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South Carolina House of Representatives

# Legislative Update

Robert J. Sheheen, Speaker of the House

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STATE DOCUMENTS

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## Legislative Update, May 14, 1991

### House Week in Review

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Another conference committee got to work last week as the end of the 1991 session draws closer. The conference committee on the State Appropriations bill (H.3650) got to work last week. Appointed by the Speaker to represent the House are Reps. Boan, Mattos and McTeer. State senators serving on the budget conference committee are Sens. Waddell, Drummond and Setzler.

In addition to the budget bill, conference committees are meeting in connection with two other significant bills. These are S.388, the Solid Waste Management bill, and H.3743, the Ethics and Lobbying bill.

While the conference committees worked, a number of bills were enrolled for ratification. These include H.3140, legislation to prohibit automatically dialed announcing devices in telephone promotions, and S.376, the Stormwater Management and Sediment Control Act. The Stormwater Management legislation will be the first significant bill enacted addressing deficiencies uncovered by Hurricane Hugo's damage.

Third reading was given by the House last week to some notable legislation. These bills include S.190, which would require the House and the Senate to hold an orientation meeting on state agencies for new legislators. S.190 was given second reading by the House Thursday and third reading on Friday.

The Death with Dignity bill, H.3090, also was given a third reading Wednesday and sent to the Senate. First, the bill was amended to allow health care employees, who do not wish to participate in procedures authorized by the bill, to make their wishes known to the doctor in charge. The physician then would "make a reasonable effort to effectuate the declaration without the participation of the employee."

Also sent to the Senate last week were H.3515, which would authorize drug testing of prospective state employees, and H.3941, a House Labor, Commerce and Industry Committee bill, which would address the

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availability and cost of health insurance.

Legislation allowing parents to prepay tuition for their children was given second reading by the House last Thursday. The legislation, which would enact the Prepaid Postsecondary Education Expense Program (H.3364), would allow parents to pay a set tuition or housing rate into a fund which would be invested so that when their children were ready for college, the investment would cover the cost of tuition or housing.

Objections placed the Senate's version of Coin Operated Machines legislation (S.417) on the House contested calendar.

The House and Senate met in joint assembly Wednesday to elect a new Chief Justice of the S.C. Supreme Court, as well as several Circuit Court and Family Court judges.

Judges elected Wednesday are:

*For Chief Justice, S.C. Supreme Court:* Justice David W. Harwell

### *Circuit Court Judges*

1st Judicial Circuit: Charles W. Whetstone Jr.

11th Judicial Circuit: Rep. William P. Keesley

14th Judicial Circuit: Gerald C. Smoak

### *Family Court Judges*

5th Circuit, Seat 2: Abigail R. Rogers

10th Circuit, Seat 3: Tommy B. Edwards

13th Circuit, Seat 1: John W. Kittredge

15th Circuit, Seat 1: H.E. Bonnoitt Jr.

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### Bills Introduced

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The following bills were introduced in the House of Representatives last week. Not all the bills introduced in the House are featured here. The bill summaries are arranged according to the standing committee to which the legislation was referred.

#### Judiciary

Additional Illegal Drug Fee (H.3992, Rep. Dick Elliott). Under this legislation, an additional fee of \$60 would be imposed for conviction of an offense involving the illegal use, possession, sale, distribution or manufacturing of drugs or alcohol. This fee would be used by the county, in which the offense occurred, for the county's drug and alcohol abuse plan or to retire indebtedness incurred to finance alcohol or drug abuse treatment facilities.

#### Labor, Commerce and Industry

Alcoholic Beverage Licenses (H.3982, Rep. Burriss). This legislation would allow a ABC license to be sold to use in an existing location as long as the new owner can be approved by the ABC Commission. If the licensee dies, the retail license can be passed on to his heirs as property of the deceased. Upon the death of the license holder, the commission can suspend the license if in its opinion, the heir is ineligible to hold a retail license under the state statutes governing ABC licenses. Further, the commission could not allow the license to be inherited if it would violate other provisions of the law dealing with the number of retail licenses held by one person or one household.

The bill also would allow the holder of a retail license to move his location within the original lot on which it was sited without publication.

