criminal penalties, along with fines and terms of imprisonment, increases with the value of the forest products stolen.

STATUS: Having been approved by the General Assembly, S.168 was ratified on June 12, 2012, (R.262) and signed into law by the Governor on June 18 (Act No. 225).

EDUCATION

"EQUAL ACCESS TO INTERSCHOLASTIC ACTIVITIES ACT"

The General Assembly approved and the Governor signed into law S.149, which enacts the "Equal Access to Interscholastic Activities Act". This legislation affords home school students and Governor's school students new opportunities for participating in interscholastic activities, including athletics, music, speech, and other extracurricular activities, at local public schools. The legislation provides that a school district may not deny an individual home school student or Governor's school student the opportunity to participate in interscholastic activities at a public school so long as the student meets criteria for residing within the school's attendance boundaries, satisfies all eligibility requirements except for pertinent enrollment and attendance requirements, and provides the proper written notification. A home school student or Governor's school student is required to fulfill the same responsibilities and standards of behavior and performance, including related practice requirements, of other students participating in the interscholastic activities of the team or squad and is required to meet the same standards for acceptance on the team or squad. A Governor's school may not be

Legislative Update, August 6, 2012
MAJOR ISSUES

denied by a school district the opportunity to have a team representing the school participate in interscholastic activities if the team meets the same eligibility requirements of other teams. An individual Governor's school student may not participate in an interscholastic activity of a public school district if the school that the student is enrolled in has a team or squad participating in that interscholastic activity. A school district may not contract with a private entity that supervises interscholastic activities which prohibits the participation of charter school students, Governor's school students, or home school students in interscholastic activities. The legislation also provides that a public school student who is not allowed to participate in interscholastic activities because of a failure to maintain academic eligibility is ineligible to participate in interscholastic activities as a charter school student, Governor's school student, or home school student for the following semester. To establish academic eligibility for subsequent school years, the student's teacher shall certify by submitting an affidavit to the school district that the student meets the relevant policies of the school at which the student wishes to participate.

STATUS: Having been approved by the General Assembly, S.149 was ratified June 5, 2012, (R.212) and signed into law by the Governor on June 7 (Act No. 203).

INDUCTION CONTRACT PERIOD FOR TEACHERS INCREASED FROM ONE YEAR TO A MAXIMUM OF THREE YEARS

Lawmakers approved and the Governor signed into law H.3028, legislation increasing the induction contract period for teachers from one year to a maximum of three years. Instead of the current one-year induction period, the legislation provides that at the end of each year of the three-year induction period, the school district may employ the teacher under another induction contract, an annual contract, or may terminate his employment. If employment is terminated, the teacher may seek employment in another school district.

STATUS: Having been approved by the General Assembly, H.3028 was ratified June 12, 2012, (R.283) and signed into law by the Governor on June 18 (Act No. 231).

“JASON FLATT ACT” (YOUTH SUICIDE AWARENESS AND PREVENTION)

The General Assembly approved and the Governor signed into law **H.4690**, which enacts the “Jason Flatt Act”. This legislation provides for youth suicide awareness and prevention by requiring two hours of training on this important issue as a requirement for the renewal of credentials for individuals employed in middle schools and high schools. The Department of Education must develop guidelines for training and materials that may be used by schools and school districts; school districts may approve training materials for training their employees. This training requirement may be satisfied through self review of suicide prevention materials.

STATUS: Having passed the General Assembly, H.4690 was ratified on May 8, 2012, (R.194) and signed into law by the Governor on May 14 (Act No. 170).

STATE CHARTER SCHOOLS

The General Assembly approved and the Governor signed into law **H.3241**. This legislation revises the governance and operation of the state’s charter schools, which are public schools organized in a manner that frees them from many state regulations to pursue innovative educational missions. Highlights of the legislation include the following.

Extracurricular and Interscholastic Activities

Notably, the legislation provides that a charter school student is eligible to compete for, and if selected, participate in any extracurricular activities not offered by the student’s charter school which are offered at the resident public school he would otherwise attend. A charter school student is eligible to compete for, and if selected, participate in an activity governed by the South Carolina High School League offered at the resident public school he would otherwise attend if the league-governed activity is not offered at the student’s charter school. A charter school is eligible for federally sponsored, state-sponsored or district-sponsored interscholastic leagues, competitions, awards, scholarships, grants, and recognition programs for students, educators, administrators, staff, and schools to the same extent as all other public schools.

New Options

The legislation authorizes the formation of single gender charter schools. Also, it affords the state’s public and independent institutions of higher learning the option of sponsoring a charter school.

Legislative Update, August 6, 2012
MAJOR ISSUES

Boards of Directors That Govern Charter Schools

The legislation revises membership requirements for the boards of directors that govern charter schools. The legislation establishes two-year terms for electing board members and provides that half of a board's membership must be made up of individuals with K-12 education or business backgrounds, and at least half of the members must be elected by the employees and parents/guardians of students enrolled in the charter school, with parents/guardians having one vote for each child enrolled. Boards must have at least seven members all of whom must be South Carolina residents.

Converting Traditional Schools to Charter Schools

The legislation establishes new voting requirements that apply when there is a proposal to convert a traditional public school into a charter school and outstanding general obligation bond debt has been approved to construct or improve the facility within the previous ten years. The legislation affords a converted charter school the right to occupy the facility and use the equipment, for the duration of its contract with a sponsor, in the same manner as before the school converted with no additional fees or charges. The legislation prohibits school districts from taking unlawful reprisals, such as pay reduction, dismissal, demotion, or suspension, against employees because of their involvement with an application to establish a charter school.

Enrollment Priority

The legislation provides that students who reside within the former attendance area of a traditional public school that is converted into a charter school must be given enrollment priority at the charter school. The legislation allows a charter school to give enrollment priority to a sibling of a pupil who, within the last six years, attended the school for at least one academic year.

Distribution of Funds to Charter Schools

The legislation provides that the South Carolina Public Charter School District or public or independent institution of higher learning sponsor shall receive and distribute state funds to the charter school as provided by the General Assembly. The legislation includes other requirements for the timely distribution of funds to charter schools.

Local School District May Create a School of Choice

The legislation establishes a mechanism that allows a local school district to create a school of choice that operates under exemptions from various state laws and regulations similar to the exemptions enjoyed by charter schools. Exemptions do not apply to: federal and state prohibitions on unlawful discrimination; pertinent health, safety, civil rights, and disability rights requirements; minimum student attendance requirements; state assessment requirements; and teacher certification requirements in the core academic areas, however, up to twenty-five percent of the teaching staff of the school may be employed if the individual possesses a baccalaureate or graduate degree in the subject he is hired to teach.

Other Provisions of Interest

Legislative Update, August 6, 2012
MAJOR ISSUES

The legislation establishes in the State Treasurer's Office a Charter School Facility Revolving Loan Program for the construction, purchase, renovation, and maintenance of public charter school facilities. The legislation requires a county's local legislative delegation to be notified of charter school applications. The legislation reduces from eleven to nine the membership of the board of trustees that governs the South Carolina Public Charter School District by eliminating two of the Governor's appointments.

STATUS: Having passed the General Assembly, H.3241 was ratified on May 8, 2012, (R.188) and signed into law by the Governor on May 14 (Act No. 164).

SMOKING PROHIBITIONS AND PUBLIC INSTITUTIONS OF HIGHER LEARNING

The General Assembly approved and the Governor signed into law H.4092, legislation that makes revisions relating to the smoking prohibitions and public institutions of higher learning. This legislation amends the state's Clean Indoor Air Act to provide that smoking is prohibited in buildings, or portions of buildings, and the outside areas immediately contiguous to these buildings owned, leased, operated, or maintained by a public institution of higher learning that the governing board of the institution has designated as nonsmoking.

