



South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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NOTE: Bill summaries included in this document are prepared by the staff of the South Carolina House of Representatives and are not the expression of the legislation's sponsor(s) or the House of Representatives. 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.

HOUSE WEEK IN REVIEW

The House of Representatives approved and sent to the Senate **H.3079**, a bill pertaining to **JUDICIAL ELECTIONS**. This bill revises the process for nominating judicial candidates for election by the General Assembly. Under this legislation, the Judicial Merit Selection Commission would release to the General Assembly the full list of individuals found qualified and fit for judicial office. Under current law, the Judicial Merit Selection Commission submits to the General Assembly a list of the three individuals found most qualified. The bill eliminates the one-year waiting period for a former member of the General Assembly to be elected to a judicial office. The bill provides, instead, that a member of the General Assembly may not file for a judicial office while the member is serving in the General Assembly. The bill also provides that no member of a legislator's immediate family may be elected to a judicial office while that legislator is serving in the General Assembly. As used in this bill, the term 'immediate family member' means an individual who is: (1) a child residing in the person's household; (2) a spouse of the person; or (3) claimed by the person or the person's spouse as a dependent for income tax purposes.

The House approved and sent to the Senate **H.3682**, which revises provisions for **UNEMPLOYMENT COMPENSATION**. **H.3682** provides that the termination of an employee for violating an employer's drug policy is to be considered a discharge for cause, which makes the employee ineligible to receive unemployment compensation. Violating an employer's drug policy includes refusing to submit to a required drug test, providing an adulterated sample, or testing positive for illegal drugs. An exception to the ineligibility is provided for a worker's voluntary admissions of illegal drug use in instances where the employer has a policy that protects an employee from immediate termination when making such voluntary admissions.

H.3682 provides that an employee who has left work voluntarily or has been discharged because of circumstances directly resulting from domestic abuse is eligible for unemployment compensation. Such an employee must: (1) reasonably fear future domestic abuse at or en route to the workplace; (2) need to relocate to avoid future domestic abuse; or (3) reasonably believe that leaving work is necessary for his safety or the safety of his family. To be eligible, the employee must provide documentation of domestic abuse from the police, court records, a shelter worker, attorney, member of the clergy, or medical or other professional. All such documentation or evidence must be kept confidential unless written consent for disclosure is given.

H.3682 revises provisions for violations of the State Unemployment Tax Act by replacing "willfully" with "knowingly". The legislation also requires the South Carolina Employment Security Commission to establish procedures to identify the transfer of a business.

The House approved and enrolled for ratification **S.19**, a bill to ratify the amendment to the State Constitution relating to the powers of the General Assembly pertaining to **ALCOHOLIC LIQUORS AND BEVERAGES**. The bill authorizes the regulation of the sale of alcoholic liquors and beverages in containers of such size as the General Assembly considers appropriate.

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The House approved and sent to the Senate **H.3634**. This bill provides that the Public Service Commission may not impose requirements related to the terms, conditions, rates, or availability of, or otherwise regulate **COMMERCIAL MOBILE SERVICE** for as long as federal laws governing mobile services remain in effect.

The House amended, approved, and sent to the Senate **H.3412**, a bill relating to **MENTAL HEALTH TREATMENT**. Currently, a person may be admitted and held in a hospital or mental health facility for emergency admission if:

- a concerned petitioner produces a written affidavit that the person is mentally ill and may cause harm to himself/herself or others if not immediately hospitalized;
- a doctor certifies he/she believes the person is mentally ill and likely to cause harm to himself/herself or others; and
- within 48 hours a probate court makes a preliminary review of the evidence to determine if probable cause exists for continued detention of the patient.

A probate court hearing must be scheduled within 15 days of the emergency admission regarding the involuntary commitment, and the patient is entitled to legal counsel. If before the hearing, the designated examiners determine that the patient is no longer mentally ill to the extent that involuntary treatment is required, **H.3412** requires the examiners to submit a supplemental report to the court. If the court receives a supplemental report at least 48 hours before the hearing stating that the patient is no longer mentally ill to the extent involuntary treatment is required, and setting forth the reasons for the examiners' conclusions, **H.3412** provides that the court shall dismiss the petition and that the patient must be discharged immediately by the facility.

Under current law, if a person is believed to be mentally ill and likely to harm himself/herself or others but cannot be examined by a physician because his/her location is unknown or any other reason, the petitioner can explain the emergency situation in an affidavit and ask the probate court to order a law enforcement officer to take the individual into custody. **H.3412** makes these pick-up orders expire after 72 hours.

If a person appears to be mentally ill or under the influence of drugs or alcohol and is likely to cause harm to himself/herself or others, **H.3412** allows a law enforcement officer to take that person into protective custody and to transport the person to a mental health facility for a psychiatric and chemical dependency examination. The bill provides that the person can be held for only 24 hours, unless an examining doctor certifies the person should be detained longer pending transportation to a designated hospital. The bill also provides limited civil immunity for law enforcement and medical personnel involved in the protective custody.

The bill also deals with involuntary hospitalization under judicial commitment. When a court has determined a person is mentally ill and needs involuntary treatment, **H.3412** allows the court to order outpatient treatment, if necessary, following in-patient treatment. Currently, there is no provision authorizing the court to order outpatient treatment. This bill requires the treatment facility to inform the court if the patient fails to adhere to a court-ordered out-patient treatment plan, and the court may order additional in-patient treatment.