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Covering Air Bags (H.3990, Rep. Jennings). Under this legislation, the property damage and collision coverage in any automobile insurance policy written in South Carolina would cover the cost of replacing or repairing air bags if the automobile is involved in an accident covered under the policy.

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### Legislation Passed This Session

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With three of the biggest bills of the 1991 session in conference committees -- H.3650, the Appropriations bill; H.3743, the Ethics and Lobbying bill, and S.388, the Solid Waste Management bill, it's time to start keeping a tally of what legislation the General Assembly has passed this session. Here is a list of some of the more significant bills that have either been enrolled for ratification, ratified or signed into law.

Infants and Toddlers with Handicapping Conditions (S.615, Sen. Nell Smith). This legislation makes changes in the former provisions dealing with handicapped infants and toddlers, including expanding the language to include infants and toddlers with disabilities, instead of "handicapping conditions" as it now appears in the law. The bill states that the purpose of the legislation is to provide early intervention services to infants and toddlers with disabilities contingent upon the appropriation of federal funds. The legislation updates the language of the bill to conform with new federal provisions. Federal, state, local and private programs are directed to work together to provide the intervention services. The State Interagency Coordinating Council would advise the Department of Health and Environmental Control in developing a comprehensive system to provide early intervention services for all eligible infants and toddlers. A joint funding plan for these coordinated service would be submitted to the Joint Legislative Committee on Children by August 1 each year. The legislation also calls for the establishment of county or multi-county local interagency planning councils.

**STATUS:** Signed into law 4-29-91.

Students and Paging Devices (S.623, Senate Education Committee)  
This bill would prohibit any public student from kindergarten through the 12th grade from carrying beepers on school property or at any school sponsored event. Exceptions to this rule would be students who are volunteer firemen or emergency medical service volunteers or those who carry the beepers for legitimate medical reasons.

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It would be left up to the school principals as to what constitutes a "legitimate medical reason." It would also be left up to school boards to devise the punishment for violation of this prohibition. Any person who discovered a beeper being carried by a student would report the matter to the school administration who would have the beeper confiscated. The beeper would be forfeited to the school district.

**STATUS:** Signed into law 4-22-91.

English Fluency in Higher Education (S.654, Senate Education Committee). This legislation would require each public institution of higher learning to have a policy that insures that the instructional faculty has adequate proficiency in both written and spoken English. This requirement would apply to every instructor whose first language is not English, including graduate assistants, who teach one or more undergraduate credit courses. The bill also would require the establishment of a student grievance procedure regarding an instructor not able to speak or write the English language. The number of student grievances would be reported annually to the state Commission on Higher Education and the Senate and House Education Committees.

**STATUS:** Signed into law 4-22-91.

Stormwater Management and Sediment Reduction Act (S.376, Sen. Wilson). This bill is aimed at reducing the adverse effects of stormwater runoff and sediment and to better safeguard property by strengthening and making uniform the existing stormwater management and sediment control program. Under this legislation, no one would be able to engage in a "land disturbing activity" without first submitting a stormwater management and sediment control plan and obtaining a permit.

This provision would not apply to farming, forestry, activities regulated by the state Mining Act, construction or improvement of single family dwellings not involving development of a subdivision. Other exceptions for utilities, road building and maintenance are outlined in the bill. The Land Resources Commission would be charged with overseeing the provisions of this act, providing education and advice to those effected, and promulgating regulations regarding stormwater management and sediment reduction.

The bill allows local governments to establish fees to help pay for the activities required by this bill, such as watershed master plans, facility retrofitting and facility maintenance. The legislation outlines what must be included in the watershed master plan. Once adopted, all projects would have to have stormwater management and nonpoint source pollution control requirements consistent with the master plan. Penalties for violations are included in the bill.

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This is the first significant enacted dealing with the deficiencies uncovered by the damage done by Hurricane Hugo.

**STATUS:** Enrolled for ratification 5-7-91.

Presidential Primaries (H.3069, Rep. Farr). This legislation would authorize political parties to hold presidential preference primaries in South Carolina.