STATUS: Having been approved by the General Assembly, H.4092 was ratified June 5, 2012, (R.234) and signed into law by the Governor on June 7 (Act No. 188).

TEMPORARY COST SAVING PROVISIONS FOR K-12 EDUCATION

The General Assembly approved H.4904, a joint resolution authorizing temporary cost saving provisions for K-12 education. The legislation provides that the State Department of Education is not required to provide printed copies of 2012 district and school report cards, providing instead that free printed copies of report cards are to be made available to parents upon request. Districts or schools are to notify parents about the report cards through e-mail links, newsletters, or other regular communication channels. The savings generated from waiving the report card printing requirements are to be distributed to school districts based on weighted pupil units. The legislation suspends the requirement of informing the community of the school's and district's 2012 report card results through a paid advertisement, and instead requires results to be provided to the editor of a newspaper of general circulation in the school's or district's area. The legislation authorizes high schools to offer state-funded WorkKeys to tenth grade students using funds appropriated for the assessment of PSAT or PLAN in the 2012-2013 general appropriations act, or for these purposes in prior years. The legislation provides for fiscal year 2012-2013 a one-year grace period for certain recipients of a South Carolina Teacher Loan.

STATUS: Having passed the General Assembly, H.4904 was ratified on June 5, 2012 (R.240) and signed into law by the Governor on June 7.

FAMILY AND HEALTH

ALIMONY - COURT'S CONSIDERATION OF RETIREMENT OF THE SUPPORTING SPOUSE

The General Assembly approved and the Governor signed into law H.4738, legislation relating to the court's consideration of retirement of the supporting spouse when determining alimony. This legislation provides that retirement by the supporting spouse is sufficient grounds to warrant a hearing, if so moved by a party, to evaluate whether there has been a change of circumstances for alimony. The legislation establishes the factors the court shall consider, such as whether the retirement is mandatory or voluntary, whether retirement would result in a decrease in income, and the age and health of the supporting spouse.

STATUS: Having been approved by the General Assembly, H.4738 was ratified June 12, 2012, (R.304) and signed into law by the Governor on June 18 (Act No. 260).

"BORN ALIVE INFANT PROTECTION ACT"

The General Assembly approved and the Governor signed into law S.1149, legislation which enacts the "Born Alive Infant Protection Act". This legislation provides that, in determining the meaning of any act or joint resolution of the General Assembly or any regulation, the words 'person', 'human being', 'child', and 'individual' must, unless otherwise defined, include every infant member of the species homo sapiens who is born alive at any stage of development. The term 'born alive', with respect to a member of the species homo sapiens, means the complete expulsion or extraction from the mother of that member, at any stage of development, who after the expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, or induced abortion. Nothing in this legislation may be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species homo sapiens at any point before being born alive.

STATUS: Having passed the General Assembly, S.1149, was ratified on May 23, 2012, (R.200) and signed into law by the Governor on May 25 (Act No. 174).

CHILD CUSTODY

The General Assembly approved and the Governor signed into law H.4614, legislation pertaining to child custody issues. Highlights of the legislation include the following.

Legislative Update, August 6, 2012
MAJOR ISSUES

Court-Ordered Joint Custody of Children

This legislation establishes in statute procedures and requirements relating to court-ordered joint custody of children. Among other things, at all temporary hearings where custody is contested the legislation requires each parent to 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 parties may elect to submit a joint parenting plan. The legislation requires the court to make final custody determination 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. The legislation requires the court to consider joint custody if custody is contested or if either parent seeks it and, in its final order, to state its determination as to custody as well as its reasoning for that decision. Notwithstanding the custody determination, the court may allocate parenting time in the best interest of the child. The legislation provides matters that may be included in a custody order and provides factors the court may consider in issuing or modifying a custody order when considering the best interest of the child.

Rights and Duties of Parents

The legislation provides that custodial parents, except in certain circumstances, should facilitate opportunities for reasonable telephone and electronic communication between the child and noncustodial or other parent, if the court determines this type of communication is in the best interest of the child.

Notwithstanding the custody arrangement and in addition to all other rights and duties given to parents, each parent has equal access and the same right to obtain all educational records and medical records of his minor children and the right to participate in the children's school activities and extracurricular activities that are held in public locations unless prohibited by court order.

South Carolina Family Court Study Committee

The South Carolina Family Court Study Committee is created to study the feasibility of tracking the outcome of contested temporary and final custody proceedings in the family court. The legislation provides for the composition of the study committee and further provides that members of the study committee serve without compensation and may not receive mileage or per diem. The study committee shall issue its findings concerning the feasibility of tracking the outcome of temporary and final custody proceedings in the family court by January 31, 2013.

STATUS: Having been approved by the General Assembly, H.4614 was ratified on June 12, 2012, (R.301) and signed into law on June 18 (Act No. 259).

ELECTRONIC TRANSMITTAL OF DEATH CERTIFICATES

The General Assembly approved and the Governor signed into law H.4687. The legislation requires that all death certificates be electronically filed with the Bureau of

Legislative Update, August 6, 2012
MAJOR ISSUES

Vital Statistics. Death certificates must be transmitted electronically between the funeral home director and the physician, coroner, or medical examiner certifying the cause of death in order to document the death certificate information. Required signatures on death certificates must be provided by electronic signature. An individual who acts, without compensation, as a funeral director on behalf of a deceased family member or friend; physicians certifying fewer than twelve deaths per year; or funeral homes that perform fewer than twelve funerals per year are exempt from the requirement.

STATUS: Having passed the General Assembly, H.4687 was ratified on June 6, 2012, (R.256) and was signed into law by the Governor on June 7 (Act No. 199).

HOSPITAL QUALITY ASSURANCE REVIEWS, PEER REVIEWS, MEDICAL STAFF CREDENTIALING PROCESSES, AND SIMILAR EVALUATIONS

The General Assembly approved and the Governor signed into law H.4008, legislation establishing protections from legal liability that apply to hospital quality assurance reviews, peer reviews, medical staff credentialing processes, and similar evaluations. The legislation provides there is no monetary liability, and no cause of action for damages arising against, a hospital and certain entities and individuals linked to the hospital for undertaking or performing certain acts without malice. In addition, the act must have taken place after a reasonable effort to obtain the facts and a belief that the act was warranted by the facts known. The act or proceeding must relate to: sentinel event investigations or root cause analyses prescribed by the joint commission or an appropriately accredited organization; investigation of medical staff member competence or conduct, quality assurance reviews; medical staff credentialing process; reports by a hospital to its insurance carriers; quality of care reviews/investigations, or certain quality of care reports/statements. Additionally, the legislation includes provisions about the confidentiality of records in such proceedings.

STATUS: Having been approved by the General Assembly, H.4008 was ratified June 22, 2012, (R.320) and was signed into law by the Governor on June 26 (Act No. 275).

HOSPITALS REQUIRED TO PROVIDE EDUCATIONAL INFORMATION ON PERTUSSIS DISEASE (WHOOPIING COUGH) TO PARENTS OF NEWBORNS

The General Assembly approved and the Governor signed into law H.4705. The legislation requires a hospital to provide parents of newborns information on pertussis and the availability of a protective vaccine, including 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 the highly contagious bacterial disease that causes

Legislative Update, August 6, 2012
MAJOR ISSUES

uncontrollable, violent coughing, which is also known as whooping cough. Hospitals are not required to provide or pay for a vaccination against pertussis.