The bill authorizes family court to order a child to be given an initial psychiatric evaluation by an appropriate community health center. The community mental health center must schedule the court-ordered evaluation as soon as possible and report the results to the court within five days following the evaluation. If the report states the child needs an inpatient psychiatric evaluation, the court can commit the child to a hospital for psychiatric evaluation.

H.3412 deals with involuntary commitment for chemical dependency. The bill places a 72-hour limit on an order to pick up a person believed to be in need of emergency care for chemical dependency.

The House amended, approved, and sent to the Senate **H.3110**, a bill relating to the **ISSUANCE OF CONCEALABLE WEAPONS PERMITS**. The bill provides that valid out-of-state permits to carry concealable weapons held by a resident of another state which honors a permit issued in South Carolina must be honored by this State. SLED shall enter into a reciprocal agreement with a state that requires a reciprocal agreement before honoring a South Carolina concealable weapons permit. The bill further provides that a person carrying a concealed weapon in South Carolina pursuant to a permit issued by another state shall abide by the laws of South Carolina.

The House returned **S.326** to the Senate with amendments. This bill makes **AMENDMENTS TO THE AQUATIC LIFE PROTECTION ACT**, received a favorable with amendment report from the full Committee. The Aquatic Life Protection Act was enacted in 2004; since the enactment of this legislation, the Environmental Protection Agency (EPA) has taken over the NPDES (Natural Pollutant Discharge Elimination System) permit process. This bill allows any permit applicant or existing permittee to notify the South Carolina Department of Health and Environmental Control (DHEC) in writing that it is opting out of the Aquatic Life Protection Act. **S.326** also makes substantive but technical changes to the Aquatic Life Protection Act to make the act compliant with EPA requirements so that DHEC may administer its own program.

The House approved and sent to the Senate **H.3067**, a bill that revises provisions regarding the **INVESTMENT TAX CREDIT** against state income tax allowed for economic impact zone qualified manufacturing and productive equipment property, by extending for certain taxpayers (under certain conditions) the ten-year carry-forward period for unused tax credits for an additional twenty taxable years.

The House approved and sent to the Senate **H.3424**. This bill pertains to **CHILD SUPPORT CASES WHERE THE COURT REQUIRES A PARENT TO PROVIDE HEALTH INSURANCE COVERAGE FOR A CHILD**. This bill provides that in such child support cases enforced by the Department of Social Services, the division shall use the National Medical Support Notice promulgated by federal law.

The House approved and sent to the Senate **H.3257**. This bill provides that a person retired or discharged from the Armed Services of the United States who has filed his/her **RELEASE OR DISCHARGE CERTIFICATE NOW KNOWN AS DD FORM 214** with the clerk of court of any county of this State for safekeeping or other purposes may invalidate this filing and remove it from the public records. The person filing the certificate must notify the clerk of court in writing and under oath that for privacy reasons he/she wishes the certificate to be removed from the public records. Upon the payment

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of a ten-dollar filing fee, the clerk of court shall remove the certificate from the public records and return the original to him/her if available and in possession of the clerk.

The House approved **S.91** and enrolled the bill for ratification. This bill provides that a **SOLICITOR'S TERM OF OFFICE** begins on noon on the first Wednesday following the second Tuesday in January following his/her election and ends on noon on the first Wednesday following the second Tuesday in January four years later.

The House approved **S.319** and enrolled the bill for ratification. This legislation authorizes the **STATE DOCUMENTS DEPOSITORY SYSTEM** to acquire materials in both print and electronic formats.

The House approved **S.583**, pertaining to a **PROPERTY TAX EXEMPTION FOR SCOUTING PROGRAMS**, and enrolled the joint resolution for ratification. The joint resolution provides that the property tax exemption for property not owned by but which is used exclusively by the Boy Scouts of America or the Girl Scouts of America act applies for property tax years beginning after 2000.

The House approved **S.255** and enrolled the bill for ratification. This bill makes revisions pertaining to the **LABELING AND MARKETING OF EGGS OFFERED FOR SALE IN SOUTH CAROLINA**. Current law provides that wholesalers handling eggs must be licensed by the Department of Agriculture (the Department). Under **S.255**, all wholesalers, distributors, commission merchants, brokers and dealers who desire to offer eggs for sale must file for a license with the Commissioner of Agriculture (the Commissioner). The bill further provides that a person may not engage in business as a wholesaler or as a distributor without first obtaining a license.

S.255 requires wholesalers, distributors and retailers to maintain records of their invoices of their egg purchases for at least 90 days. The bill authorizes the Commissioner or his/her designee to enter, during regular business hours, the place of any producer, wholesaler, retailer, retail establishment, institution, institutional user, warehouse, cold storage house, or other storage places, trucks or carriers where eggs are stored and inspected.

S.255 requires shell egg producers to refrigerate eggs upon gathering the eggs. Eggs must be graded and packed within a reasonable period of time from gathering. The bill requires that eggs be transported, stored and displayed at ambient temperatures to not exceed 45 degrees Fahrenheit until sold at retail or used. The bill makes it unlawful to offer eggs for sale that are not being properly stored in a refrigerated state at the proper temperature.

