



South Carolina House of Representatives

# Legislative Update

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

---

Vol. 27

March 30, 2010

No. 11

## CONTENTS

HOUSE WEEK IN REVIEW .....	02
HOUSE COMMITTEE ACTION .....	07
BILLS INTRODUCED IN THE HOUSE THIS WEEK.....	17

***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 adopted the conference committee report on H.3442, a bill that creates the **DEPARTMENT OF WORKFORCE** as a cabinet level agency to perform workforce development functions and replace the Employment Security Commission in the administration of unemployment benefits. The Senate also adopted the conference committee report and enrolled the bill for ratification. The legislation creates the South Carolina Department of Workforce and provides for it to be managed and operated by an executive director nominated by a newly-created Department of Workforce Review Committee and appointed by the Governor with the advice and consent of the Senate. The executive director may be removed from office by the Governor and the executive director as well as the assistant directors and area directors are exempted from state employee grievance procedures so that they will serve in an at will capacity. The executive director's compensation is to be set by the Agency Head Salary Commission.

A nine-member Department of Workforce Review Committee is created to perform oversight duties and to screen and nominate candidates for the positions of department director and members of the Department of Workforce Appellate Panel. The committee is composed of three of three members of the House of Representatives appointed by the Speaker, at least one of whom must be a member of the minority party; three members of the Senate appointed by the President pro Tempore, at least one of whom must be a member of the minority party; and, three members of the general public appointed by the Governor, one of whom must represent businesses with fewer than fifty employees and one of whom must represent businesses with fewer than five hundred employees. The committee is charged with screening candidates for the position of director to ensure that they meet the legislation's criteria for educational attainment and expertise and nominating three qualified candidate from whom the Governor is to select in making his appointment. The committee is also charged with oversight duties which include conducting annual performance reviews of the director and the Department of Workforce.

The legislation creates a Department of Workforce Appellate Panel with the sole purpose of hearing and deciding appeals from decisions of the Department of Workforce's divisions. Initially, the three sitting members of the South Carolina Employment Security Commission are to serve on the panel in an interim capacity. The members of the appellate panel must be elected by the General Assembly, in joint session, for four-year terms with initial elections to be held before May 22, 2010. Before an individual may be elected to the panel, he must be screened by the Department of Workforce Review Committee and found to possess the legislation's qualifications for educational attainment or pertinent expertise. A member General Assembly may not be elected to the panel while serving as a legislator or for two years following legislative service. Compensation for the panelists is to be set by the Agency Head Salary Commission.

The legislation transfers to the Department of Workforce the Workforce Investment Act program that has been assigned to the Department of Commerce through executive order.

**H.3442** also provides for certain administrative changes to begin to remedy the insolvency of the Unemployment Insurance Trust Fund. The legislation provides that an insured worker is ineligible for unemployment compensation benefits if he has been discharged from work for gross misconduct. Gross misconduct includes such activities as: assault or battery on a fellow employee or customer; abuse of a patient or child under professional care; willful or reckless damage to employer property in excess of fifty dollars; theft of items valued in excess of fifty dollars; failure to comply with applicable state or federal drug and alcohol testing and use regulations; consumption of alcohol or drunkenness on the job in violation of a written workplace policy; insubordination; and willful neglect of duty. The legislation provides new requirements for an individual who has completed a temporary work assignment to contact his temporary employment agency regarding possible reassignment before he can be eligible to receive unemployment benefits.