STATUS: Having passed the General Assembly, H.4705 was ratified on June 5, 2012 (R.237) and signed into law by the Governor on June 7 (Act No. 191).

INTERSTATE HEALTHCARE COMPACT

The General Assembly approved S.836, legislation to enact an **INTERSTATE HEALTHCARE COMPACT** and enter South Carolina into the compact along with any other states legally joining the compact by the adoption of similar legislation. Member states shall take joint and separate action to secure congressional consent to this compact in order to return the authority to regulate health care to the member states. The legislation provides that the legislature of each member state has the primary responsibility to regulate health care in their state. Each member state, within its jurisdiction, may enact legislation to suspend the operation of all federal laws, rules, regulations, and orders regarding health care that are inconsistent with those adopted by the member state pursuant to this compact. Each federal fiscal year, each member state shall have the right to federal monies up to an amount equal to its member state current year funding level for that federal fiscal year, funded by Congress as mandatory spending and not subject to annual appropriation, to support the exercise of member state authority under this compact. This funding shall not be conditional on any action of or regulation, policy, law, or rule being adopted by the member state. The legislation establishes an Interstate Advisory Health Care Commission and provides for its membership and responsibilities. South Carolina's participation in the compact does not include the administration of Medicare or the Children's Health Insurance Program unless the General Assembly authorizes the inclusion of these programs.

STATUS: Having passed the General Assembly, S.836 was ratified on June 6, 2012 (R.249) and signed into law by the Governor on June 7 (Act No. 221).

PHARMACY AUDIT RIGHTS

The General Assembly approved S.1269, legislation establishing the rights of a pharmacy when undergoing an audit of its records conducted by a managed care company, insurance company, third-party payer, or any entity that represents a responsible party. These rights address time limitations, auditing standards, access to records, limitations on recoupment of funds, and access to an appeals process. These provisions do not apply to an audit, review, or investigation conducted by or on the behalf of the Department of Health and Human Services in the performance of its duties in administering the Medicaid Program or that involves alleged insurance fraud or abuse, Medicare fraud or abuse, or other fraud or misrepresentation.

STATUS: Having passed the General Assembly, S.1269 was ratified on June 12, 2012, (R.278) and signed into law by the Governor on June 18 (Act No. 250).

PROHIBITION ON ABORTION COVERAGE OFFERED THROUGH A HEALTH INSURANCE EXCHANGE

The General Assembly approved and the Governor signed into law **S.102**, legislation providing that abortion coverage may not be provided by a qualified health plan offered by a health insurer through a health insurance exchange created pursuant to the federal 'Patient Protection and Affordable Care Act'. This prohibition applies to group health plans as defined in the Employee Retirement Income Security Act of 1974 and health maintenance organizations. This limitation does not apply to an abortion performed when the life of the mother is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy, or when the pregnancy is the result of rape or incest.

STATUS: Having been approved by the General Assembly, S.102 was ratified June 5, 2012, (R.211) and signed into law by the Governor on June 7 (Act No. 202).

SMALL BUSINESS HEALTH INSURANCE COOPERATIVES

The General Assembly approved H.3333, legislation that makes revisions regarding small business health insurance cooperatives to encourage the use of provisions that allow small businesses to pool their resources as a means of negotiating favorable health insurance coverage for their employees. Notably, the legislation revises excess stop-loss coverage requirements for these multiple employer self-insured health plans or multiple employer welfare arrangements (MEWA). This legislation also makes revisions to insurers' securitization requirements and requirements for financial statements filed with the Department of Insurance.

STATUS: Having passed the General Assembly, H.3333 was ratified on March 29, 2012, (R.155) and signed into law by the Governor on April 2 (Act No. 137).

TERMINATION OF A CHILD SUPPORT OBLIGATION

The General Assembly approved and the Governor signed into law H.3400, legislation pertaining to the termination of a child support obligation. This legislation provides that when child support is terminated due to the child turning eighteen years of age, graduating from high school, or reaching the end of the school year when the child is nineteen, no arrearage may be incurred as to that child after the date of the child's eighteenth birthday, the date of the child's graduation from high school, or the last day of the school year when the child is nineteen, whichever date terminated the child support obligation.

STATUS: Having been approved by the General Assembly, H.3400 was ratified June 22, 2012, (R.317) and signed into law by the Governor on June 26 (Act No. 273).

GOVERNMENT

ONLINE ELECTRONIC VOTER REGISTRATION

The General Assembly approved and the Governor signed into law H.4945. This legislation authorizes a person who is qualified to register to vote and who has a valid South Carolina driver's license or state identification card issued by the South Carolina Department of Motor Vehicles (DMV) to submit an application for voter registration electronically on the website of the State Election Commission. An application is effective upon receipt by the commission if it is received 30 days before an election to be held in the precinct of the person submitting the application. The applicant shall attest to the truth of the information provided and assent to the use of his signature from his driver's license or state identification card issued by the DMV. A person who submits an application electronically must include his: driver's license or state identification card number; date of birth; last four digits of his social security number; name and address; and any other information the commission considers necessary to establish the identity of the applicant. Upon submission of an application, the electronic voter registration system must provide immediate verification of the data with information on file with the

Legislative Update, August 6, 2012
MAJOR ISSUES

DMV. Should there be a failure to match any of the required information with the DMV, the commission shall immediately notify the applicant of the failure and inform the applicant that his application for registration was not accepted. The legislation further provides that the commission shall establish and maintain a voter registration database that shall be made continuously available to each board of elections and to other agencies. State agencies shall provide any information and data to the State Election Commission that the commission considers necessary in order to maintain the database, except where prohibited by federal law or regulation. The commission shall ensure the confidentiality of database information. The name or address of a registered elector shall only be updated upon the elector's filing of a notice of change of name and/or address. A county board of registration shall contact a registered elector by mail at the address on file to verify the accuracy of the database information when there is a discrepancy with information on the elector maintained by a state agency. The commission may enter into agreements to share the information or data with other states or groups of states.

STATUS: Having been approved by the General Assembly, H.4945 was ratified June 12, 2012, (R.311) and signed into law by the Governor on June 18 (Act No. 265).

PROPOSED CONSTITUTIONAL AMENDMENT ALLOWING THE JOINT ELECTION OF THE GOVERNOR AND THE LIEUTENANT GOVERNOR

The General Assembly approved a joint resolution that proposes to amend the South Carolina Constitution so as to allow the joint election of the Governor and the Lieutenant Governor. Under this proposed amendment to the South Carolina Constitution, a gubernatorial candidate would select a running mate to fill the position of Lieutenant Governor in a manner similar to the election of the President and Vice President at the national level. The General Assembly shall provide by law the manner in which a candidate for Lieutenant Governor is selected. The legislation also proposes to revise the role that the Lieutenant Governor plays under the state's constitution by eliminating the office's legislative duties and revising the manner in which vacancies in the office of Lieutenant Governor are to be filled. The proposal eliminates the Lieutenant Governor's authority to serve as President of the Senate and cast tie-breaking votes in that body. Instead, the Senate would, every four years, elect from among its members a President to preside over the Senate and perform other duties as provided by law. The proposal eliminates the constitutional role of the President Pro Tempore of the Senate, who is currently called upon to fill a vacancy in the office of Lieutenant Governor. In the case of the removal of the Lieutenant Governor from office by impeachment, death, resignation, disqualification, disability, or removal from the State, the legislation provides that the Governor would appoint, with the advice and consent of the Senate, a successor to fulfill the unexpired term. The proposed constitutional amendment is to be placed on the ballot at the upcoming general election and, should the proposal be approved by the state's voters in November and subsequently ratified by the General Assembly, the joint election of the Governor and Lieutenant Governor, along with the other changes, would commence with the 2018 general election.