S.255 requires the Department to establish standards for the grading, classification and marking of shell eggs bought and sold in South Carolina. Standards must conform to the minimum federal standards.

The bill requires labeling to occur at the time of packing and candling of each case of eggs. **S.255** prohibits the use of abbreviations of any words in the classification or in designating the grade and size of the eggs. The wording must be in English on the labels. The bill requires that all eggs offered for sale at retail in open cases, boxes or other containers from which eggs are sold in bulk must also be properly classified. The bill details requirements for the placard.

The House approved and sent to the Senate [H.3239](#), a bill pertaining to the "**NO MORE HOMELESS PETS**" **LICENSE PLATES**. Fees from the "No More Homeless Pets" licenses plates go to a special fund to support local animal spaying and neutering programs. This bill provides that the Department of Agriculture rather than the State Veterinarian is authorized to designate the uses of monies in the special fund and to receive special fund monies for administering the program.

The House approved and sent to the Senate [H.3312](#). For purposes related to **FARM TRUCK LICENSE FEES**, this bill amends the definition of farm truck. Under this bill, the term 'farm truck' is defined as a truck used exclusively by the owner for agricultural, horticultural, dairying, livestock, and poultry operations and includes distributing and transporting farm processed horticultural products, including soil amendments and mulches, other than first market. However, farm trucks with an empty weight of less than 7,500 pounds may be used for ordinary domestic purposes and general transportation but must not be used to transport persons or property for hire.

The House approved and sent to the Senate [H.3579](#), a bill which makes **AMENDMENTS PERTAINING TO THE STATE CROP PEST COMMISSION**, received a favorable report from the full Committee. This bill clarifies that any person subject to the jurisdiction of the State Crop Pest Commission may be subject to civil penalties from the Commission. The bill also provides that the Commission has the authority to issue and enforce written stop sale, use or distribution orders to certain persons selling, distributing or growing plant material in violation of the law.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full Agriculture, Natural Resources and Environmental Affairs Committee met on Tuesday, March 8, 2005.

The full Committee gave a favorable report to [H.3239](#), a bill pertaining to the "**NO MORE HOMELESS PETS**" **LICENSE PLATES**. Fees from the "No More Homeless Pets" licenses plates go to a special fund to support local animal spaying and neutering programs. This bill provides that the Department of Agriculture rather than the State Veterinarian is authorized to designate the uses of monies in the special fund and to receive special fund monies for administering the program.

[H.3312](#) received a favorable report from the full Committee. For purposes related to **FARM TRUCK LICENSE FEES**, this bill amends the definition of farm truck. Under this bill, the term 'farm truck' is defined as a truck used exclusively by the owner for agricultural, horticultural, dairying, livestock, and poultry operations and includes distributing and transporting farm processed horticultural products, including soil

amendments and mulches, other than first market. However, farm trucks with an empty weight of less than 7,500 pounds may be used for ordinary domestic purposes and general transportation but must not be used to transport persons or property for hire.

[H.3577](#), relating to **PESTICIDE REGISTRATION FEES**, received a favorable report from the full Committee. This bill increases the basic annual pesticide registration fee from \$100 dollars to \$175 dollars for each product registered. The bill provides that this fee may not be increased unless the General Assembly authorizes the State Crop Pest Commission to increase this fee by regulation and such a regulation is promulgated and adopted. The bill further provides that this fee must be used to support the general regulatory enforcement and education programs of the Division of Regulatory and Public Service.

The full Committee gave a favorable report to [H.3578](#), a bill that makes **AMENDMENTS TO THE SOUTH CAROLINA FERTILIZER LAW OF 1954**. The bill revises the definition of the term 'soil amendment' as used in the South Carolina Fertilizer Law of 1954. Under this bill, the term 'soil amendment' includes every substance or mixture of substances that is intended to improve the physical characteristics of the soil, except commercial fertilizers, agricultural liming materials, unmanipulated animal manures, unmanipulated vegetable manures, pesticides, and other materials exempted by regulation.

[H.3578](#) permits the State Crop Pest Commission to require proof of claims made for any fertilizer. If no claims are made, proof of usefulness and value of the fertilizer may be required.

With regards to an inspection tax and tonnage reports pertaining to commercial fertilizers, [H.3578](#) increases the inspection tax from 25¢ to 50¢ for each ton of commercial fertilizer sold. Current law requires that a report of tonnage is due and the inspection payable monthly on the 15th day of the following month. The bill provides that the report of tonnage is due and the inspection payable quarterly and that the report is due within 30 days following the end of each quarter. If the tonnage report is not filed and the payment of the inspection fee is not made within 30 days after the due date, then the registration of the commercial fertilizer registered by the delinquent guarantor is automatically cancelled.

[H.3579](#), a bill which makes **AMENDMENTS PERTAINING TO THE STATE CROP PEST COMMISSION**, received a favorable report from the full Committee. This bill clarifies that any person subject to the jurisdiction of the State Crop Pest Commission may be subject to civil penalties from the Commission. The bill also provides that the Commission has the authority to issue and enforce written stop sale, use or distribution orders to certain persons selling, distributing or growing plant material in violation of the law.

[S.255](#) received a favorable report from the full Committee. This bill makes revisions pertaining to the **LABELING AND MARKETING OF EGGS OFFERED FOR SALE IN SOUTH CAROLINA**.

