



South Carolina House of Representatives

# Legislative Update

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

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***NOTE: THESE SUMMARIES ARE PREPARED BY THE STAFF OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES AND ARE NOT THE EXPRESSION OF THE LEGISLATION'S SPONSOR(S) OR THE HOUSE OF REPRESENTATIVES. THEY ARE STRICTLY FOR THE INTERNAL USE AND BENEFIT OF MEMBERS OF THE HOUSE OF REPRESENTATIVES AND ARE NOT TO BE CONSTRUED BY A COURT OF LAW AS AN EXPRESSION OF LEGISLATIVE INTENT.***

# HOUSE WEEK IN REVIEW

The House of Representatives amended, approved, and sent to the Senate **H.3590**, the “**SOUTH CAROLINA RESTRUCTURING ACT**”. This bill establishes the Department of Administration under the executive branch of state government. The Department of Administration is headed by a director appointed by the governor with the advice and consent of the General Assembly.

The following offices, divisions or components of the State Budget and Control Board, Office of Governor, or other agencies are transferred to and incorporated into the Department of Administration:

- Division of General Services including Facilities Management, Business Services together with Fleet Management, and Property Services;
- Office of Human Resources;
- Office of Executive Policy and Programs, except for the State Ombudsman and Children's Services programs which are contained within this office;
- Office of Economic Opportunity;
- Developmental Disabilities Council;
- Continuum of Care;
- Children's Foster Care;
- Veterans Affairs;
- Commission on Women;
- Victims Assistance;
- Small and Minority Business;
- Procurement Services Division of the State Budget and Control Board;
- State Energy Office; and
- Division of State Chief Information Officer of the State Budget and Control Board.

The Budget and Control Board remains responsible for the operations and management of the State House, Blatt Office Building, Gressette Office Building, Supreme Court Building, Calhoun Office Building, and Capitol Complex grounds. Also whenever the Budget and Control Board maintains any responsibility related to a program administered by the Department of Administration, the board is authorized to expend revenues generated by the programs to support the board's responsibilities related to the programs.

The bill also provides for **LEGISLATIVE OVERSIGHT OF EXECUTIVE DEPARTMENTS**. In order to determine whether laws and programs addressing subjects within the jurisdiction of a legislative committee are being implemented and carried out in accordance with the intent of the General Assembly and whether they should be continued, curtailed, or eliminated, each standing committee shall review and study on a continuing basis: (1) the application, administration, execution, and effectiveness of laws and programs addressing subjects within its jurisdiction; (2) the organization and operation of state agencies and entities having responsibilities for the administration and execution of laws and programs addressing subjects within its jurisdiction; and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation addressing subjects within its

jurisdiction. The legislation outlines which agencies fall under the jurisdiction of each standing committee.

Each committee must conduct oversight studies and investigations at least once every four years on all agencies within the committee's jurisdiction. Also a standing committee may by majority vote initiate a study or an investigation of an agency within its jurisdiction. An investigating committee may vest its investigative authority in a subcommittee.

The legislation includes provisions detailing how an investigating committee may acquire evidence or information, including requiring an agency to prepare and submit a program evaluation report. The chairman of the investigating committee may direct the Legislative Audit Council to perform a study of the program evaluation report or to perform its own audit of the program or operations being studied or investigated by the investigating committee. All testimony given to the investigating committee must be under oath. All witnesses are entitled to counsel, and a witness shall be given the benefit of any privilege which he may have claimed in court as a party in a civil action.

The legislation includes a large section for conforming and miscellaneous amendments.

During the year 2015, the Legislative Audit Council shall conduct a performance review of the provisions of this legislation to determine its effectiveness and achievements. The legislation includes a sunset provision; however, the provisions relating to Legislative Oversight of Executive Departments is not subject to an expiration date.

The House amended, approved, and sent to the Senate **H.4538**. *(Note the provisions of this bill are included in **H.3590**, the "South Carolina Restructuring Act.")* This legislation also provides for **LEGISLATIVE OVERSIGHT OF EXECUTIVE DEPARTMENTS**. In order to determine whether laws and programs addressing subjects within the jurisdiction of a legislative committee are being implemented and carried out in accordance with the intent of the General Assembly and whether they should be continued, curtailed, or eliminated, each standing committee shall review and study on a continuing basis: (1) the application, administration, execution, and effectiveness of laws and programs addressing subjects within its jurisdiction; (2) the organization and operation of state agencies and entities having responsibilities for the administration and execution of laws and programs addressing subjects within its jurisdiction; and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation addressing subjects within its jurisdiction. The legislation outlines which agencies fall under the jurisdiction of each standing committee.

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The House amended, approved, and sent to the Senate **H.4815**, the “**SOUTH CAROLINA MOTION PICTURE INCENTIVE ACT OF 2008**.” The legislation revises and updates tax incentives for motion picture productions in this State by adding and modernizing definitions, eliminating the rebate of state and local sales taxes provided under former law, providing for the carry forward of rebate funds to avoid multiple applications, clarifying the wage incentive and resident hiring bonus, increasing the number of days state property may be used without fee from seven to ten days, and providing additional requirements for film credits for this State. The legislation allows for a rebate to a production company a portion of the South Carolina payroll of the employment of persons subject to South Carolina income tax withholdings in connection with production of qualified production activities. The rebate is an amount up to twenty percent of the total aggregate South Carolina payroll. Up to an additional ten percent rebate may be paid for all South Carolina residents who are paid a minimum of eighteen dollars an hour. The total aggregate payroll does not include the portion of the salary of an employee whose salary is greater than one million dollars for each qualified production activity. The legislation provides that an additional one percent of the general fund portion of admissions tax collected by this State for the previous year must be allocated to the South Carolina Film Commission for the development and funding of a trainee wage reimbursement program, apprenticeship programs, and other qualified production activity training programs for South Carolina residents. The legislation transfers the South Carolina Film Commission from the Department of Commerce and establishes it as a separate division of the Department of Parks, Recreation and Tourism.