Legislative Update, August 6, 2012
MAJOR ISSUES

STATUS: Having been approved by the General Assembly, H.3152 was ratified on May 23, 2012, (R.204). No signature of the Governor is required.

SOUTH CAROLINA RESEARCH AUTHORITY REVISIONS

The General Assembly approved S.1331, a bill revising provisions governing the South Carolina Research Authority. The legislation specifies that the South Carolina Research Authority is not authorized to commit the credit and taxing power of the state. The legislation requires written notice when the authority has certain relationships with a nonprofit entity that establishes a for-profit entity, and specifies that a failure to provide this notice may not be construed to indicate the authority may pledge the credit and taxing power of the state. The legislation revises the membership and terms of the board of trustees and executive committee of the authority, so as: to provide for the election of two additional trustees; to permit a university president who is an ex officio member of the board to designate the chief research officer of his university to participate and vote in no more than two meetings of the executive committee each year; to provide for members' terms, filling of vacancies, and removal of executive committee members; and, to allow the Chairmen of the House Ways and Means Committee and the Senate Finance Committee, rather than their designees, to serve on the board. The legislation authorizes the board of trustees of the authority to provide guarantees as security for certain obligations. The legislation revises provisions relating to costs associated with innovation centers established by the authority, so as: to make certain financing optional rather than mandatory; to expand the sources of funding available for financing these costs; and, to prohibit the use of a pledge of credit and taxing power of the state or a political subdivision of the state to finance these costs.

STATUS: Having passed the General Assembly, S.1331 was ratified on June 5, 2012 (R.223) and signed into law by the Governor on June 7 (Act No. 209).

STATE HOUSE GROUNDS PROHIBITION ON CAMPING

The General Assembly approved and the Governor signed into law S.1227, legislation that prohibits a person or group from using the State House grounds or the buildings located on the grounds for camping, sleeping, or conducting various campsite activities such as erecting tents, building fires for cooking, and engaging in unauthorized digging. This prohibition applies regardless of the participant's intent or the nature of other activities in which the participant may be engaged.

STATUS: Having been approved by the General Assembly, S.1227 was ratified March 29, 2012, (R.150) and signed into law by the Governor on the same day (Act No. 134).

STATE INSPECTOR GENERAL

Legislative Update, August 6, 2012
MAJOR ISSUES

The General Assembly approved and the Governor signed into law S.258. This legislation creates the Office of State Inspector General for the purpose of investigating and addressing allegations of fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in state agencies. The State Inspector General is appointed by the Governor with the advice and consent of the Senate for a term of four years. The office is authorized to investigate any authority, board, branch, commission, committee, department, division, or other instrumentality of the executive branch of state government, including administrative bodies, but its investigatory powers do not extend to the legislative branch of state government, the judicial branch, the state's quasi-judicial bodies, or political subdivisions. For the purpose of conducting investigations, the State Inspector General has authority to administer oaths, examine witnesses under oath, issue subpoenas, and examine the records, reports, audits, reviews, papers, books, recommendations, contracts, correspondence, or any other documents maintained by an agency. The State Inspector General must establish a toll-free public telephone number for the purpose of receiving confidential reports concerning state agency activities.

STATUS: Having passed the General Assembly, S.258 was ratified on January 26, 2012, (R.112) and signed into law by the Governor on February 1 (Act No. 105).

HERITAGE AND HOLIDAYS

AFRICAN AMERICAN HISTORY MONTH

The General Assembly approved and the Governor signed into law S.1196. This legislation officially designates the month of February of every year as African American History Month in South Carolina to emphasize the contributions of African Americans to the growth, development, culture, and institutions of the country.

STATUS: Having passed the General Assembly, S.1196 was ratified on March 7, 2012, (R.138) and signed into law by the Governor on March 13 (Act No. 131).

FREE FISHING DAYS AND FREE HUNTING DAYS

Lawmakers approved and the Governor signed into law S.1087. The legislation designates the Fourth of July and National Memorial Day as days when a resident is not required to possess a license or permit for freshwater recreational fishing. These provisions do not apply to individuals fishing for a commercial purpose or when a commercial fishing license is required to use certain nongame fishing devices. The legislation eliminates the authority of the Department of Natural Resources to designate up to two “free fishing days”, but directs the department to designate two days a year as ‘free hunting days’ during which state residents may hunt without procuring the necessary licenses and permits.

STATUS: Having passed the General Assembly, S.1087 was ratified on June 12, 2012 (R.272) and signed into law by the Governor on June 18 (Act No. 245).

OFFICIAL CIVIL WAR ERA HISTORIC DRIVING TRAILS OF SOUTH CAROLINA

Lawmakers approved and the Governor signed into law S.1143, legislation establishing the South Carolina Civil War Heritage Trails as the Official Civil War Era Historic Driving Trails of South Carolina. This legislation permits South Carolina Civil War Heritage Trails to consult with the South Carolina Civil War Sesquicentennial Advisory Board and the Department of Archives and History concerning the planning, development, establishment, maintenance, and marketing of the trails. The legislation encourages the Department of Transportation to work with South Carolina Civil War Heritage Trails concerning the placement of signs adjacent to the state highway system, and it encourages the appropriate

Legislative Update, August 6, 2012
MAJOR ISSUES

government agencies to cooperate with South Carolina Civil War Heritage Trails concerning educational and marketing materials.

STATUS: Having passed the General Assembly, S.1143 was ratified June 5, 2012, (R.220) and signed into law by the Governor on June 7 (Act No. 216).

INSURANCE AND BANKING

CLOSING OR SETTLEMENT INSURANCE

The General Assembly approved S.1319, legislation authorizing a title insurer to issue closing or settlement insurance and providing for loss against which this insurance may indemnify an insured. A premium charged for this coverage must be approved by the Department of Insurance and must not be subject to any agreement requiring a division of fees or premiums collected on behalf of the title insurer.

STATUS: Having passed the General Assembly, S.1319 was ratified on June 5, 2012 (R.222) and signed into law by the Governor on June 11 (Act No. 217).

DERIVATIVE TRANSACTIONS INCLUDED UNDER BANK LENDING LIMITATIONS

The General Assembly approved S.1392, a bill that brings state laws into compliance with the federal Dodd-Frank Wall Street Reform and Consumer Protection Act by providing for the inclusion of derivative transactions under bank lending limitations. A “derivative transaction” is defined as any transaction that is a contract, agreement, swap, warrant, note, or option that is based, in whole or in part, on the value of any interest in, or any quantitative measure or the occurrence of any event relating to one or more commodities, securities, currencies, interest, or other rates, indices, or assets.

STATUS: Having passed the General Assembly, S.1392 was ratified on June 5, 2012, (R.225) and signed into law by the Governor on June 7 (Act No. 211).

PORTABLE ELECTRONICS INSURANCE

The General Assembly approved H.4787, the “Portable Electronics Insurance Act”. The legislation provides for the licensure and regulation of vendors of insurance covering the repair or replacement of portable electronic devices. The legislation provides requirements relating to the sale of portable electronics insurance under a limited lines license, establishes disclosure requirements for vendors of such insurance to prospective consumers, provides licensure fees and surcharges, and establishes penalties for violations.

The General Assembly also approved S.1229, legislation establishes an exemption from insurance adjuster licensing provisions covering those entering data into a portable

Legislative Update, August 6, 2012
MAJOR ISSUES

electronics insurance automated claims adjudication system and other support staff for such automated systems, so long as no more than twenty-five such persons are under the supervision of a licensed adjuster or a licensed producer who is otherwise exempt licensure as an adjuster.