Current law provides that wholesalers handling eggs must be licensed by the Department of Agriculture (the Department). Under [S.255](#), all wholesalers, distributors, commission merchants, brokers and dealers who desire to offer eggs for sale must file

for a license with the Commissioner of Agriculture (the Commissioner). The bill further provides that a person may not engage in business as a wholesaler or as a distributor without first obtaining a license.

S.255 requires wholesalers, distributors and retailers to maintain records of their invoices of their egg purchases for at least 90 days. The bill authorizes the Commissioner or his/her designee to enter, during regular business hours, the place of any producer, wholesaler, retailer, retail establishment, institution, institutional user, warehouse, cold storage house, or other storage places, trucks or carriers where eggs are stored and inspected.

S.255 requires shell egg producers to refrigerate eggs upon gathering the eggs. Eggs must be graded and packed within a reasonable period of time from gathering. The bill requires that eggs be transported, stored and displayed at ambient temperatures to not exceed 45 degrees Fahrenheit until sold at retail or used. The bill makes it unlawful to offer eggs for sale that are not being properly stored in a refrigerated state at the proper temperature.

S.255 requires the Department to establish standards for the grading, classification and marking of shell eggs bought and sold in South Carolina. Standards must conform to the minimum federal standards.

The bill requires labeling to occur at the time of packing and candling of each case of eggs. S.255 prohibits the use of abbreviations of any words in the classification or in designating the grade and size of the eggs. The wording must be in English on the labels. The bill requires that all eggs offered for sale at retail in open cases, boxes or other containers from which eggs are sold in bulk must also be properly classified. The bill details requirements for the placard.

S.326, a bill which makes **AMENDMENTS TO THE AQUATIC LIFE PROTECTION ACT**, received a favorable with amendment report from the full Committee. The Aquatic Life Protection Act was enacted in 2004; since the enactment of this legislation, the Environmental Protection Agency (EPA) has taken over the NPDES (Natural Pollutant Discharge Elimination System) permit process. This bill allows any permit applicant or existing permittee to notify the South Carolina Department of Health and Environmental Control (DHEC) in writing that it is opting out of the Aquatic Life Protection Act. S.326 also makes substantive but technical changes to the Aquatic Life Protection Act to make the act compliant with EPA requirements so that DHEC may administer its own program.

EDUCATION AND PUBLIC WORKS

The Education and Public Works Committee reported favorable on **H.3024**, a bill which **SPECIFIES PROJECTS THAT MAY BE FINANCED FROM THE “KEEP SOUTH CAROLINA BEAUTIFUL” SPECIAL LICENSE PLATES FUND, AND REVISES ALLOCATION OF THESE FUNDS**. The bill also revises the name of the special plates to “Keep It Beautiful” and revises the name of the fund to the “Highway Beautification Fund.”

The Committee reported favorable with amendment on **H.3072**. As reported by the Committee, this bill **AUTHORIZES AND PROVIDES FOR SPECIAL "BREAST CANCER AWARENESS" MOTOR VEHICLE LICENSE PLATES**. Funds from sale of the plates remaining after costs of producing and administering the plates, would be distributed to breast cancer programs specified in the bill.

The Committee reported favorable on **H.3503**, a bill which provides that every **PERSONALIZED LICENSE PLATE ISSUED TO MEMBERS OF LICENSED FEDERAL COMMISSIONS AND BOARDS EXPIRES JANUARY THIRTY-FIRST EACH YEAR** in which a new session of the General Assembly begins.

The Committee reported favorable on **S.113**, which **AUTHORIZES AND PROVIDES FOR THE ISSUANCE OF SONS OF CONFEDERATE VETERANS SPECIAL LICENSE PLATES. FUNDS REMAINING FROM SALE OF THE PLATES AFTER THE DEPARTMENT OF MOTOR VEHICLES' COSTS ARE REIMBURSED WOULD BE DISTRIBUTED TO THE SOUTH CAROLINA DIVISION OF THE SONS OF CONFEDERATE VETERANS**.

The Committee reported favorable with amendment on **H.3392**, regarding **TUITION ASSISTANCE TO ATTEND A STATE TECHNICAL COLLEGE OR A TWO-YEAR INSTITUTION**. As reported by the Committee, this bill provides that if a student feels that he will definitely not qualify to receive federal financial aid, the student may complete a simple form to determine if he will definitely not qualify to receive financial aid. If the student is then determined unqualified to receive such aid, the student shall sign a form and be exempted from completing the Free Application for Federal Student Aid.

The Committee reported favorable on **H.3413**. This bill **CHANGES STATUTORY REFERENCES** including but not limited to "vocational education," "vocational training," and "vocational programs," **TO "CAREER AND TECHNOLOGY EDUCATION," "CAREER AND TECHNOLOGY TRAINING," AND "CAREER AND TECHNOLOGY PROGRAMS."**

JUDICIARY

The full Judiciary Committee met on Tuesday, March 8, 2005.

S.19, relating to **ALCOHOLIC LIQUORS AND BEVERAGES**, received a favorable report from the full Committee. This is a bill to ratify an amendment to the State Constitution relating to the powers of the General Assembly pertaining to alcoholic liquors and beverages. The bill authorizes the regulation of the sale of alcoholic liquors and beverages in containers of such size as the General Assembly considers appropriate.