The House amended, approved, and sent to the Senate **H.3514**, a bill that revises the Procurement Code preferences for resident vendors to allow **OUT-OF-STATE BUSINESSES TO RECEIVE CERTAIN PREFERENCES BY USING SOUTH CAROLINA GOODS, SERVICES, AND LABOR** for required significant percentages of their proposed contracts. In order to be eligible for any preferences, a business must have paid all taxes assessed by the State and registered with the Secretary of State and the Department of Revenue.

The House approved and sent to the Senate **H.4942**, a bill providing **SOUTH CAROLINA REAL PROPERTY VALUATION REFORM ACT REVISIONS**. The legislation revises provisions relating to determining the fair market value of real property at the point of sale for purposes of the South Carolina Real Property Valuation Reform Act. The legislation provides that if a parcel of real property which has had no further improvement since the most recent countywide reassessment program was implemented undergoes an assessable transfer of interest, the implementation of the transfer value is postponed until the property tax year of implementation of the next countywide assessment program. This transfer value is the value to which the limit on increases in fair market value applies. The legislation revises provisions relating to the time an assessable transfer of interest occurs, so as to revise the penalty for failure to provide notice or failure to provide accurate notice to the assessing authority of business entity transfers. The legislation revises provisions relating to the classification and valuation of property for purposes of the property tax, so as to require the deed to property held in trust to recite the name of the beneficiary for the property to qualify as

the beneficiary's legal residence and to require Social Security Numbers of applicants for the legal residence assessment ratio. The legislation revises provisions relating to continuing education requirements for assessors.

The House amended, approved, and sent to the Senate **H.4927**, a bill establishing an **INCOME TAX CREDIT FOR THE ELECTRICITY COSTS OF RECYCLING FACILITIES**. The legislation allows a refundable income tax credit to a recycling facility equal to the yearly amount expended by the recycling facility for electric service multiplied by one percent in the first year the credit is claimed, two percent in the second year, three percent in the third year, and four percent in the fourth or subsequent year. The recycling facility must maintain or increase the number of employees in South Carolina in order to qualify for the credit. The credit is allowed only when the Board of Economic Advisors forecasts growth in general fund revenues of at least five percent.

The House amended, approved, and sent to the Senate **H.4887**, a bill providing for numerous **TAX CODE REVISIONS**. This bill revises and updates numerous provisions relating to taxation largely to allow state provisions to correspond with federal taxation provisions

The House amended, approved, and sent to the Senate **H.4883**, the "**EDUCATION CAPITAL IMPROVEMENTS SALES AND USE TAX ACT**." This legislation authorizes a county which has collected at least seven million dollars in state accommodations taxes in a fiscal year to impose, through referendum approval, a one percent local sales and use tax for not more than fifteen years with the revenue to be used by the county's school district board of trustees to pay for public school capital improvements. Under the legislation, a county would have the option of sharing this revenue with public institutions of higher learning or technical colleges located in the county for capital improvements on those campuses.

The House amended, approved, and sent to the Senate **H.4909**, "**THE SOUTH CAROLINA CDL DRUG TESTING ACT**". This bill requires all medical review officers or breath alcohol technicians hired by or under contract to certain commercial driver employers to report to the employers a verified positive drug test or positive alcohol confirmation test, a refusal to provide a specimen, or the submission of an adulterated, diluted or substituted specimen. Employers must then make report of these items to the Department of Motor Vehicles (DMV) within three business days. Employers must maintain records of these reports for three years, and these records are subject to inspection by the Department of Public Safety. Failure to make required reports is subject to a fine of up to \$500 dollars, which must be credited to the Department of Public Safety's Transport Police Division. This bill further provides that a person is disqualified from driving a commercial motor vehicle if a report has been received by the DMV that the person has received a verified positive drug test or positive alcohol confirmation test, or refused to take a drug or alcohol test. The disqualification remains in effect until the person undergoes a drug and alcohol assessment by a substance abuse professional and has successfully completed a treatment program. A person who is disqualified for three times in a five-year period is disqualified for life.

The House amended, approved, and sent to the Senate **H.4911**, relating to **IDLING RESTRICTIONS FOR COMMERCIAL DIESEL VEHICLES**. This bill prohibits an operator of a commercial diesel vehicle from allowing a vehicle to idle for more than ten minutes in any 60-minute period. The legislation includes numerous exceptions. The

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State Transport Police Division of the Department of Public Safety is responsible for enforcing these provisions. Violations are nonmoving traffic offenses punishable by a warning ticket for an offense that occurs between July 1, 2008, to July 1, 2009, or a fine of \$75 dollars for each offense that occurs after July 1, 2009. Fines may be paid directly to the Department of Public Safety, or an individual may request a hearing in magistrates court. Magistrates court has jurisdiction over all contested violations. Failure to pay fines may result in driver's license suspension. Fifty dollars of each fine must be credited to the Diesel Idling Reduction Fund, and the monies in this fund must be used to cover costs associated with the idling awareness program operated by the Department of Health and Environmental Control. The legislation supercedes and preempts any ordinance enacted by a local political subdivision purporting to regulate idling on commercial diesel vehicles.

The House approved and sent to the Senate **H.4568**, relating to **LEGISLATIVE AUDIT COUNCIL ESTIMATES**. This bill requires the Legislative Audit Council to submit to a party requesting an audit an estimate of the cost of an audit at least thirty days before beginning the audit.