STATUS: Having passed the General Assembly, H.4787 was ratified on May 8, 2012 (R.196) and signed into law by the Governor on May 14 (Act No. 172). Having passed the General Assembly, S.1229 was ratified on June 22 (R.315) and signed into law by the Governor on June 26 (Act No. 281).

SURPLUS LINES INSURANCE

The General Assembly approved S.1419, a bill revising provisions relating to insurance brokers and surplus lines insurance. The legislation provides that the revenue collected from the broker's premium tax rate must be credited to a special earmarked fund and provides the manner in which the fund may be used and disbursed. The legislation authorizes the director of the Department of Insurance to conduct examinations of broker records and allows the department to promulgate necessary regulations. The legislation provides the manner in which the Nonadmitted and Reinsurance Reform Act of 2010 may be implemented. For the purposes of carrying out the Nonadmitted and Reinsurance Reform Act of 2010, the director of the Department of Insurance or his designee may enter to in an agreement with a single state to facilitate the collection, allocation, and disbursement of premium taxes attributable to the placement of surplus lines insurance, provide for uniform methods of allocation and reporting among surplus lines insurance risk classifications, and share information among states relating to surplus lines insurance premium taxes. The legislation provides authority to participate in a clearing house established through a multistate agreement approved by the General Assembly for the purpose of collecting and disbursing to reciprocal states any funds collected that relate to properties, risks, or exposures located or to be performed outside of this State. To the extent that other states where portions of the properties, risks, or exposures reside have failed to enter into an agreement or reciprocal allocation procedure with this State, the net premium tax collected shall be retained by this State. The legislation revises provisions relating to municipal license fees and taxes, so as to disallow a municipality from charging an additional license fee or tax based upon a percentage of premiums for purposes of surplus lines insurance.

STATUS: Having passed the General Assembly, S.1419 was ratified on June 28, 2012 (R.325) and signed into law by the Governor on June 29 (Act No. 283).

MILITARY

DISCOUNTED TUITION RATES ON HIGHER EDUCATION DISTANCE LEARNING COURSES FOR ACTIVE DUTY MILITARY PERSONNEL

Legislative Update, August 6, 2012
MAJOR ISSUES

The General Assembly approved and the Governor signed into law **S.833**, legislation allowing active duty military personnel to be charged less than the undergraduate tuition rate for South Carolina residents for courses that are presented on a distance basis, regardless of residency. Active duty guardsmen and active duty reservists are included among the active duty military personnel eligible to receive special tuition rates.

STATUS: Having passed the General Assembly, S.833 was ratified on March 29, 2012, (R.149) and signed into law by the Governor on April 2 (Act No. 133).

HONOR AND REMEMBER FLAG

The General Assembly approved and the Governor signed into law **H.4093**. This legislation designates the Honor and Remember Flag as the Official State Emblem of Service and Sacrifice by those in the United States Armed Forces who have given their lives in the line of duty.

STATUS: Having been approved by the General Assembly, H.4093 was ratified June 12, 2012, (R.297) and signed into law by the Governor on June 18 (Act No. 237).

RETIREMENT OF SOUTH CAROLINA NATIONAL GUARD OFFICERS AND ENLISTED MEN

The General Assembly approved and the Governor signed into law **S.872**. The legislation extends the retirement honorary promotion provisions to honorably discharged service members who are removed from the National Guard due to medical conditions.

STATUS: Having passed the General Assembly, S.872 was ratified on May 8, 2012, (R.174) and signed into law by the Governor on May 14 (Act No. 154).

“SOUTH CAROLINA MEDAL OF VALOR ACT OF 2012”

The General Assembly approved and the Governor signed into law **S.1213**. This legislation creates the South Carolina Medal of Valor to be awarded to a South Carolinian, or an individual with certain ties to South Carolina, who was killed either while serving in or deploying to a combat zone. The South Carolina Medal of Valor is awarded on behalf of the people of the State of South Carolina and is presented to the families of these fallen service members.

STATUS: Having passed the General Assembly, S.1213 was ratified on May 23, 2012, (R.201) and signed into law by the Governor on May 25 (Act No. 175).

STUDENT ASSIGNMENTS / MAKE-UP EXAMINATIONS FOR MILITARY RELATED ABSENCES AT INSTITUTIONS OF HIGHER EDUCATION

Lawmakers approved and the Governor signed into law **H.3558**. This legislation requires institutions of higher education that receive state funding, either directly or indirectly, including state scholarships or grants, to allow students to complete assignments or take make-up examinations when an absence is caused by attending or participating in military service, duty, training, or disaster relief efforts.

STATUS: Having passed the General Assembly, H.3558 was ratified on May 8, 2012, (R.189) and signed into law by the Governor on May 14 (Act No. 165).

TEMPORARY PROFESSIONAL AND OCCUPATIONAL LICENSES FOR SPOUSES OF ACTIVE DUTY MILITARY PERSONNEL

The General Assembly approved **H.3710**, a bill providing authority for the issuance of temporary professional and occupational licenses to spouses of active duty military personnel. The legislation establishes the conditions under which a board or commission that regulates the licensure of a profession or occupation may issue a one-year temporary license to the spouse of an active duty member of the United States Armed Forces assigned to a duty station in this state. In order to obtain a temporary license, an applicant must meet the legislation's requirements, including holding a valid license issued in another jurisdiction and passing applicable criminal background checks.

STATUS: Having passed the General Assembly, H.3710 was ratified on June 22, 2012 (R.318) and signed into law by the Governor on June 26 (Act No. 274).

UNCLAIMED CREMATED REMAINS OF A VETERAN

Lawmakers approved and the Governor signed into law **H.3921**. This legislation establishes a protocol for unclaimed cremated remains of a veteran as it allows for the proper disposition of these remains in cases where there are no next of kin without liability to the funeral home, funeral establishment, or mortuary involved.

STATUS: Having been approved by the General Assembly, H.3921 was ratified on May 8, 2012, (R.190) and signed into law by the Governor on May 14 (Act No. 166).

VETERAN AND MILITARY SPECIAL LICENSE PLATE PROVISIONS

The General Assembly approved and the Governor signed into law **S.1417** and **H.3124**. Both pertain to special license plates for veterans, members of the military, and their families. Highlights of the legislation include the following.

Provisions for New Plates

The General Assembly approved legislation which authorizes the issuance of several new veteran and military special license plates: 'Distinguished Service Medal' special license plate; 'Distinguished Service Cross' special license plate; 'Department of the Navy' special license plate; 'Parents and Spouses of Active Duty Overseas Veterans' special license plate; 'Active Duty Members of the United States Armed Forces' special license plate; and 'United States Navy Chief Petty Officer' special license plate; 'United States Marine Corp' special license plate; and 'Combat Related Disabled Veteran' special license plate.

Revisions to Existing Plates

With regards to the existing veteran's special license plate, legislation approved by the General Assembly allows qualified persons who meet eligibility requirements for a handicapped license plate to have the distinguishing wheelchair symbol placed on this plate as well as allows qualified individuals with a service related disability to have the word 'disabled' placed on this plate. With regards to the existing World War II special license plate, legislation allows qualified persons who meet eligibility requirements for a handicapped license plate to have a decal placed on the plate until the plate can be redesigned with the international symbol of access. Legislation allows for the issuance of a third Purple Heart License Plate upon payment of the regular registration fee and a special fee. Currently, any remaining funds after defraying costs for production of the special license plates for the separate branches of the military must be administered by the Department of Education and deposited in an appropriate account for distribution to the ROTC program; this legislation provides that these funds must instead be disbursed in equal amounts to the various county Veterans' Administration offices to be used for operational expenses. Legislation removes the restriction for the Korean War Veteran special license plate that requires the veteran to have been on active duty in Korea.