The Judiciary Committee gave a favorable report to **S.91**. This bill provides that **A SOLICITOR'S TERM OF OFFICE** begins on noon on the first Wednesday following the second Tuesday in January following his/her election and ends on noon on the first Wednesday following the second Tuesday in January four years later.

The full Committee gave a favorable report to [H.3079](#), a bill pertaining to **JUDICIAL ELECTIONS**. This bill revises the process for nominating judicial candidates for election by the General Assembly. Under this legislation, the Judicial Merit Selection Commission would release to the General Assembly the full list of individuals found qualified and fit for judicial office. Under current law, the Judicial Merit Selection Commission submits to the General Assembly a list of the three individuals found most qualified. The bill eliminates the one-year waiting period for a former member of the General Assembly to be elected to a judicial office. The bill provides, instead, that a member of the General Assembly may not file for a judicial office while the member is serving in the General Assembly. The bill also provides that no member of a legislator's immediate family may be elected to a judicial office while that legislator is serving in the General Assembly. As used in this bill, the term 'immediate family member' means an individual who is: (1) a child residing in the person's household; (2) a spouse of the person; or (3) claimed by the person or the person's spouse as a dependent for income tax purposes.

[H.3257](#) received a favorable report from the Judiciary Committee. This bill provides that a person retired or discharged from the Armed Services of the United States who has filed his/her **RELEASE OR DISCHARGE CERTIFICATE NOW KNOWN AS DD FORM 214** with the clerk of court of any county of this State for safekeeping or other purposes may invalidate this filing and remove it from the public records. The person filing the certificate must notify the clerk of court in writing and under oath that for privacy reasons he/she wishes the certificate to be removed from the public records. Upon the payment of a ten-dollar filing fee, the clerk of court shall remove the certificate from the public records and return the original to him/her if available and in possession of the clerk.

[H.3110](#), relating to the **ISSUANCE OF CONCEALABLE WEAPONS PERMITS**, received a favorable with amendment report from the full Committee. The bill provides that valid out-of-state permits to carry concealable weapons held by a resident of another state which honors a permit issued in South Carolina must be honored by this State. SLED shall enter into a reciprocal agreement with a state that requires a reciprocal agreement before honoring a South Carolina concealable weapons permit. The bill further provides that a person carrying a concealed weapon in South Carolina pursuant to a permit issued by another state shall abide by the laws of South Carolina.

The full Committee adjourned debate on [H.3243](#), the “**YOUTH ACCESS TO TOBACCO PREVENTION ACT OF 2005.**”

[H.3424](#) received a favorable report from the Judiciary Committee. This bill pertains to **CHILD SUPPORT CASES WHERE THE COURT REQUIRES A PARENT TO PROVIDE HEALTH INSURANCE COVERAGE FOR A CHILD**. This bill provides that in such child support cases enforced by the Department of Social Services, the division shall use the National Medical Support Notice promulgated by federal law.

[H.3454](#), relating to **METHODS OF ENTERING A MORTGAGE SATISFACTION**, received a favorable report from the Judiciary Committee. This bill makes revisions pertaining to the contents of the affidavit that an attorney is permitted to file in regard to a mortgage which he/she has satisfied. Current law provides for the affidavit to state that the attorney was given written payoff information and made such payoff and is in possession of a canceled check to the mortgagee, holder of record, or representative servicer. This bill allows for a canceled check or other evidence of payment.

H.3141, a bill relating to **AGENCY PROCEDURES FOR PROMULGATING REGULATIONS**, was recommitted to the Special Laws Subcommittee.

LABOR, COMMERCE AND INDUSTRY

The full House Labor, Commerce, and Industry Committee met on March 8 and reported out **H.3634** favorable with amendment. This bill provides that the Public Service Commission may not impose requirements related to the terms, conditions, rates, or availability of, or otherwise regulate **COMMERCIAL MOBILE SERVICE** for as long as federal laws governing mobile services remain in effect.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full Committee did not meet this week.

WAYS AND MEANS

The full Committee did not meet this week.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

H.3723 BEAR HUNTING Rep. Rice

This bill pertains to bear hunting. The bill provides that it is not unlawful to pursue bear with dogs with a permit for this purpose at any time so long as no bear are taken or killed during this activity.

H.3726 "CHANDLER'S LAW" Rep. Ott

This bill provides for the regulation, registration, and titling of all-terrain vehicles by the Department of Natural Resources. Among other things, the bill requires that a person under 16 must complete a driving safety course before he/she may operate an all-terrain vehicle. Penalties are provided for certain violations.

EDUCATION AND PUBLIC WORKS

S.352 MOWING ROADSIDE VEGETATION Sen. Grooms

This bill allows the Department of Transportation to mow beyond thirty feet from the pavement roadside vegetation at a specified location adjacent to Interstate Highway 95 in Colleton County.

S.424 SELF-PROPELLED PROPERTY CARRYING VEHICLES/FARM TRUCKS Sen. Leatherman

This bill requires that by September 1 of each year, the Department of Motor Vehicles (DMV) must provide the South Carolina Transportation Bank a report for the previous fiscal year listing the total fees and penalties collected pursuant to provisions that assess self-propelled property-carrying vehicles and licensing fees for farm trucks. The bill also provides that a portion of the fees collected for the registering and licensing of these vehicles and trucks shall no longer be placed in a special restricted account to be used by the DMV for costs associated with the production and issuance of new licensed plates.