The legislation creates the Workforce Initiative/Economic Development Research Committee to review and make recommendations regarding steps that should be taken to improve the economy of this State, the employment of South Carolinians, and to restore a substantially greater sense of financial security to the citizens of this State. The review must include an inventory of workforce training and recruitment programs and their adequacy towards meeting the needs of South Carolina's businesses. In addition, the review and recommendations must place emphasis on the goal of matching unemployed citizens with jobs. The committee shall submit its report to the General Assembly and Governor before January 1, 2011, at which time it is abolished

The House concurred in Senate amendments to **H.3707** and enrolled the bill for ratification. This legislation requires **MOTOR FUEL TERMINALS TO OFFER FOR SALE PRODUCTS THAT ARE SUITABLE FOR SUBSEQUENT BLENDING EITHER WITH ETHANOL OR BIODIESEL**, a process known as splash blending. A person or entity is prohibited from taking an action to deny a motor fuel distributor or retailer from being the blender of record. In addition, motor fuel distributors, retailers, and refiners must utilize the renewable identification number (RIN). The legislation may not be construed to imply a market value for the RINs. The legislation also declares violations as an unfair trade practice and each violation is a separate offense.

The House concurred in Senate amendments to **H.4551**, a bill **INCORPORATING PREPAID WIRELESS TELECOMMUNICATIONS AND VOICE OVER INTERNET PROTOCOL INTO THE 911 EMERGENCY CALLING SYSTEM** provisions, and enrolled the bill for ratification. The legislation imposes new fees upon prepaid wireless telecommunications and Voice over Internet Protocol (VoIP) for the support of the 911 emergency calling system that are in keeping with the fees that users of traditional telephone services and mobile telecommunications plans have been paying for the support of the system.

The House adopted the free conference committee report on **S.454**, a bill revising **PYROTECHNIC SAFETY** provisions relating to the licensure and regulation of persons handling fireworks. The legislation increases the State Board of Pyrotechnic Safety from six to seven members, adding a member to represent pyrotechnics wholesalers. The legislation provides licensure requirements for the manufacturing, sale, or storage of fireworks. The Department of Labor, Licensing and Regulation is authorized to investigate complaints. The legislation: provides grounds for disciplinary action; requires liability insurance; requires the reporting of fires and explosions; and, provides criminal and civil penalties for violations.

The House concurred in Senate amendments to **H.3170**, a joint resolution creating the **JOINT ELECTRONIC HEALTH INFORMATION STUDY COMMITTEE** to examine factors affecting the adoption of health information technology in this state, and enrolled the legislation for ratification. The committee is composed of: (1) three members appointed by the Governor; (2) three members of the House of Representatives appointed by the Speaker of the House of Representatives; and (3) three members of the Senate appointed by the President Pro Tempore of the Senate. The staffing for the committee must be provided by the Department of Health and Human Services and the appropriate committees of the Senate and House of Representatives that oversee health care policy. The members of the committee may not receive compensation and are not entitled to receive mileage, subsistence, and per diem. The committee shall submit its report to the General Assembly and Governor before February 15, 2011, at which time it is abolished.

The House approved and sent to the Senate **H.3047**, the **SPENDING ACCOUNTABILITY ACT** which requires the General Assembly to take roll call votes that record the names and stances of legislators in approving the Annual General Appropriations Bill, Conference and Free Conference Committee Reports, and other bills and joint resolutions. The legislation provides that the Annual General Appropriations Bill must be considered section-by-section on second reading, and must receive a recorded roll call vote by the House of Representatives and the Senate when the pending question is the adoption of an individual section. The legislation provides that a bill or joint resolution must receive a recorded roll call vote by the House of Representatives and the Senate when: (1) the pending question is adoption of a Conference or Free Conference Report; (2) the pending question is the passage of a bill or joint resolution on second reading; (3) either the House of Representatives or the Senate agrees to the other body's amendment; or (4) a bill or joint resolution is amended and the pending question is the passage of a bill on third reading.

The House approved and sent to the Senate **H.4220**. This bill reenacts the "**SECOND AMENDMENT RECOGNITION ACT**" so as to establish a sales tax exemption on the sale of handguns, rifles, and shot guns on the Friday and Saturday after Thanksgiving of every year.