STATUS: Having passed the General Assembly, S.1417 was ratified June 12, 2012, (R.281) and signed into law by the Governor on June 18 (Act No. 253). Having passed

**Legislative Update, August 6, 2012
MAJOR ISSUES**

the General Assembly, H.3124 was ratified June 22, 2012, (R.316) and was signed into law by the Governor on June 26 (Act No. 272).

VETERAN STATUS DESIGNATION ON A DRIVER'S LICENSE OR SPECIAL IDENTIFICATION CARD

The General Assembly approved and the Governor signed into law S.710. This legislation provides that, upon an individual's request, proof of eligibility and payment of a one dollar fee, the Department of Motor Vehicles is authorized to include a veteran status designation on the front of a driver's license or special identification card.

STATUS: Having passed the General Assembly, S.710 was ratified on April 19, 2012, (R.166) and signed into law by the Governor on April 23 (Act No. 147).

**NATURAL RESOURCES,
ENVIRONMENTAL AFFAIRS
AND AGRICULTURE**

APPLICATION OF THE POLLUTION CONTROL ACT

The General Assembly approved H.4654, legislation addressing the application of the Pollution Control Act which regulates the discharge of sewage, industrial waste, and other pollutants through permitting programs at the Department of Health and Environmental Control. The legislation responds to a recent South Carolina Supreme Court ruling as it relates to the issues of who has standing to file a lawsuit under South Carolina's Pollution Control Act and whether the act addresses waters, such as Carolina Bays and other isolated wetlands, for which DHEC has no permitting program. The legislation specifies that no private cause of action is created by or exists under the Pollution Control Act. The legislation provides that Pollution Control Act permit requirements do not apply to: (1) discharges in a quantity below applicable threshold permitting requirements established by the department; (2) discharges for which the department has no regulatory permitting program; (3) discharges exempted by the department from permitting requirements; or (4) normal farming, silviculture, aquaculture, ranching, and wildlife habitat management activities that are not prohibited by or otherwise subject to regulation. The legislation specifies that these limitations on permitting requirements must not be construed to: impair or affect common law rights; repeal prohibitions or requirements of other statutory law or common law; or diminish the department's authority to abate public nuisances or hazards to public health or the environment, to abate pollution as defined in the Pollution Control Act, or to respond to accidental discharges or spills. A procedure is established for filing written petitions with DHEC for a declaratory ruling on the applicability of a specific, existing regulatory program to a proposed or existing discharge into the environment. The legislation authorizes DHEC to issue emergency orders to protect the public health or property from

Legislative Update, August 6, 2012
MAJOR ISSUES

unpermitted discharges and provides that relief from departmental decisions is to be sought through hearings in the Administrative Law Court. The legislation also creates the “Isolated Wetlands and Carolina Bays Task Force” to review, study, and make recommendations concerning issues related to isolated wetlands and Carolina Bays in South Carolina. The legislation provides for the composition of the task force and requires it to issue a report before terminating.

STATUS: Having passed the General Assembly, H.4654 was ratified on June 6, 2012, (R.255) and signed into law by the Governor on June 6, 2012 (Act No. 198).

CLASSIFICATION OF COBIA AS A SALTWATER GAME FISH

The General Assembly approved and the Governor signed into law S.1231. The legislation classifies Cobia *Rachycentron canadum* as a saltwater game fish. The bill adds that it is unlawful to sell, purchase, trade, or barter or attempt to sell, purchase, trade, or barter cobia taken from state waters. In addition, the legislation provides more opportunity for commercial and recreational Shad fishing in the Waccamaw and Black Rivers.

STATUS: Having passed the General Assembly, S.1231 was ratified on June 12, 2012, (R.277) and was signed into law by the Governor on June 18 (Act No. 249).

DREDGING IN THE SAVANNAH RIVER

The General Assembly approved H.4627, a joint resolution that addresses the actions taken by the South Carolina Department of Health and Environmental Control to allow dredging in the Savannah River that would make a portion of the waterway suitable for navigation by large ocean-going container or commerce vessels so that a new maritime port facility may be constructed in Georgia. Through the joint resolution the General Assembly, exercising its exclusive authority to suspend laws granted under Section 7, Article I of the South Carolina Constitution, suspends the authority of the South Carolina Department of Health and Environmental Control for all decisions subsequent to 2007 related to all matters pertaining to the navigability, depth, dredging, wastewater and sludge disposal, and related collateral issues concerning the South Carolina portion of the Savannah River, in particular the approval by DHEC of the application of the United States Army Corps of Engineers for a Construction in Navigable Waters Permit for the dredging of the South Carolina portion of the Savannah River, because the authority of the Savannah River Maritime Commission superseded DHEC’s responsibilities for such approval, as established by Act 56 of 2007, and DHEC’s approval could present imminent and irreversible public health and environmental concerns for the South Carolina portion of the Savannah River.

STATUS: Having passed the General Assembly, H.4627 was ratified on February 21, 2012 (R.133). On February 27, the Governor vetoed the legislation. The House of Representatives and the Senate subsequently overrode the Governor’s veto to allow the joint resolution to become law (Act No. 125).

FIREFIGHTING ACTIVITIES AND EQUIPMENT AT THE FORESTRY COMMISSION

The General Assembly approved **H.4082**, a bill addressing funding for modernizing firefighting equipment at the Forestry Commission and otherwise supporting the agency's firefighting activities. The legislation provides that, from July 1, 2013, through June 30, 2017, two and one-quarter percent of insurance premium tax revenue must be transferred to the South Carolina Forestry Commission and used by that agency for firefighting and firefighting equipment replacement.

STATUS: Having passed the General Assembly, H.4082 was ratified on June 12, 2012 (R.296). On June 18, the Governor vetoed the legislation. The House of Representatives and the Senate subsequently overrode the Governor's veto to allow the bill to become law (Act No. 271).

HUNTING COYOTES, ARMADILLOS AND FERAL HOGS

Lawmakers approved and the Governor signed into law **S.741** and **H.3730**.

Nighttime Hunting

The legislation establishes more expansive provisions for hunting coyotes, feral hogs and armadillos to reduce the rising populations of these nuisance animals. The legislation includes provisions for the nighttime hunting of these animals with or without the aid of bait, electronic calls, artificial light, or night vision devices, and year-round hunting with a bow and arrow and certain other weapons.

Hunting Coyotes

The legislation provides that there is no closed season for hunting or taking coyotes with weapons and allows these animals to be hunted with recorded calls or sounds or their electronically amplified imitations. The legislation includes more expansive provisions for the Department of Natural Resources to issue special permits, at no cost to the applicant, for the taking, capturing, or transportation of destructive wildlife. The legislation includes provisions allowing live traps to be used to capture feral animals at any time without a license or permit. New provisions are included for using and checking on traps.

STATUS: Having passed the General Assembly, S.741 was ratified on June 12, 2012, (R.266) and was signed into law by the Governor on June 18 (Act No. 228). Having passed the General Assembly, H.3730 was ratified on June 12, 2012, (R.290) and was signed into law by the Governor on June 18 (Act No. 257).