The House amended, approved, and sent to the Senate **H.4797**, a bill providing that **LOCAL GOVERNMENTS ARE PROHIBITED FROM CHARGING FEES FOR RESPONDING TO TRAFFIC ACCIDENTS**. This bill provides that a municipality or county, or unit or agency of it, may not impose a fee or seek reimbursement of costs or expenses incurred as a result of responding to a motor vehicle accident. Such fees are authorized only: (1) where the coverage for these services is expressly provided by an insurance company to the insured and the services are billed lawfully to the insured; (2) for emergency medical services; or (3) for hazardous material clean up.

The House amended, approved, and sent to the Senate **H.4499**. This bill revises provisions relating to the **AWARDING OF REASONABLE ATTORNEY'S FEES IF A TAXPAYER PREVAILS IN THE ASSESSOR'S DENIAL OF AGRICULTURAL USE VALUE OF REAL PROPERTY** and a finding by the Administrative Law Court that the assessor's action was unreasonable. Under the legislation, this provision applies to both the denial of an application for agricultural use value and an action by the assessor to remove real property from that status. The legislation provides for the payment of expenses plus attorney's fees and provides for this reimbursement of attorney's fees and expenses after the taxpayer prevails in any final appeal of the contested case. The legislation also eliminates the required finding that the assessor's decision was not reasonable.

The House approved and sent to the Senate **H.4451**. This bill revises definitions relating to **QUALIFICATIONS TO RECEIVE STATE AID FOR EDUCATION** so as to exclude persons who are not lawfully present in the United States from eligibility to receive state aid for education.

The House amended, approved, and sent to the Senate **H.4980**. This bill increases the charter period for **CHARTER SCHOOLS** from five to ten years. The legislation also provides for appeals of South Carolina Public Charter School District decisions with the Administrative Law Court rather than the State Board of Education.

The House concurred in Senate amendments to **H.3451**, the "**UNIFORM REAL PROPERTY RECORDING ACT**", and enrolled the bill for ratification. The legislation

provides for the authority of the Register of Mesne Conveyances in a county to receive and record documents and information in electronic form, setting forth certain requirements in acceptance of electronic documents by a register. The office of the Secretary of State is charged with the responsibility of implementing the act and adopting standards for the receipt, recording, and retrieval of electronic documents.

The House concurred in Senate amendments to **H.3605**, relating to the **ATTORNEY-CLIENT RELATIONSHIP**, and enrolled the bill for ratification. The legislation provides that whenever an attorney-client relationship exists between a lawyer and a fiduciary, communications between the lawyer and the fiduciary shall be subject to the attorney-client privilege unless waived by the fiduciary, even though fiduciary funds may be used to compensate the lawyer for legal services rendered to the fiduciary. The existence of a fiduciary relationship between a fiduciary and a beneficiary does not constitute or give rise to any waiver of the privilege for communications between the lawyer and the fiduciary.

The House appointed a conference committee to address differences with the Senate on **S.799**, a bill relating to **AURICULAR DETOXIFICATION THERAPY**.

The House approved and sent to the Senate **H.4833** the “**SOUTH CAROLINA FARM TO SCHOOL PROGRAM ACT**” which creates a program that will foster a direct relationship between South Carolina farms and schools to provide schools with fresh and minimally processed foods for student consumption. This will help children develop healthy eating habits, and to improve South Carolina farmer’s incomes and direct access to markets. As a result, the Department of Agriculture shall employ a director to administer and monitor the programs and activities of the program. Some of the duties will include identifying and promoting critical components of individual farm to school programs and advising agencies on needed actions and strategies; seeking grants from private donations and other funding sources; and providing leadership at the state level to encourage school districts to develop and improve school nutrition plans using locally grown farm fresh products. In addition the Department must establish a web site for the program.

The House amended, approved, and sent to the Senate **H.4953**, a bill establishing the **SOUTH CAROLINA LIGHTRAIL CONSORTIUM** and provides for its governance, funding, duties, and powers. LightRail is a broadband, high-speed optical research network designed to link all the State’s major research universities and facilitate the exchange of large data sets.

The House amended approved, and sent to the Senate **H.4340**. This bill adds the chief investment officer of the Retirement System Investment Commission as an ex officio member of the **DEFERRED COMPENSATION COMMISSION**. The legislation also removes the provision under which an employee may defer no more than twenty-five percent of his compensation and instead provides that compensation may be deferred in an amount as provided for in a plan approved by the commission.

The House amended, approved, and sent to the Senate **H.4773**, relating to **EMPLOYMENT SECURITY COMMISSION EXPENDITURES**. This joint resolution authorizes the South Carolina Employment Security Commission to expend up to eight million dollars of funds made available to the state under a provision of the United States Social Security Act for specified purposes.

The House amended, approved, and sent to the Senate H.4952, a bill that makes it **UNLAWFUL TO INTRODUCE A FERTILITY CONTROL AGENT OR CHEMICAL SUBSTANCE INTO ANY WILDLIFE** without a permit from the Department of Natural Resources. The department may issue a permit, authorizing the use of a fertility control agent or chemical in wildlife only for bonafide scientific research or management activities. The department is authorized to use fertility control agents or chemical substances on wildlife in order to protect human safety or for management, scientific or educational purposes. However, preference must be given to hunting as the primary method of controlling wildlife before a fertility control agent or chemical substance is utilized. Nothing prohibits the use pesticides for the control of commensal rodents. In addition, violation of the provisions is a misdemeanor and fines of not more than two thousand five hundred dollars or imprisonment not more than two years, or both. Magistrate court is vested with jurisdiction to hear and dispose of these cases. The House did not concur in Senate amendments to H.3993, a bill to provide that the opening day of the annual major league baseball season each year is designated as "**TEXTILE LEAGUE BASEBALL DAY**" in South Carolina.