S.405 FRATERNAL ORDER OF POLICE SPECIAL LICENSE PLATES Sen. Ryberg

This bill authorizes and provides for the creation and issuance of Fraternal Order of Police special license plates.

H.3735 FAILURE TO PAY A TOLL Rep. Vaughn

This bill requires and provides for the Department of Motor Vehicles (DMV) to suspend the registration of, and not reregister, a motor vehicle that was operated when its driver failed to pay a toll and whose owner has an outstanding judgement for failure to pay a toll. The bill provides a procedure for entering a judgement against the owner or operator of the vehicle and provides that the suspension or denial of registration or reregistration must remain in effect until the judgement is satisfied as provided in the bill.

H.3737 VEHICLES SOLD AS SALVAGE, ABANDONED, SCRAPPED, OR DESTROYED Rep. Walker

For purposes of an insurance company obtaining title to a vehicle from settling a total loss claim, this bill changes the term "salvage" to "total loss claim." The bill also provides that the percentage of the total loss claim must be recorded on the title next to the brand of "total loss claim."

JUDICIARY

S.78 PARDONS AND LAW ENFORCEMENT OFFICERS Sen. Knotts

This bill relates to the issuance of certificates and other appropriate indicia of compliance and qualification to law enforcement officers or other persons trained by the Department of Public Safety's Division of Training and Continuing Education. The bill revises the type of evidence relating to criminal convictions and character that an employer of a law enforcement officer must provide to the department regarding an officer who is a candidate for certification. The bill provides that a pardon does not allow a person to become a certified law enforcement officer under certain circumstances. The bill further

provides that some pardoned crimes and convictions may be used to enhance certain subsequent offenses.

S.141 REQUIREMENTS FOR A NAME CHANGE Sen. Knotts

This bill provides that a petitioner seeking a name change who requests a background check from a law enforcement agency shall sign an affidavit stating he/she has never been convicted of a crime under a name other than the name in which he/she is making the request. A surrogate or person representing a petitioner over the age of 18 shall not be allowed to sign the affidavit. The bill provides that a person who knowingly and willfully falsifies the affidavit, upon conviction, must be imprisoned for a period of not more than one year, no part of which may be suspended or probation granted. The bill further provides that a person convicted of an offense requiring registration with the State Law Enforcement Division's Sex Offender Registry, and who knowingly and willfully falsifies the affidavit in order to obtain employment, including employment with a child day care center, or other entity that cares for vulnerable individuals, upon conviction, must be imprisoned for a period of not more than 10 years, no part of which may be suspended or probation granted.

S.307 DRIVING IN THE LEFT LANE OF AN INTERSTATE HIGHWAY

Sen. Peeler

This bill outlines circumstances when it is lawful to drive a vehicle in the left lane of an interstate highway. The bill also outlines circumstances under which a traffic ticket may be issued for driving in the left lane of an interstate highway.

S.344 INTERAGENCY SYSTEM FOR CARING FOR EMOTIONALLY DISTURBED CHILDREN Sen. Smith

This bill specifies that the Department of Education and the Department of Juvenile Justice are among the agencies responsible for developing the Interagency System for Caring for Emotionally Disturbed Children. The bill provides that the goal of the system is to support children who are at risk for placement in an out-of-home treatment setting. The bill also clarifies the payment method for the Department of Education's Share of costs for children in the system.

H.3709 BAIL BONDSMEN AND RUNNERS Rep. Altman

This bill revises the definition of several terms used in S.C. Code Ann. §38-53-10 relating to bail bondsmen and runners.

- Under this bill, an 'accommodation bondsman' must obtain sufficient documentation of real property ownership with evidence of an unencumbered title or sufficient equity therein to satisfy the full principal sum of the bond and a copy must be attached to the bond form before a defendant is released. An accommodation bondsman cannot be liable for more than two bonds per year and is prohibited from being a surety upon a bond other than for his or her spouse, parent, brother, sister, child, or descendant.
- The bill revises the definition of 'bail bondsman' so as to include a runner bondsman who is licensed to execute appearance bonds and apprehend a defendant who violated a condition of the bond.
- The bill revises the definition of 'runner.' Under this bill, a runner means a person employed by any licensed bail bondsman, except an accommodation bondsman.

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- The bill also revises the definition of 'surety.' Under this bill, surety means one who, with the defendant and any indemnitors, is liable for the amount of the bail bond upon forfeiture of bail.
- This bill revises the definition of 'good cause' to mean the violation of a specific term of bail, which includes the nonpayment of fees.

This bill revises the conditions upon which a surety may be relieved of a bond. If a surety desires to be relieved on a bond for good cause, this bill requires a copy of the motion to be served by the bail bondsman or his or her representative upon the defendant, his or her attorney, and the solicitor's office. If good cause is found, the bondsman is not required to refund any portion of the fee. Under the bill, if the defendant is placed into a drug treatment court or pretrial intervention program, the surety must be relieved of the bond. Also under the bill, if the defendant appears before the court and is found guilty, fined, and placed on a time payment plan by the court, the surety is relieved of liability.