HONEY REGULATIONS

Lawmakers approved and the Governor signed into law **H.4005**. The legislation defines the term "honey" as the raw food product produced by honeybees for human

Legislative Update, August 6, 2012
MAJOR ISSUES

consumption and subjects all honey and honey products to the labeling requirements of the South Carolina Food and Cosmetic Act. Honey sold wholesale to other retail outlets for resale must be processed and packaged in an inspected and registered food processing facility regardless of the amount of overall honey produced by the beekeeper. Beekeepers producing no more than four hundred gallons (4,800 pounds) of honey annually and who only sell directly to the end consumer are exempt from inspections and regulations requiring honey to be processed, extracted and packaged in an inspected food processing establishment, or from being required to obtain a registration verification certificate (RVC) from the Department of Agriculture. However, labels are required on all containers of honey sold in South Carolina.

STATUS: Having passed the General Assembly, H.4005 was ratified on January 26, 2012 (R.125) and signed into law by the Governor on February 1 (Act No. 118).

NEW REQUIREMENTS FOR REPORTING AND INVESTIGATING SEWAGE SPILLS FROM WASTEWATER UTILITIES

The General Assembly approved and the Governor signed into law H.3617. The legislation directs the Department of Health and Environmental Control (DHEC) to require that all wastewater utilities provide public notice of any significant spill of five thousand gallons or more within twenty-four hours of the discovery. In instances where the responsible wastewater utility fails to provide this required notice, DHEC must provide public notice of the significant spill, in addition to any enforcement response. The legislation requires a wastewater utility to notify DHEC of any significant spill orally within twenty-four hours and by written submission within five days. Upon receiving this notification, DHEC must determine whether the wastewater utility has been responsible for more than two significant spills per one hundred miles of its sewage collection system during the past twelve-month period. If the utility is found responsible for repetitive significant spills that each release at least five thousand gallons of untreated or partially treated domestic sewage posing a serious adverse impact on the environment or public health, DHEC must require the utility to complete a comprehensive review of its sewage collection system and/or treatment works. Repetitive significant spills would require a wastewater utility to update its Capacity, Management, Operations, and Maintenance plan if a CMOM plan is in place.

STATUS: Having passed the General Assembly, H.3617 was ratified on January 26, 2012, (R.116) and signed into law by the Governor on February 1 (Act No. 109).

PRESCRIBED FIRES

The General Assembly approved and the Governor signed into law H.3631, legislation relating to the requirements for conducting a prescribed fire, also known as controlled burn. Prescribed fire is an effective tool in preventing the outbreak and spread of wildfires. This legislation further specifies supervision requirements for a prescribed fire manager, and it references specific regulatory and statutory provisions applicable to conducting a prescribed fire. This legislation also provides that a property owner or lessee or his agent or employee conducting a prescribed fire pursuant to these statutory

Legislative Update, August 6, 2012
MAJOR ISSUES

provisions is not liable for damage, injury or loss caused by the resulting smoke of a prescribed fire unless gross negligence or recklessness is proven.

STATUS: Having passed the General Assembly, H.3631 was ratified on March 29, 2012, (R.157) and signed into law by the Governor on April 2 (Act No. 139).

SOUTH CAROLINA CONSERVATION BANK ACT EXTENSION

The General Assembly approved H.3083 to provide for a five-year extension of the South Carolina Conservation Bank Act. The legislation extends the July 1, 2013, sunset date for the South Carolina Conservation Bank until July 1, 2018.

STATUS: Having passed the General Assembly, H.3083 was ratified on May 8, 2012 (R.186) and signed into law by the Governor on May 14 (Act No. 162).

USE, SALE, OR MANUFACTURE OF CLEANING AGENTS CONTAINING PHOSPHATES

Lawmakers approved and the Governor signed into law H.3470. The legislation adds household and commercial dishwashing detergent to the cleaning products included in the restriction on phosphates. The provision does not restrict sale by a retailer of a household dishwashing detergent product from inventory existing and in stock at the retailer on July 1, 2012. The provisions relating to household dishwashing detergent take effect July 1, 2012. The provisions relating to commercial dishwashing and laundry detergent and industrial cleaners take effect on July 1, 2013.

STATUS: Having passed the General Assembly, H.3470 was ratified on February 21, 2012, (R.128) and signed into law by the Governor on February 22 (Act No. 120).

RETIREMENT SYSTEMS REFORM

The General Assembly approved H.4967, legislation that provides for comprehensive retirement systems revisions as a means of securing long term financial health for South Carolina's employee pension plans.

Retirement Eligibility Criteria

The legislation revises eligibility criteria for the South Carolina Retirement System (SCRS), which serves public school teachers and most state government employees, by requiring new employees, who become members of the system after June 30, 2012, to attain the age of sixty or satisfy what is known as the "rule of ninety", meaning that their ages and years of service added together must total at least ninety, in order to be eligible to retire with full benefits. Existing SCRS employees retain their twenty-eight year eligibility for full retirement at any age. New employees must have at least eight years of service to become vested in SCRS, but existing employees retain their five-year minimum. Eligibility criteria are revised for the Police Officers Retirement System

Legislative Update, August 6, 2012
MAJOR ISSUES

(PORS) to require new employees to have at least eight years of service to become vested in the system and at least twenty-seven years of service for full retirement at any age. Existing employees retain their five year minimum to become vested in PORS and their twenty-five year retirement eligibility.

Employer and Employee Contribution Rates

The legislation increases the employee contribution rate by one percent for both the South Carolina Retirement System and the Police Officers Retirement System, corresponding to a one percent increase in the employer contribution rate recently approved by the Budget and Control Board. The employee contribution rate increase is to be phased in over the course of two years. The legislation includes requirements for both the employer and the employee contribution rates to be increased together should greater contributions be required to keep these pension systems solvent.

Retiree Benefit Adjustments

The legislation eliminates the current provisions for awarding cost of living adjustments to SCRS retirees that tie COLAs to inflation, and, instead establishes benefit adjustment provisions that award SCRS and PORS retirees a guaranteed 1% annual increase in benefits up to cap of \$500.

Elimination of the TERI Program

The legislation phases out the Teacher and Employee Retention Incentive (TERI) Program so that the program is eliminated by July 1, 2018.

Limitations for Retirees Returning to Work

New restrictions are placed on those who retire under SCRS or PORS and return to work in state government or another position covered by the pension plans. Such employees would have to wait thirty days, rather than the current fifteen days, before returning to employment. Beginning in 2013, such employees would be subject to a yearly earning limitation of ten thousand dollars. Once this cap is exceeded, retirement allowances would be discontinued for the remainder of the year. These earning limitations do not apply to those who have retired before January 2, 2013, those who have attained at retirement the age of sixty-two in the case of SCRS or fifty-seven in the case of PORS, and to elected and certain appointed public offices.

Anti-Spiking Provisions

Anti-spiking measures are applied to those who become members of the system after June 30, 2012, to prevent eleventh hour raises and other steps taken at the end of service from distorting pension benefits. For new employees, the legislation revises the method of calculating average final compensation for determining pension benefits by requiring a computation that uses the employee's five highest years of compensation, rather than the current three highest years. For new employees, the legislation eliminates the addition of amounts of unused leave time in the calculations for determining average final compensation. The legislation revises South Carolina Retirement System provisions so that overtime not mandated by the employer will no

Legislative Update, August 6, 2012
MAJOR ISSUES

longer be considered earnable compensation, but these overtime revisions do not apply to the Police Officers Retirement System.

Service Purchases

The legislation provides for revisions that make the purchase of service credit actuarially neutral beginning in 2013. Interest will no longer accrue on inactive pension accounts. Provisions for disability retirement benefits are included that make use of the eligibility criteria of federal Social Security disability benefits.

General Assembly Retirement System

The legislation revises the General Assembly Retirement System by increasing the employee contribution rate by one percent and closing the system to new members. Beginning in 2012, legislators will participate in the South Carolina Retirement System unless they choose the State Optional Retirement Program.