The House amended Senate amendments to H.3853, which relates to **SAFETY EQUIPMENT REQUIREMENTS ON A PROJECTING LOAD THAT EXTENDS TO THE REAR FOUR FEET OR MORE**, and returned the bill to the Senate. The legislation was amended to also include provisions relating to idling restrictions for commercial diesel vehicles.

The House amended Senate amendments to H.3798 and returned the bill to the Senate. The bill legislation provides that a **CHIEF OF A RECOGNIZED NATIVE AMERICAN INDIAN TRIBE IS AUTHORIZED TO PERFORM MARRIAGE CEREMONIES**.

The House recommitted H.5029 to the Agriculture, Natural Resources, and Environmental Affairs Committee. This concurrent resolution requests that the Department of Health and Environmental Control promulgate regulations for **STREAMLINING THE ENVIRONMENTAL PERMITTING PROCESS IN THE COASTAL ZONE**.

The House recommitted H.4594, a bill relating to the **REGULATION OF RESIDENTIAL HEATING AND AIR CONDITIONING CONTRACTING**, to the Labor, Commerce and Industry Committee.

The House recommitted H.4305, a bill enacting the "**SOUTH CAROLINA EQUINE PROMOTION ACT**," to the Ways and Means Committee.

The House committed H.4368, the "**SOUTH CAROLINA OUTSTANDING EDUCATIONAL BENEFITS GARNISHMENT ACT**," to the Judiciary Committee.

The House continued H.4622, a bill revising provisions **DRIVING PROVISIONS RELATING TO EMERGENCY VEHICLES** and emergency scenes.

The House continued H.4263, a bill relating to **AMUSEMENT REDEMPTION MACHINES**.

# HOUSE COMMITTEE ACTION

## AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full committee did not meet this week.

**H.4764** regarding **WATER RESOURCES PLANNING FOR WATERCRAFT EQUIPMENT AND OPERATIONS** received a favorable with amendment recommendation during its April 16, 2008 meeting. However, the amendment was unavailable in time to be included in last week's edition of the *Legislative Update*. This comprehensive bill makes numerous changes to the equipment, operations and titling for watercraft and water devices used on the waters of this State. The bill outlines watercraft to mean anything used or capable of being used as a means of transportation on the water but does not include a seaplane regulated by the federal government, water skis, aquaplanes, surfboards, windsurfers, tubes, rafts, and similar devices or anything that does not meet construction or operational requirements of the state or federal government for watercraft. The fee for a certificate of title for a watercraft and an outboard motor is ten dollars. The fee for providing a duplicate copy is five dollars. An owner of a watercraft or outboard motor titled in this State must notify the department if ownership is transferred to another person, entity or transferred out of state or otherwise disposed. Any person coming into possession of a watercraft or outboard motor without proper proof of ownership must apply to the department for a title. The application must be supported by an affidavit setting forth the circumstances under which the watercraft or outboard motor was acquired. The applicant must attempt to notify the last known titled or registered owner and any lien holder of record by certified mail of the application. The applicant must provide proof of mailing. The applicant must publish an advertisement in a newspaper of general circulation in the county of residence of the last known owner. If there is no prior owner of record, the advertisement must be published in the county where acquired. After thirty days, if no claim of interest or ownership is made and the item has not been reported stolen, the department shall issue a clear title. If the item is reported stolen, the department shall dispose of the item according to law. If there is a claim of interest adverse to the applicant, the department shall not issue a title until the issue is resolved. The parties may apply to a court of competent jurisdiction for resolution. The bill also provides for permits and operational standards for marine dealers. It requires marine dealers to sell a minimum of ten new or used watercraft or outboard motors a year in order to renew permits. In addition, the bill repeals Section 50-21-35 Dealer Demonstration Numbers for Watercraft; Section 50-21-60 Personnel Expenses and Salaries of Department Employees and Sections 50-23-15, 50-23-40, 50-23-50, 50-23-65, 50-23-100 and 50-23-160 all relating to certificates of title or marine dealer permits.

## EDUCATION AND PUBLIC WORKS

The full committee did not meet this week.

[H.4592](#), which provides for a **PROHIBITION ON CERTAIN DRIVERS OPERATING VEHICLES WHILE USING CELL PHONES AND OTHER DEVICES**, received a favorable with amendment report from the Education and Public Works Committee during its Wednesday, April 16, 2008, meeting. However, the amendment was unavailable in time to be included in last week's edition of the *Legislative Update*. This bill provides that it is unlawful for a person who holds a beginner's permit, conditional driver's license, or a special restricted driver's license to operate a motor vehicle while using a cellular telephone or another wireless communications device when the vehicle is in motion. It is not a violation if the person is using a hands-free communication device. Exceptions are provided when a cellular telephone or another wireless communications device is used to report illegal activity, summons medical or other emergency help, or prevent injury to a person or property. A person who violates this provision is guilty of a misdemeanor and, upon conviction, must be punished as follows: (1) first offense, must have his driver's license suspended for 30 days; (2) second offense, must have his driver's license suspended for six months; and (3) third offense, must have his driver's license suspended for one year.

## JUDICIARY

The full committee met on Wednesday, April 23, 2008, and gave consideration to several bills.

[H.4847](#) received a favorable with amendment recommendation. This bill makes various **REVISIONS PERTAINING TO ABANDONED VEHICLES**. Among other things these revisions include, but are not limited to, the following:

- Relating to the towing, storage, and disposition of certain vehicles and personal property, this bill deletes the term "law enforcement officer" and replaces it with the term "officer."
- Relating to the placement of a colored tag on unattended vehicles as notice that it may be considered to be abandoned, this bill revises the conditions upon which a colored tag may be placed upon a vehicle.
- Relating to the right of certain governmental officials to enter private property to enforce the provisions that regulate the disposal of abandoned vehicles, this bill makes certain technical changes.
- Relating to vehicles that are not subject to the provisions that regulate the disposal of abandoned motor vehicles, this bill provides that a vehicle housed or protected from the elements must be kept within a closed permanent structure to be exempt from these provisions.
- Relating to penalties that must be imposed also upon a person who abandons a vehicle, this bill provides that these penalties must be imposed upon a person who fails to abate a derelict vehicle within a certain time period.