The House amended, approved, and sent to the Senate **H.4607**, a bill relating to **ADVERTISEMENTS FOR THE SALE OR LEASE OF MOTOR VEHICLES**. This bill defines necessary terms and provides procedures that must be followed by motor vehicle dealers in advertisements made in the course of soliciting for the sale or lease of motor vehicles. The legislation establishes new requirements for the clear identification of vehicles advertised for sale or lease and for the way in which discounts, savings, and rebates are to be characterized in such advertisements. The bill revises provisions relating to administrative enforcement orders, so as to provide penalties for motor vehicle dealers who violate these advertisement provisions.

The House approved and sent to the Senate **H.4768**, a joint resolution creating the **SUZANNE KIRSH TASK FORCE ON LONG TERM CARE IN SOUTH CAROLINA**. The legislation provides for the composition of the task force and requires a written report with recommendations on improving coordination of access to long term care resources, promotion of independence through consumer choices, cost containment,

and identification of duplication, waste, fraud, and abuse to be presented to the General Assembly by September 2011, at which point the task force shall be dissolved.

The House amended, approved, and sent to the Senate **H.4563**, regarding the **REGULATION OF THE MANUFACTURE, PROCESSING, AND PACKAGING OF FOODS**. The legislation requires the Department of Agriculture to promulgate regulations regarding good manufacturing practice. The bill states that a person may not engage in the business of manufacturing, processing, warehousing or packaging food in any manner without first registering for a permit. This provision does not apply to facilities inspected and regulated by the United State Department of Agriculture (USDA) or the Clemson Livestock-Poultry Health Meat Inspection Division. Registration is required beginning January 1, 2011, and must be renewed annually thereafter. The Department of Agriculture may establish and retain by regulation a registration fee to cover the cost of administering this program. A person who willfully violates these provisions is subject to a civil penalty of up to one thousand dollars for each violation. Any person violating this section is also guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than thirty days.

The House amended, approved, and sent to the Senate **H.4503**, relating to the **USE, SALE OR MANUFACTURE OF CLEANING AGENTS CONTAINING PHOSPHATES**. This bill adds household dishwashing detergent to the cleaning products included in the restriction on phosphates. This provision takes effect on July 1, 2010; however, this does not restrict the sale by a retailer of a household dishwashing detergent product from inventory existing and in stock at the retailer on July 1, 2011. A report shall be made to the General Assembly by January 15, 2013, on the availability, effectiveness and cost of non-phosphate commercial dishwashing detergents.

The House amended, approved, and sent to the Senate **H.3354**, a bill relating to a **RESIDENTIAL PROPERTY OWNER'S DUTY TO COMPLY WITH BUILDING CODES AND STANDARDS WHEN MAKING IMPROVEMENTS OR CONSTRUCTING**. The legislation provides that when an owner of residential property makes an improvement to the property or builds a structure on the property, the owner owes to a subsequent owner of the property the same duty as a licensed contractor to comply with applicable building codes and industry standards.

The House approved **S.1174**, a bill **CONFORMING STATE INCOME TAX LAWS TO FEDERAL PROVISIONS**, and enrolled the bill for ratification. This bill brings state income tax laws into conformity with federal provisions including federal provisions for the timing of deductions for charitable contributions for Haiti relief.

The House approved **S.1127** and enrolled the bill for ratification. The legislation provides that the standard for **DISSOLVED OXYGEN CONCENTRATION DEPRESSION** is changed to 0.1 MG/L. This change effects how dissolved oxygen is measured.

The House approved **S.914**, regarding catch limits for **BLACK BASS**, and enrolled the bill for ratification. This bill states that it is unlawful to possess any black bass (largemouth) less than fourteen inches in total length in Lakes Marion or Moultrie or the upper Santee River. The lawful catch limit for black bass (largemouth) or a combination

**Legislative Update, March 30, 2010**

of them in Lakes Marion or Moultrie or the upper Santee River is five per day. It is also unlawful to land black bass without the head and tail fin intact.