This bill amends S.C. Code Ann. §38-53-70, relating to the issuance of a bench warrant and remission of judgment. Under this bill, if the surety fails to surrender the defendant or places, or attempts to place, a hold on the defendant's release from incarceration, commitment, or institutionalization within 90 days after notification to the surety and the bail bondsman by certified mail of the issuance of the bench warrant, the bond must be forfeited. Notice of the rule to show cause hearing must be served before the expiration of the 90-day period. This bill also provides that the court must permit the surety to pay the estreatment in six equal monthly installments; the first installment must be paid 30 days after the date of the hearing.

Under this bill, a person filing an application to be licensed as a professional bondsman or runner must have the fingerprints and photograph he or she submits with the application certified by a law enforcement officer. This bill also allows a bail bondsman or runner to assist any other bonding agent or agency in locating, apprehending, and returning a defendant who has violated a condition of the bond.

The bill allows a bail bondsman or runner to assist any other bonding agent or agency in locating, apprehending, and returning any defendant who has violated a condition of the bond. The bill requires that an applicant for a license to be a runner must show affirmatively that he or she is endorsed by a licensed bail bondsman who has obligated himself/herself to supervise the runner's activities. The bill deletes the requirement that a runner must show that he or she will be employed by only one bail bondsman who will supervise his or her work and is responsible for the runner's conduct in the bail bond business.

Under this bill, the Department of Insurance must issue a picture identification to all licensed bail bondsmen in the State. Also under this bill, no county, city, or town in this State shall license or levy a license tax on bail bondsmen and may not require a bondsman to deposit collateral security as a condition for continuing to write bail bonds.

H.3720 ABSENTEE VOTING BY ARMED SERVICES PERSONNEL DURING A MILITARY EMERGENCY Rep. Talley

This bill relates to absentee voting by armed services personnel during a military emergency. As used in this bill, 'emergency' means a war, conflict, military action, or military mobilization outside the continental United States in which United States forces are involved that would make it impractical for a South Carolina citizen serving in the United States armed services to register to vote or vote in person in the normal manner. The bill directs the State Election Commission to take all steps necessary including, but not limited to, electronic transmissions, to ensure that any out-of-state resident has the opportunity to receive and cast any ballot he/she would have been eligible to cast if he/she had resided and remained in South Carolina.

H.3721 *SUBSTITUTION OF A CANDIDATE WHERE THE PARTY NOMINEE DIES, BECOMES DISQUALIFIED, OR RESIGNS* Rep. Talley

This bill relates to substitution of a candidate where the party nominee dies, becomes disqualified, or resigns. The bill requires the State Election Commission to review the withdrawal of a candidate in a multi-county election or an election for a member of the General Assembly.

H.3729 *HEALTH CARE PROVIDER LIENS* Rep. G.M. Smith

This bill establishes health care provider liens. The bill provides procedures under which a health care provider can establish a lien against any sum collected or to be collected by a patient who was treated by the health care provider for injuries due to tortious conduct. The bill outlines procedures for enforcing such liens. The bill also provides that an insured may assign reimbursement rights for health care services directly to the provider; the bill further provides that when such assignment is authorized, the insurer shall pay directly to the provider the amount the insurer would have reimbursed the insured.

LABOR, COMMERCE AND INDUSTRY

H.3730 *MANUFACTURED HOMES TREATED AS REAL PROPERTY* Rep. Lucas

This bill provides that upon an owner of a manufactured home meeting all requirements for retiring the title certificate on his manufactured home and having the manufactured home and the real property to which it is affixed classified as real property, the register of deeds or clerk of court in the county where it is located in all indexes and transactions regarding the manufactured home and the real property to which it is affixed must confer upon it the treatment of real property and may not in any particulars still treat the manufactured home as personal property.

H.3732 *PUBLIC SERVICE AUTHORITY* Rep. Umphlett

This bill includes the directors of the South Carolina Public Service Authority in the list of officers who may be removed by the Governor for cause. The legislation establishes new provisions regarding the legal liability for directors of the Public Service Authority. The legislation assigns the Regulations of Public Utilities Review Committee the duty of screening candidates for the Board of Directors of the Public Service Authority. The bill establishes new qualifications and requirements for the Board of Directors of the Public

Service Authority. The legislation prohibits the Public Service Authority from disposing of certain of its property without prior approval of the General Assembly or from inquiring into the feasibility of disposing of its property. The legislation provides standards of conduct for directors of the Public Service Authority. The legislation permits customers of the Public Service Authority to sue directors of the authority for breach of duty and provides for damages. The legislation provides that only the net earnings not necessary for the operation of and in the best interest of the Public Service Authority shall be paid to the State Treasurer and used to reduce the tax burdens on the people of the State.

H.3739 HOMEOWNERS' ASSOCIATION GOVERNANCE Rep. Bales

This bill provides for governance of a homeowners' association, including: provisions for adopting or changing an operating rule; procedural fairness in the operation of the association's property and affairs; filing of governing documents with the Secretary of State; review by the Secretary of State of governing documents for compliance and notice of noncompliance to homeowners and the Department of Consumer Affairs; recognition of the determination as evidence *per se* of noncompliance in an enforcement action; enforcement of compliance by the department through fines and injunctions; and a cause of action against the board of directors of a homeowners' association for breach of its fiduciary duty to the association for noncompliance with this legislation.