[H.3274](#), pertaining to the **UNLAWFUL PRACTICE OF LAW**, received a favorable with amendment report from the Judiciary Committee. This bill provides that no person may either practice law or solicit the legal cause of another person or entity in this State unless he has been enrolled as a member of the South Carolina Bar pursuant to applicable court rules, or otherwise authorized to perform prescribed legal activities by action of the Supreme Court of South Carolina. The practice of law shall be defined by decisions of the Supreme Court of South Carolina prior to any charge being filed

pursuant to this section. A person who violates this section is guilty of a felony and, upon conviction, must be fined not more than \$5,000 dollars or imprisoned not more than five years, or both.

[H.4312](#), which provides for the **PROTECTION OF PERSONS UNDER DISABILITY AND THEIR PROPERTY**, received a favorable recommendation from the committee. This bill provides that a guardianship, conservatorship, or other protective order established by reason of incapacity, and not merely minority, does not terminate automatically upon the attainment of the age of majority by the incapacitated person.

The Judiciary Committee gave a favorable report to [H.5009](#), a bill which provides that **ARSONISTS ARE BARRED FROM FIREFIGHTING DUTIES**. This bill revises provisions relating to a criminal records check for a firefighter, so as to provide that no person may volunteer as a firefighter, be employed as a firefighter, or perform firefighting duties if he has been convicted of, pled guilty to, or pled no contest to arson.

[H.4694](#), relating to the **QUALIFICATIONS FOR SERVICE ON THE STATE GRAND JURY**, received a favorable recommendation from the full committee. This bill provides that a person who is currently charged in a state or federal court with a criminal offense which carries a maximum penalty of one year or more is not qualified to serve as a juror on a state grand jury.

The committee gave a favorable report to [H.4984](#), pertaining **REVISIONS TO THE YOUTHFUL OFFENDER ACT**. The bill revises the definition of youthful offender to include persons who commit a broader range of criminal offenses. This bill also provides that a person under the age of 21 sentenced pursuant to the Youthful Offender Act, convicted of armed robbery shall receive and serve a minimum sentence of at least three years, no part of which may be suspended. The person is not eligible for parole or probation until he has served a three-year minimum sentence. A person between the ages of 21 and 25 who is convicted of armed robbery may not be sentenced pursuant to the Youthful Offender Act.

The Judiciary Committee adjourned debate on [H.4819](#), a bill that provides a **PROCEDURE FOR LOCAL GOVERNMENT TO COLLECT FINES ASSOCIATED WITH PARKING CITATIONS**.

The following bills were committed to subcommittee:

- [H.4824](#), a bill which makes **REVISIONS PERTAINING TO VULNERABLE ADULT ABUSE AND NEGLECT**, was committed to the Criminal Laws Subcommittee
- [H.4333](#), pertaining to the **DUTIES OF NOTARIES PUBLIC**, was recommitted to the Special Laws Subcommittee
- [H.3201](#), pertaining to **RECREATIONAL POKER GAMES**, was recommitted to the Criminal Laws Subcommittee

## **LABOR, COMMERCE AND INDUSTRY**

The full Labor, Commerce and Industry Committee met on Tuesday, April 22, and reported out several bills.

The committee gave a report of favorable with amendments on **H.4900**, a bill enacting the “**REDUCED CIGARETTE IGNITION PROPENSITY STANDARDS AND FIREFIGHTER PROTECTION ACT**”. The legislation provides that, in order to be sold in this State, cigarettes must undergo laboratory testing for ignition propensity, receive certification that they meet this legislation’s performance standards for reducing potential fire hazard, and marked to show that they comply with the reduced ignition propensity standards. Manufacturers are required to pay a certification fee for each cigarette brand style to the State Fire Marshal to defray the costs of the legislation’s processing, testing, enforcement, and oversight activities. The fee is initially set at two hundred fifty dollars, but the State Fire Marshal is authorized to adjust the fee annually to ensure that actual costs are defrayed. Manufacturer are required to maintain copies of the reports of tests conducted on cigarettes for a period of three years, and must make copies of these reports available to the State Fire Marshal and the Attorney General upon written request. Civil penalties are established for noncompliant cigarette sales, false certifications, failure to meet reporting requirements, and other violations of the legislation. Cigarettes that have been sold or offered for sale that do not comply with the performance standards are subject to forfeiture and destruction. The Attorney General, the Department of Revenue, the State Fire Marshal, and other law enforcement personnel are provided authority to examine the books, papers, invoices, and other records related to cigarette sales in order to enforce the provisions of the legislation.

The committee gave a report of favorable with amendments on **H.4783**, which **REVISES PROVISIONS FOR THE LICENSURE AND REGULATION OF ARCHITECTS**. The legislation establishes provisions allowing intern architects. The legislation increases from ten thousand dollars to twenty thousand dollars the maximum amount of total fines that the Board of Architectural Examiners may impose. The legislation revises licensure requirements, so as to provide that application fees are nonrefundable and that applicants must be enrolled and participating in an intern development program. The legislation revises license renewal and continuing education requirements, so as to further clarify required continuing education topics and to require registrants to comply with audit deadlines and requirements. The legislation authorizes the use of an electronic seal and signature by architectural firms. The legislation specifies that engineers are not subject to architect provisions. The legislation further specifies which farm buildings, buildings less than three stories high, and detached single family or two-family dwellings do not require the services of an architect. The legislation provides that architectural services are not required for alterations and renovations to buildings that do not increase the areas or capacities of buildings beyond that governed by these provisions, that do not affect the structural safety of the building, or that do not change the building’s access or exit pattern.