The House approved and sent to the Senate **H.4347**. This bill revises provisions relating to tax bills and **REVENUE IMPACT STATEMENTS**, so as to provide that the revenue impact statement must be signed by the Chief Economist of the Office of Research and Statistics of the State Budget and Control Board. The legislation revises provisions relating to the certification of a revenue impact of a provision for purposes of its inclusion in the annual general appropriations bill and changes in the official revenue estimate, so as to provide that the revenue impacts must be certified by the Chief Economist of the Office of Research and Statistics of the State Budget and Control Board and that the Board of Economic Advisors shall adjust its estimates to reflect these certifications and make other adjustments it considers necessary in the final version of the annual general appropriations bill.

The House recommitted **H.4200** to the Ways and Means Committee. This bill revises the definition for an “extraordinary retail establishment” under the Tourism Infrastructure Admissions Tax Act by including within that definition “an **EXTRAORDINARY TOURISM ESTABLISHMENT**.” The legislation revises the requirements to qualify as “an extraordinary retail or tourism establishment” and for the designation of such establishments by the Department of Parks, Recreation and Tourism, so as to eliminate the limit on such designations, add additional infrastructure improvement costs which may be included with respect to the construction of such facilities, and revise the requirements relating to the conditional certification of the qualification on these facilities.

# HOUSE COMMITTEE ACTION

## AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full committee did not meet this week.

## EDUCATION AND PUBLIC WORKS

The full Education and Public Works Committee met on Wednesday, March 24, and gave consideration to several bills.

**H.4510**, RELATING TO MEMBERS OF THE BOARD OF VISITORS OF THE CITADEL, received a favorable with amendment report from the full committee. This bill revises the manner in which the members of the board of visitors are elected by the General Assembly. One member of the board of visitors must be elected from each congressional district and in addition to all other qualifications must be a resident of that congressional district. One member of the board of visitors must be elected from the State at large. All members shall serve terms of six years each and until their successors are elected and qualified. The bill includes special provisions for the terms of office for members first elected under these provisions. Vacancies shall be filled in the manner of original election for the remainder of the unexpired term. The terms of the seven present members of the board of visitors expire on June 30, 2011, at which time their successors elected in the manner provided by this legislation.

**H.4636**, pertaining to the COMPOSITION OF THE SOUTH CAROLINA STATE UNIVERSITY BOARD OF TRUSTEES, received a favorable with amendment report from the Education and Public Works Committee. This bill adds an additional member to the South Carolina State University Board of Trustees to be elected by the National Alumni Association of the university. The member elected by the association must be a graduate of South Carolina State University and shall serve for a term of four years, beginning on July 1, 2010, until his successor is elected and qualifies.

The full committee gave a favorable with amendment recommendation to **H.3755**, pertaining to LICENSE PLATES. When certain requirements are met, this bill allows the Department of Motor Vehicles to issue the following license plates: (1) "I Support Libraries" (available to anyone); (2) South Carolina Educator (applicant must be a public or private K-12 school teacher); (3) Raccoon Hunters (available to anyone); and (4) Beach Music (available to anyone). The bill also provides that it is not unlawful to place a frame on the license plate if it does not obscure any letters or numbers.

**H.4452** received a favorable recommendation from the full committee. This bill allows a CORONER TO BE ISSUED TWO SPECIAL LICENSE PLATES. Currently, coroners are only allowed one special license plate.

**H.4346**, a bill relating to VETERAN LICENSE PLATES, received a favorable with amendment report. A veteran license plate already exists. This bill amends the current

veteran license plate section to provide if a veteran also meets all the requirements for a handicapped license plate, then the veteran license plate shall also include a wheelchair symbol. If a veteran is also certified by the Veteran's Administration or County Veteran Affairs officer with a service related disability, then the license plate shall also include the word "disabled." Note a South Carolina Disabled Veteran's Plates already exists. However, the issuance of a Disabled Veteran's Special License Plate is limited to a veteran who is permanently and totally disabled or surviving spouse who has not remarried.

The full committee gave favorable with amendment report to **H.4187**. Relating to the **POWERS THAT AN ENTITY HAS TO ESTABLISH AN AIRPORT OR LANDING FIELD** or acquire, lease, or set apart property for that purpose, this bill deletes a provision that limits the term of a lease of airports or landing fields to private parties for operation.