**STATUS:** Signed into law 5-1-91.

Real Estate Appraiser Registration, License and Certification Act (H.3421, House Labor, Commerce and Industry Committee). This committee bill establishes the provisions for the registration, licensing and certification of real estate appraisers in South Carolina.

Federal law states that after July 1, 1991, all appraisals performed in connection with federally related transactions must be prepared by a state certified or state licensed appraiser. Until this bill was signed into law, South Carolina was one of only a handful of states that did not have a licensing and certification system for appraiser in place. Federally related transactions include a vast majority of transactions involving loans, including any transaction involving a FDIC insured lender. Likewise, the Federal Office of Management and Budget has required all agencies subject to its jurisdiction, including the Veterans' Administration and HUD, to determine which transactions (such as VAs and FHAs) should require the use of certified and licensed appraisers. The deadline for this determination is also July 1, 1991.

Prior to this legislation, the only requirement an individual had to meet to appraise property in South Carolina was possession of a real estate salesman's license. The House LCI legislation establishes varying requirements for three different classifications of appraisers: registered, licensed, and certified.

A registered real estate appraiser cannot perform federally related transactions and is primarily a class of appraisers who are already brokers and who would like to continue to perform market analyses. This classification would also allow an individual who wishes to be licensed or certified as an appraiser to gain necessary experience. The only qualification for a registered appraiser is that he hold a real estate broker-in-charge, broker, or salesman license.

In order to become a licensed real estate appraiser, an individual must have completed 75 hours of courses relating to real estate appraisal; have a minimum two years appraisal experience; and pass an examination.

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A "transitional" license may be issued to an applicant who passes the examination but who lacks either the educational or experience requirement, but not an applicant who lacks both. The applicant must meet the lacking requirement within two years or his license is automatically canceled.

An applicant may become certified as a real estate appraiser if he has completed 165 hours of courses relating to real estate appraisal; has a minimum two years appraisal experience; and passes an examination.

All appraisers must complete 10 hours of continuing education as a condition of annual renewal of their registration, license, or certification.

South Carolina's appraiser registration, licensing, and certification program would be run by a nine-member South Carolina Real Estate Appraisers Board. Among the Board's responsibilities will be the regulation of the issuance of registrations, licenses and certifications; investigating complaints; and disciplining appraisers by denying, suspending, revoking or otherwise restricting registrations, licenses or certifications or imposing other sanctions allowed in the legislation.

**STATUS:** Signed into law 3-22-91.

NAIC Accreditation (H.3508, House Labor, Commerce and Industry Committee). With insurer solvency becoming an issue of concern across the nation, the National Association of Insurance Commissioners (NAIC) developed minimum standards for effective solvency regulation by the states. To ensure that all states have the essential statutes, regulations and regulatory resources necessary to regulate the insurance industry, the NAIC instituted a certification program in 1990 whereby over the next three years each state's compliance with these minimum standards will be evaluated by an independent review team.

South Carolina's initial evaluation revealed several areas that need to be addressed legislatively in order to bring South Carolina's insurance solvency regulatory system up to the NAIC standards. The Insurance Department drafted a legislative package to put into place the changes necessary for the Department to receive NAIC accreditation, a move strongly supported by South Carolina's domestic insurance industry.

This act incorporates the necessary changes for NAIC accreditation into one omnibus bill. Adoption of these standards is important for several reasons. First, it will strengthen existing state statutes to ensure effective solvency regulation of insurance companies in South Carolina. While insurer insolvencies is not a problem in this state, these measures may prevent it from ever becoming an issue in South Carolina. Secondly, at a time when there is increasing discussion about regulation of insurance companies by the federal government, action by states now to address the insolvency issue may discourage federal action and help retain regulation of the insurance industry on a state level.

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Finally, domestic companies of states that are not accredited within the three-year period will suffer. A company headquartered in a state that is not accredited may be unable to become licensed to do business in state that is accredited. Likewise, a company headquartered in a state that is not accredited that is already doing business in states that do become accredited will probably be restricted as to its activities in those accredited state.

South Carolina's NAIC audit is scheduled for this summer, and with this legislative package in place, South Carolina will become one of the first small states to be accredited.

**STATUS: Signed into law 3-22-91.**