The committee gave a report of favorable with amendments on **H.4892**, the “**ENERGY INDEPENDENCE AND SUSTAINABLE HOMES ACT**”. The legislation establishes a one thousand dollar state income tax credit for a residential builder who constructs a high-performance residence in this State that meets the legislation’s green building standards for maximizing energy efficiency and minimizing adverse environmental impact. The Department of Revenue is required to submit an annual report to the General Assembly detailing the number of high-performance residences, the tax credits that have been claimed, and any barriers that hinder the legislation’s promotion of green building standards. The legislation also provides that a local government or homeowners association may not impose a greater requirement on a person wishing to install a solar energy heating or cooling system in a residential home than it otherwise

would impose on a person wishing to install another heating, cooling, or similar mechanical system.

## **MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

The Medical, Military, Public and Municipal Affairs Committee met on Wednesday, April 23, 2008, and the following items were addressed.

**S.311** a bill relating to **GROUP CHILDCARE HOMES** was given a favorable recommendation by the committee. This bill will require the owner or operator of a group childcare home and family childcare home in South Carolina who does not carry liability insurance to notify each enrolled child's parent or guardian of that fact no later than January 1, 2009. The owner or operator must obtain signed statements from each enrolled child's parent or guardian, indicating notice was received regarding the lack of liability insurance. The childcare facility must maintain a file of the signed statements for the period of time the child is enrolled. The parent or guardian of any new child enrolled after June 30, 2008, must receive this information and sign a statement at the time of enrollment. If a childcare facility has liability insurance that lapses or is cancelled the owner or operator must notify and obtain signed statements from the parents of the enrolled child.

**S.882** a bill relating to **STATE BOARD OF DENTISTRY RESTRICTED INSTRUCTOR LICENSES** received a favorable recommendation. This bill amends the requirements to hold a dental instructor's license. Currently a person with an instructor's license may teach and practice only at MUSC's dental college. The bill will allow a person with an instructor's license to teach and practice at a technical college with a dental auxiliary program or at a dental board recognized hospital-based residency program in addition to MUSC. The bill outlines that an instructor's license is a restricted one that allows a dentist to practice only in a clinic or office affiliated with a dental instructional program. The license terminates immediately if the license holder ceases to be a faculty member. A person may not receive a restricted instructor's license if he or she had been refused a license or had a license revoked in any state.

The full committee gave favorable with an amendment recommendation to **S.918** regarding **CENTRAL FILL PHARMACIES**. This bill authorizes central fill pharmacies to be established in South Carolina. A central fill pharmacy fills a prescription at the request of another pharmacy and returns the filled prescription to the originating pharmacy for patient pickup. The bill allows a pharmacy to outsource a prescription to a central fill pharmacy if the two pharmacies have the same owner or a written contract. The bill requires a central fill policy and procedure manual outlining each pharmacy's responsibilities and duties. Each pharmacy will be required to keep detailed records of prescriptions filled and dispensed. The bill prohibits a central fill pharmacy from filling prescriptions for Schedule II controlled substance. A pharmacy that outsources prescriptions to a central fill pharmacy will be required to notify patients about the central fill pharmacy. A central fill pharmacy must apply for a permit and pay a fee to the Board of Pharmacy.

**S.1168** regarding the **REVISED DUTIES AND RESPONSIBILITIES OF THE MENTAL HEALTH COMMISSION** was given a favorable with an amendment recommendation.

## Legislative Update, April 29, 2008

This bill updates the statute that authorizes the Department of Mental Health (DMH) to operate in South Carolina. The bill updates obsolete references by changing the title to “director” of a mental health facility and changes the term “institution” to “hospital”. It makes a technical change to the definition of the term “Person with a mental illness” by removing the word, “afflicted”. It deletes the requirement that a deputy commissioner who heads up a medical division must be a medical doctor licensed in South Carolina. It also deletes reference that DMH must provide services for drug addiction, alcoholism and epilepsy. These services are now provided through the Department of Alcohol and Other Drug Abuse Services and Department of Disabilities and Special Needs. The bill repeals provisions allowing the Mental Health Commission to set the salaries and benefits of the department’s employees. The Budget and Control Board is responsible for setting the pay bands and grades. It also repeals the provision allowing a nonresident physician to examine a patient who is institutionalized in another state but whose legal residence is in South Carolina.

The full committee gave favorable recommendation to **S.1174** regarding **HEALTH FACILITY LICENSURE**. Currently, a provider of a residence for two or more unrelated persons who need personal care assistance is required to get a DHEC license as a Community Residential Care Facility (CRCF). This bill would permit the Department of Mental Health Homeshare providers to temporarily house up to two persons without requiring health licensure of the home by DHEC. This change would allow DMH to temporarily transfer a Homeshare client to another Homeshare provider in order to enable Homeshare providers to take a vacation or attend to personal matters.

## WAYS AND MEANS

The full Ways and Means Committee met on Wednesday, April 23, and took action on several bills.

The committee gave a favorable report on **H.4346**, regarding the **DISCLOSURE OF EARMARK PROJECTS IN APPROPRIATIONS BILLS**. This bill provides that every request by a legislator for an earmark project or program included in an appropriations bill must be made in writing utilizing a designated form. The bill establishes new disclosure requirements for information concerning these earmarks including the name of the legislator making the request and a brief explanation the program or project. Under the legislation, an earmark project or program includes an appropriation or proviso for a specific program or project not originating with a written agency budget request or not included in an appropriations bill from the prior fiscal year.