Public Employee Benefit Authority

The legislation creates the Public Employee Benefit Authority to assume responsibility for the day-to-day administration and operation of the state's pension systems, Employee Health Insurance Program, and the Deferred Compensation Program. Policy determinations made by PEBA, such as proposed changes to contribution rates, actuarial assumptions, and insurance coverage and premiums, are subject to approval by the State Budget and Control Board, evidenced by a majority vote of the board. PEBA is to be governed by an eleven-member board of directors composed of gubernatorial and legislative appointees, four of which are representative members participating in the pension systems as either active state employees or retirees and seven of which are nonrepresentative members who must meet qualifications criteria for pertinent academic attainment and expertise in such areas as accounting and financial management of pension or insurance plans. The board is composed of: (a) three nonrepresentative members appointed by the Governor; (b) two members appointed by the President Pro Tempore of the Senate, one a nonrepresentative member and one a representative member who is either an active or retired member of SCPORS; (c) two members appointed by the Chairman of the Senate Finance Committee, one a nonrepresentative member and one a representative member who is a retired member of SCRS; (d) two members appointed by the Speaker of the House of Representatives, one a nonrepresentative member and one a representative member who must be a state employee who is an active contributing member of SCRS; (e) two members appointed by the Chairman of the House Ways and Means Committee, one a nonrepresentative member and one a representative member who is an active contributing member of SCRS employed by a public school district. The legislation provides for an Executive Director of PEBA who is ultimately to be appointed by the PEBA board. The legislation provides for an annual audit of PEBA and requires PEBA to maintain an online transaction register that includes a complete record of all funds expended.

Retirement System Investment Commission Revisions

The legislation revises the Retirement System Investment Commission by expanding its membership to include the Executive Director of PEBA in a non-voting capacity, altering qualifications for serving on the commission, establishing a \$20,000 yearly salary for

Legislative Update, August 6, 2012
MAJOR ISSUES

commissioners plus the payment of mileage, subsistence, and commissions allowed by law, and requiring an annual audit of the commission.

STATUS: Having passed the General Assembly, H.4967 was ratified on June 22, 2012, (R.323) and signed into law by the Governor on June 26 (Act No. 278).

TRANSPORTATION AND TRAFFIC SAFETY

AUTHORIZATION FOR BICYCLISTS AND PEDESTRIANS TO USE THE ROADWAY AND SHOULDERS OF THE MAIN FACILITY OF A NON-INTERSTATE FREEWAY

The General Assembly approved and the Governor signed into law **S.1375**. This legislation establishes a procedure that allows local governing bodies to provide authorization for bicyclists and pedestrians to use the roadway and shoulders of the main facility of a non-interstate freeway when there is no other reasonably safe or viable alternative route and the use of the freeway route is at least ten percent less than the shortest conventional alternate route.

STATUS: Having been approved by the General Assembly, S.1375 was ratified June 12, 2012, (R.280) and signed into law by the Governor on June 18 (Act No. 252).

DEPARTMENT OF TRANSPORTATION TO MAINTAIN AN ONLINE TRANSACTION REGISTER

This General Assembly approved and the Governor signed into law **S.1007**, legislation requiring the Department of Transportation to maintain an online transaction register that includes a complete record of all funds expended, from whatever source for whatever purpose. The register must be prominently posted on the department's website and made available for public viewing and downloading. The register must be searchable and updated at least once a month, with each monthly register maintained on the website for at least three years. The legislation also includes requirements for the department website to provide links to other agencies' postings of state procurement card statements.

STATUS: Having been approved by the General Assembly, S.1007 was ratified on June 12, 2012, (R.268) and signed into law by the Governor on June 18 (Act No. 230).

FARM TRUCK AND COMMERCIAL MOTOR VEHICLE PROVISIONS

The General Assembly approved and the Governor signed into law **H.4761**, legislation revising definitions and other provisions so that farm trucks and other smaller, lighter commercial vehicles and trailers will not be subject to the more stringent requirements that new Federal Motor Carrier Safety Regulations impose upon commercial trucks. The legislation also specifies that the Transport Police Division of the Department of Public Safety has exclusive authority in this state for enforcement of the commercial motor vehicle carrier laws, which include Federal Motor Carrier Safety Regulations, Hazardous Material Regulations, and size and weight laws and regulations.

Legislative Update, August 6, 2012
MAJOR ISSUES

STATUS: Having been approved by the General Assembly, H.4761 was ratified May 23, 2012, (R.208) and signed into law by the Governor on May 25 (Act No. 180).

HEARING IMPAIRED NOTATION ON A DRIVER'S LICENSE

Lawmakers approved and the Governor signed into law S.710. This legislation authorizes the Department of Motor Vehicles to include a hearing impaired notation on a driver's license upon request and submission of medical documentation that the applicant has a permanent, uncorrectable hearing loss of forty decibels or more in one or both ears. The legislation also provides for the issuance of hearing impaired driver placards. A fee not to exceed five dollars may be charged to each applicant issued a placard.

STATUS: Having passed the General Assembly, S.710 was ratified on April 19, 2012, (R.166) and signed into law by the Governor on April 23 (Act No. 147).

OPERATING GOLF CARTS ALONG THE STATE'S HIGHWAYS

The General Assembly approved and the Governor signed into law H.3259. This legislation establishes a procedure authorizing golf cart owners to obtain a permit decal and registration from the Department of Motor Vehicles, upon presentation of proof of ownership and liability insurance for the golf cart and upon payment of a five dollar fee, which allows for the limited operation of the golf cart during daylight hours on a secondary highway or street for which the posted speed limit is no more than thirty-five miles an hour within a set area that is nearby their residence, nearby the entrance to their gated community, or on an island that is not accessible by a bridge designed for use by automobiles. Notably, this legislation expands the set area of operation to four miles; under current provisions of law the set area is no more than two miles. A political subdivision may, on designated streets or roads within the political subdivision's jurisdiction, reduce the area in which a permitted golf cart may operate from four miles to no less than two miles.

STATUS: Having passed the General Assembly, H.3259 was ratified May 23, 2012, (R.205) and signed into law by the Governor on May 25 (Act No. 177).

PETITIONING A COURT TO ABANDON OR CLOSE A STREET, ROAD, OR HIGHWAY

The General Assembly approved and the Governor signed into law **H.3390**, legislation relating to petitioning a court to abandon or close a street, road or highway. This legislation provides that notice of intention to file a petition must be posted along the street, road, or highway subject to the approval of the location of the posting by the governmental entity responsible for maintenance of the street, road, or highway. The Department of Transportation shall promulgate regulations to establish the minimum mandatory size, language, and specific positioning of the posted signs.

STATUS: Having been approved by the General Assembly, H.3390 was ratified June 5, 2012, (R.229) and signed into law by the Governor on June 7 (Act No. 184).

UNLAWFUL FOR ANY PERSON TO CAMP WITHIN THE RIGHT-OF-WAY OF A HIGHWAY OPEN TO VEHICULAR TRAFFIC

Lawmakers approved and the Governor signed into law **S.105**. This legislation provides that it is unlawful for any person to camp, set fires, or cook within the right-of-way of a highway open to vehicular traffic. A person who violates these provisions is guilty of a misdemeanor and, upon conviction, must be fined not more than \$100 or imprisoned not more than 30 days or such other lesser disposition, penalty, or non penalty, as the court determines.

STATUS: Having been approved by the General Assembly, S.105 was ratified on June 12, 2012, (R.261) and signed into law by the Governor on June 18 (Act No. 224).

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