The Education and Public Works Committee gave a favorable with amendment report to **S.481**. This bill establishes the **SOUTH CAROLINA CERTIFIED ATHLETIC TRAINERS FOUNDATION**, which is authorized to solicit and accept private and public donations and grants to be distributed to encourage and assist public school districts and schools in ensuring that a certified athletic trainer is on staff at each high school and middle school. Funds received will be held and accounted for by the State Department of Education, which is authorized to withhold 4% of the funds for administrative costs. The foundation is composed of eleven members, to be appointed one each by various interested parties. Members serve without mileage, per diem, or subsistence.

**H.4243**, relating to **CHARTER SCHOOLS**, received a favorable with amendment recommendation. Highlights of the bill include the following. The legislation authorizes a state or local charter school sponsor to retain up to two percent of the total state and local appropriations for each charter school it sponsors to cover the costs for overseeing the school. The bill authorizes single gender charter schools. The bill provides that charter schools are eligible for federal-and state-sponsored leagues, competitions, awards, scholarships, grants, etc. to the same extent as all other public schools. The bill allows charter school students to compete for participate in extracurricular activities at the student's resident school if the activities are not available at the charter school. The bill provides that students who reside within the former attendance area of a converted public school must be given enrollment priority at that charter school (in perpetuity). For the duration of a converted charter school's contract with a sponsor, the bill gives the converted charter the right to use the facility and equipment, etc. in the same manner as before the school converted with no additional fees or charges. The bill clarifies that a private school wishing to convert to a charter school must first dissolve and then must follow the same required procedures as other charter applicants. The current funding provisions for both state and locally sponsored charter schools are unchanged.

## JUDICIARY

The full Judiciary Committee met on Tuesday, March 23, and gave consideration to several bills.

**H.3988** received a favorable recommendation from the Judiciary Committee. Relating to **ENFORCEMENT OF A LIEN IN CONNECTION WITH A SELF-SERVICE STORAGE**

**FACILITY**, this bill provides a procedure for enforcement of a lien against a titled vehicle. This bill provides that a titled vehicle is subject to magistrate's sale pursuant to Section 29-15-10. The term 'titled vehicle' means a motor vehicle, trailer, mobile home, watercraft, or other item titled pursuant to the law.

The full committee gave a favorable with amendment report to **H.4450**. This bill provides that **MUNICIPAL COURT JUDGES AND MAGISTRATES, RESPECTIVELY, ARE RESPONSIBLE FOR THE DOCKET IN THEIR COURTS.**

**H.4205** received a favorable with amendment recommendation from the full committee. This bill provides **EXCEPTIONS TO THE REQUIREMENT FOR DESTRUCTION OF CRIMINAL RECORDS WHEN A CHARGE IS DISMISSED OR THE PERSON IS FOUND INNOCENT.** Under this bill, these provisions do not apply to a person who is charged with a violation of Title 50, Title 56, an enactment pursuant to the authority of counties and municipalities provided in Titles 4 and 5, or any other state criminal offense if the person is not fingerprinted for the violation. The bill also authorizes the State Law Enforcement Division to promulgate regulations that allow for the electronic transmission of information.

**H.4202**, relating to **CRIMINAL PENALTIES FOR TRAFFICKING IN PERSONS FOR FORCED LABOR OR SERVICES**, received a favorable with amendment report. This bill increases the maximum penalty for this offense from fifteen to thirty years.