The committee gave a report of favorable with amendments on **H.4355**, a bill **ALLOWING THE STATE SALES TAX EXEMPTION FOR GROCERIES TO BE EXTENDED TO LOCALLY IMPOSED SALES TAXES**. The legislation authorizes a county governing body by ordinance to exempt unprepared food items eligible for purchase with United States Department of Agriculture food coupons from a locally imposed sales and use tax, including the Local Option Sales Tax, the Capital Project Sales Tax, the Personal Property Tax Exemption Sales Tax, and the Transportation Infrastructure Sales Tax.

The committee gave a report of favorable with amendments on H.4378, the “**MUNICIPAL CAPITAL PROJECT SALES TAX ACT**”. The legislation authorizes a the municipal governing body to impose by ordinance a sales and use tax not to exceed one percent, subject to a referendum, within the municipality to collect a limited amount of money for specific authorized capital projects over a limited amount of time. This tax may not be imposed in a municipality located entirely or partially in a county that has imposed the Capital Project Sales Tax. Revenues collected may be used to defray debt service on bonds issued to pay for authorized projects.

The committee gave a favorable report on H.3975. This joint resolution authorizes the governing body of a county by ordinance to **POSTPONE FOR ONE ADDITIONAL YEAR A COUNTYWIDE PROPERTY TAX EQUALIZATION AND REASSESSMENT PROGRAM**.

The committee gave a favorable report on H.4908, bill **PROVIDING THE DEPARTMENT OF TRANSPORTATION WITH CERTAIN AUTHORITY OVER EXISTING TOLL ROAD PROJECTS**.

The committee gave a report of favorable with amendments on H.4446, a bill authorizing the **INCLUSION OF DIRECT EMPLOYEES OF THE SOUTH CAROLINA ATHLETIC COACHES ASSOCIATION IN THE STATE HEALTH AND DENTAL INSURANCE PLANS**. This bill revises the provisions specifying the entities whose employees, retirees, and their dependents are eligible to participate in the State health and dental insurance plans, so as to extend this eligibility to the South Carolina Athletic Coaches Association.

The committee adjourned debate on H.4673, a bill providing for a **MANDATORY TWO PERCENT ANNUAL COST OF LIVING ADJUSTMENT FOR STATE RETIREES**.

The committee tabled H.4924, a joint resolution providing for a **DISTRIBUTION OF CARRY FORWARD FUNDS FROM THE HOMESTEAD EXEMPTION FUND TO THE SOUTH CAROLINA PUBLIC CHARTER SCHOOL DISTRICT**.

The committee tabled H.4211, a bill authorizing the **PARTICIPATION OF LOCAL MUSEUMS IN THE STATE HEALTH AND DENTAL INSURANCE PLANS**.

## **BILLS INTRODUCED IN THE HOUSE THIS WEEK**

### **AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS**

**S.1244 LIFETIME STATEWIDE AND LIFETIME COMBINATION FISHING LICENSES** Sen. Campsen

This bill allows the lifetime statewide hunting license and the lifetime recreational saltwater fishing license to be purchased from the department at its designated licensing locations rather than at the Department's Columbia Headquarters. The bill also revises the types of lifetime combination licenses offered and the fees for these licenses. A sixty-three year old resident who holds either a lifetime combination, lifetime hunting, lifetime freshwater fishing or lifetime saltwater recreational fisheries license upon attaining the age of sixty-four may convert that license to a senior lifetime license for nine dollars upon obtaining the required hunter education certificates. This bill also clarifies that certain licenses are for recreational freshwater fishing and to provide the procedure and fee for obtaining a lifetime saltwater recreational fisheries license.

**S.1288 SALE OF EXOTIC FARM-RAISED VENISON Sen. Gregory**

Currently, permitted food service establishment may purchase and sell exotic farm-raised venison that is processed through an official establishment, certified by the State Livestock-Poultry Health Commission or USDA. However, the provisions do not apply to the sale or purchase of exotic farm-raised venison products that are fully cooked or preserved in a manner allowing for human consumption with no further preparation. This bill exempts the sale or purchase of processed and packaged pet foods or pet treats containing imported exotic farm-raise venison also from this provision.

## EDUCATION AND PUBLIC WORKS

### **S.815 FULL-DAY, FOUR-YEAR-OLD KINDERGARTEN Sen. Setzler**

This comprehensive legislation creates full-day, four-year-old kindergartens to offer private and state supported, public full-day, four-year-old kindergarten educational services to children considered at-risk. The kindergartens shall focus on the developmental and learning support that children must have to be ready for school, and also must incorporate parenting education.

### **S.1233 SOUTH CAROLINA DOMICILE FOR TUITION AND FEE PURPOSES Sen. Peeler**

Under this bill, independent persons who reside in and have been domiciled in South Carolina for fewer than 12 months with an intention of making a permanent home and their dependents, may be considered eligible for in-state rates for as long as such independent person is employed on a full-time basis in the State or within an adjoining county in North Carolina or Georgia. Further the bill requires that the Commission on Higher Education explore and establish, if possible, a reciprocal agreement for persons, and their dependents, who are employed on a full-time basis in this State but are domiciled in an adjoining county in North Carolina or Georgia.

## JUDICIARY

### **S.11 ETHICS, GOVERNMENT ACCOUNTABILITY, AND CAMPAIGN REFORM Sen. Hayes**

Relating to the contents of the statement of economic interests, this bill clarifies that a public official, public member, or public employee is required to report the source of any gifts, including transportation, lodging, food or entertainment or anything of value worth \$25 dollars or more in a day or worth \$200 dollars or more in the aggregate in a year. Relating to the candidate's maintenance of records of contributions, contributors and expenditures, this bill deletes the requirement that the candidate must maintain and preserve an account of the occupation of each person making a contribution. Relating to the representation of another by a public official, member, or employee before a governmental entity, this bill deletes the requirement that the names of persons represented must be listed. The bill makes revisions with regards to corporations or committee of a corporation that solicits contributions. Relating to the contents of statements of organization, this bill requires that the name and address of affiliated committees be listed. The bill provides that a person may not use or authorize the use of public funds, property, or time to influence the outcome of a ballot measure. The bill also makes revisions regarding the electronic filing of contribution and expenditure information.