WAYS AND MEANS

H.3711 "PRESCRIPTION DRUG DISCOUNT CARD REGISTRATION ACT" Rep. Cobb-Hunter

This bill deletes current provisions regarding prescription drug discount cards and enacts the "Prescription Drug Discount Card Registration Act."

The bill requires and provides for registration with the Department of Consumer Affairs before a person or entity may sell, market, promote, advertise, or distribute any device which offers discounts or access to discounts for prescription drug purchase. Such persons or entities must also designate a resident of the State as an agent for service of process and register the agent with the Secretary of State.

The bill requires that such persons or entities make available for public inspection the plan and its terms, and the bill provides other requirements regarding information and services which must be made available to the customer.

The bill provides that violations of provisions of the Prescription Drug Discount Card Registration Act are considered a violation of the South Carolina Unfair Trade Practices Act, and the bill provides penalties for such violations.

H.3714 "SCHOOL EQUITY AND REAL PROPERTY TAX RELIEF ACT" Rep. Toole

Legislative Update, March 14, 2005

This bill enacts the School Equity and Real Property Tax Relief Act, imposing an additional two percent state sales, use, and casual excise tax, and crediting the revenues from this additional tax to a special fund known as the "School Tax Millage Exemption Trust Fund" (the Trust Fund).

The bill provides an exemption from real property school taxes (with certain exceptions) and requires that Trust Fund revenue be used to reimburse school districts for revenue lost due to this exemption.

The bill also exempts from property tax an amount of fair market value of real property sufficient to eliminate any increase in fair market value attributable to a countywide appraisal and equalization program. This exemption does not apply to value attributable to real property or improvements to real property not previously taxed, or to real property transferred after the implementation of the values determined in the most recent countywide equalization program.

In those counties which have imposed a local sales and use tax, the bill requires a referendum on rescinding such tax.

H.3718 DELETION OF PROPERTY TAX EXEMPTION Rep. Huggins

This bill deletes the property tax exemption currently provided for property of nonprofit housing corporations or solely-owned instrumentalities of these corporations which is devoted to providing housing to low or very low income residents.

H.3719 CHECKOFF CONTRIBUTIONS TO POLITICAL PARTIES Rep. Wilkins

This bill allows taxpayers to designate on individual tax returns that one dollar of the tax must be credited to the South Carolina Political Parties Financing Fund (established in the bill) and allocated to the political party designated by the taxpayer. The bill requires the State Election Commission to administer allocation of fund revenues among political parties, and report quarterly to state party chairs information regarding amounts distributed.

H.3724 TAX INCREMENT FINANCING ACT Rep. Funderburk

This bill amends the Tax Increment Financing Act for counties by extending application of the Act to more rural areas and by adding additional elements to development projects necessary to assist such rural areas. The bill adds to the factors which may lead to an area's designation as "blighted," vacant areas whose growth is impaired by: lack of necessary transportation infrastructure, water or wastewater services, or both; access to adequate electric and natural gas energy services; and lack of modern communication infrastructure. The bill expands the factors which may lead to an area being considered a "conservation area" by adding the agricultural foreclosures, static or declining agricultural land rental rates, depopulation, area-wide economic decline, or static per capita income. The bill also expands the definition of a "sprawl area" which is a rural development zone and expands the definitions of "redevelopment plan," "redevelopment project," "redevelopment project area," and "redevelopment project costs."

The bill also amends provisions regarding joint county and municipality redevelopment plans by providing that counties by intergovernmental agreement incorporated into individual county ordinances, may establish a multi-county or regional authority for both

the establishing of a redevelopment plan and redevelopment projects if the documented economic impacts of projects extend beyond the boundaries of a single county.

**H.3725 EXEMPTIONS FROM ACROSS-THE-BOARD APPROPRIATION
REDUCTIONS Rep. Hinson**

This bill exempts from across-the-board reductions ordered by the State Budget and Control Board due to revenue shortfalls, amounts appropriated in the annual general appropriations act as salary supplements for county clerks of court, probate judges, sheriffs, registrars of deeds, county auditors, county treasurers, and county coroners. The bill also adds county coroners to the list of county officers to whom the General Assembly shall appropriate annually salary supplements.

**H.3727 CONSTITUTIONAL AMENDMENT REGARDING PROPERTY
TAX EXEMPTION Rep. Toole**

This joint resolution proposes an amendment to the Constitution providing that if property has been exempted from property tax imposed for school operations, and the state sales and use tax increased to reimburse school districts for this exemption, then this exemption must not be later reduced or repealed.

**H.3733 "SOUTH CAROLINA STATE UNIVERSITY ACADEMIC AND
ADMINISTRATIVE FACILITIES BOND ACT" Rep. Harrell**

Subject to the approval of the Joint Bond Review Committee and the State Budget and Control Board, this bill authorizes and provides for South Carolina State University to issue bonds, notes, or other forms of indebtedness for the purpose of financing or refinancing the cost of acquisition, construction, reconstruction, renovation, and improvement of land, buildings, and other improvements to real property and equipment for the purpose of providing certain academic and administrative buildings serving the needs of the University.

Legislative Update, March 14, 2005

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