The full committee gave a favorable with amendment recommendation to **H.4212**. The bill **REVISES THE OFFENSE OF DISTURBING SCHOOLS.** Under this bill, the offense only applies to a person who is not a student. The bill provides that it is unlawful for a person who is not a student to wilfully interfere with, disrupt, or disrupt the normal operations of a school or college by (1) entering upon school or college grounds or property without the permission of the principal or president in charge; (2) loitering upon or about school or college grounds or property, after notice is given to vacate the grounds or property and after having reasonable opportunity to vacate; (3) initiating a physical assault on, or fighting with, another person on school or college grounds or property; (4) being loud or boisterous on school or college grounds or property after instruction by school or college personnel to refrain from the conduct; (5) threatening physical harm to a student or school or college employee while on school or college grounds or property; or (6) threatening the use of deadly force on school or college property or involving school or college grounds or property when the person has the present ability, or is reasonably believed to have the present ability, to carry out the threat. The legislation also increases penalties for the offense. Violations must be tried exclusively in summary court, unless a juvenile is under the jurisdiction of the family court.

**H.4212** also makes **REVISIONS TO THE STATUS OFFENSE OF INCORRIGIBILITY.** Prior to the Department of Juvenile Justice accepting a referral for the status offense of incorrigibility or the filing of a petition against a child for incorrigibility, the bill requires the party seeking to institute a proceeding against a child for incorrigibility to provide documentation indicating that family counseling involving the parent, guardian, or custodian and the child previously was sought in an attempt to address the incorrigible behavior of the child. If no prior assistance was sought, the department shall refer the parent or guardian to assistance that is available locally in their home community or shall provide this assistance to the family.

**H.3059**, which makes **AMENDMENTS TO ELECTION LAWS**, received a favorable report from the Judiciary Committee. As defined by South Carolina election law, the term "club district " means the territory of the general election voting place or precinct in which the political party club is formed, whether a ward or township or a subdivision. This legislation deletes the definition of the term "club district" as well as deletes references to this term from the election laws. The term used instead of club district is precinct.

The full committee gave a favorable with amendment report to **S.382**, pertaining to **JOINT TENANCY WITH RIGHT OF SURVIVORSHIP**. This legislation provides a presumption that a decedent and the decedent's spouse held tangible personal property in a joint tenancy with right of survivorship. The legislation includes exceptions to the presumption and provides a standard of proof to overcome the presumption. The legislation also **REDUCES THE TIME FRAME IN WHICH A MEMBER OF THE GENERAL ASSEMBLY IS PROHIBITED FROM BEING ELECTED AN ADMINISTRATIVE LAW JUDGE** from four years to one year after the member ceases to be a member of the General Assembly.

**S.372** received a favorable with amendment recommendation from the full committee. Relating to the determination of an **ELECTIVE SHARE OF A SPOUSE**, this bill clarifies that an interest as a beneficiary in a trust created by the decedent's will or in a trust in which the spouse has a beneficial interest or in property passing to an inter vivos trust through the decedent's will is a beneficial interest chargeable to the elective share. Relating to creation of a trust, this bill further provides for the inclusion of a surviving spouse's beneficial interests in trust property in calculating the elective share. The legislation also **REDUCES THE TIME FRAME IN WHICH A MEMBER OF THE GENERAL ASSEMBLY IS PROHIBITED FROM BEING ELECTED AN ADMINISTRATIVE LAW JUDGE** from four years to one year after the member ceases to be a member of the General Assembly.

The Judiciary Committee gave a favorable with amendment report to **H.3693**. This legislation allows a **BREWERY TO CONDUCT BEER SAMPLINGS OR TASTINGS** under certain conditions. Among other things, the bill regulates the amounts of samples that may be provided. The bill authorizes a brewery to sell beer on its premises provided the beer was brewed on the premises with an alcohol content of 14% by weight or less subject to certain restrictions. The brewery must sell the beer at a price approximating retail prices generally charged for identical beverages in the county where the premises are located. The legislation also includes provisions for the payment of appropriate taxes.