### **S.1069 ELIMINATION OF PROHIBITION OF ALCOHOLIC LIQUORS SALES ON STATEWIDE ELECTION DAYS Sen. Rankin**

This bill deletes the prohibition on the sale of alcoholic liquors on statewide election days.

### **H.5057 INCREASED PENALTIES FOR INJURING A POLICE DOG OR HORSE Rep. Bedingfield**

Under this bill, a person who tortures, mutilates, injures, disables, poisons, or kills a police dog or horse is guilty of a felony and, upon conviction, must be fined not less than \$2,000 dollars nor more than \$5,000 dollars and imprisoned not less than one year nor more than five years.

**H.5059 UNFAIR TRADE PRACTICE Rep. Davenport**

This bill makes it an unfair trade practice to compensate a person for services rendered if that person is in the United States illegally.

**H.5063 MUNICIPALITIES Rep. F.N. Smith**

This bill provides that it is unlawful for a municipality to displace a segment of its population because of race, color, religion, sex, familial status, or national origin by means of the municipality's power to levy taxes, power to acquire land through condemnation, or otherwise. This bill also allows for the recovery of damages in court for violations.

**H.5072 "POST-CONVICTION DNA PROCEDURES ACT" Rep. Funderburk**

This bill provides procedures for DNA testing for persons convicted of criminal offenses for the purpose of establishing the identity of the perpetrator, and it allows post-conviction proceedings under certain circumstances.

**H.5089 TASK FORCE ON JUVENILE STATUS OFFENDERS Rep. Govan**

This House resolution establishes a task force on juvenile status offenders. The resolution provides for its members, powers, and duties. The task force shall submit its report and recommendations to the House of Representatives before January 13, 2009, at which time the task force is abolished.

## **LABOR, COMMERCE AND INDUSTRY**

**S.1082 LONG TERM CARE INSURANCE POLICIES Sen. Thomas**

This bill revises terms and conditions applicable to a long term care insurance policy and group policy. The legislation provides that an individual may not sell long term care insurance unless the individual is licensed as an insurance producer for accident and health or life and has completed specified training. The legislation revises advertising restrictions so as to provide the elements of what these policies may include, the conditions that must be met, and additional items that must be furnished to a policyholder in a monthly report. The legislation authorizes the Director of the Department of Insurance to issue certain regulations to protect a policyholder if there is a substantial rate increase.

**S.1104 SPECIFIED DISEASE INSURANCE POLICIES Sen. McConnell**

This bill requires that no insurer or issuer of any individual or group specified disease insurance policy pay any claim or benefits under the applicable policy in an amount in excess of actual charges or actual fees.

**H.5088 PREFERENCE FOR UNITED STATES RESIDENT VENDORS IN STATE**

**PROCUREMENT Rep. Haskins**

This bill provides that a governmental body subject to the Consolidated Procurement Code procuring goods or services or information technology may not enter into a

contract of purchase with a vendor located in or otherwise operating in a foreign country without first having given a United States resident vendor the opportunity to be awarded the contract.

## **MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

### **S.901 HEALTHY LIFESTYLES STUDY COMMITTEE Sen. Ceips**

This Joint Resolution allows for the creation of the Healthy Lifestyles Study Committee. This committee shall review, study and make recommendations regarding the health of South Carolinians including, but not limited to, the state's ability to encourage a healthier lifestyle. This committee must partner with nonprofit organizations that promote a healthier lifestyle, and provide more outdoor exercise opportunities. The committee is composed of two Senate members; two House members; and one member appointed by the Governor. The members shall elect a chairperson and any vacancy must be filled in the same original appointment. The committee shall submit a report to the General Assembly and Governor before January 1, 2009, at which time the committee is abolished.

### **S.1059 PERMISSIBLE CONTRACTUAL PROVISIONS FOR PHYSICAL FITNESS SERVICES Sen. O'Dell**

This bill revises the renewal option in a physical fitness service contract to include a timeframe of longer than one month but not more than twelve months. It also adds an automatic renewal option for duration period of no longer than one month, enforceable if disclosed in bold type on the front page of the contract and be initialed by the customer. The customer will be given the ability to opt in to the automatic renewal option at the initial time of the executed contract. Price may not increase or decrease in an automatically renewed contract without written notice of at least thirty days, not more than sixty days prior to the effective date of the change in price. In addition cancellation of a contract voids the automatic renewal provision.

## **WAYS AND MEANS**

### **S.1242 SOUTH CAROLINA TAXATION REALIGNMENT COMMISSION Sen. Leatherman**

This bill establishes the South Carolina Taxation Realignment Commission and provides for the commission's membership, powers, duties, and responsibilities. The commission is charged with conducting a comprehensive study of the State's tax system and submitting a report of its recommended changes to further the goal of maintaining and enhancing the State as an optimum competitor in the effort to attract businesses and individuals to locate, live, work, and invest in South Carolina. The legislation establishes procedures governing the consideration of legislation resulting from the commission's recommendations.

### **H.5058 STATE INCOME TAX DEDUCTION FOR MILITARY PAY Rep. Talley**

This bill allows a state income tax deduction of otherwise taxable military pay and allowances of a resident of this state on active duty in the armed forces of the United States. The deduction is phased in over four years.

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