The Judiciary Committee gave a favorable with amendment report to **H.4572**. This bill allows the holder of a retail permit authorizing the sale of beer for off-premises consumption whose primary product is beer or wine to have a limited number of **BEER TASTINGS AT THE RETAIL LOCATION** each year under certain circumstances. Among other things, at least ten days before the tasting, a notice detailing the specific date and hours of the tasting must be sent to the State Law Enforcement Division. The tastings must be conducted by the retailer or an agent or independent contractor of the retailer and may not be conducted by a wholesaler or manufacturer or an employee, agent or independent contractor of a wholesaler or manufacturer. The products must be supplied by the retailer and may not be donated or otherwise supplied at no or reduced cost by the manufacturer or wholesaler. The bill regulates the amount of samples that

may be provided. The tasting must not be held in conjunction with a wine tasting or in conjunction with a tasting in a retail alcoholic liquor store. Violations of these provisions are subject to a \$100 fine; the revenue from these fines must be directed to the Department of Revenue for supplementing funds required for the department's activities concerning licensure and regulation of alcohol.

**S.170** received a favorable with amendment report from the Judiciary Committee. The bill authorizes the **FAMILY COURT TO ISSUE A RULE TO SHOW CAUSE UPON THE FILING OF AN AFFIDAVIT THAT A PARENT HAS FAILED TO PAY COURT-ORDERED MONETARY SUPPORT**, except periodic child support payments. The bill outlines what information should be included in the affidavit as well as what supporting documents must accompany the affidavit. The parent must be served in accordance with the South Carolina Rules of Civil Procedure. At the hearing on the rule to show cause, once the petitioner has established his claim, the burden is on the alleged non-paying parent to establish a defense. The bill authorizes the awarding of attorney's fees and other litigation costs under certain circumstances.

The full committee gave a favorable with amendment recommendation to **H.4540**, which makes **COMPREHENSIVE REVISIONS PERTAINING TO DEPARTMENT OF SOCIAL SERVICES (DSS) ABUSE AND NEGLECT PROCEEDINGS AS WELL AS ADOPTION**. Highlights of the legislation include the following.

### **Family Preservation**

Pertaining to reasonable efforts made by DSS to preserve or reunify a family, this legislation allows a separate proceeding for this purpose. The court may consider the issue on the motion of a named party, the child's guardian ad litem, or the foster care review board in certain circumstances. Among the list of reasons a court may authorize DSS to terminate or forego reasonable efforts to reunify the family, the bill allows the court to consider (1) actions the parent may have done to another child residing in the parent's home and (2) the fact that the parent has a diagnosable condition unlikely to change within a reasonable time and the condition makes the parent unlikely to provide minimally acceptable care of the child. If the court authorizes or does not authorize DSS to terminate or forego reasonable efforts to preserve or reunify the family, the court must make certain specific findings. Further in making its determination, the court must not consider the availability or lack of adoptive resources as a reason to deny the request to terminate or forego reasonable efforts. When the court allows reunification efforts to terminate, DSS is required to file a petition for termination of parental rights (TPR) within 60 days unless there are compelling reasons why TPR is not in the child's best interests.

### **Placement Plans**

The legislation makes revisions to the placement plan a court must approve if the court orders that a child be removed from the custody of the parent. The first section of the placement plan must set forth changes that must occur in the home and family situation before the child can be returned. This section must also contain a notice to parents that failure to comply within six months may result in TPR. The second section of the plan must include specific actions to be taken by parents and outline what services are to be provided or made available to the parent. This section must also include a notice to parents about the possibility of a TPR action for failure to comply. The third section of the plan shall set forth the rights and obligations of the parents while the child is in

custody. The fourth section of the plan must address matters relating to the placement of the child. The legislation requires the court in its order to advise defendants on the record that failure to remedy the conditions that caused the removal within six months may result in TPR. Before the court orders the return of a child, the court must find that the changes in the home and family situation have occurred and that the child can be safely returned home.

### **Permanency Planning Hearings**

Under current law, the court is required to review the status of a child placed in foster care upon motion filed by DSS to determine a permanent plan for the child. This bill requires the DSS summons and petition for a permanency planning hearing to include a statement of whether or not the court has authorized the agency to forego or terminate reasonable efforts to reunify the family. This bill provides that extensions for reunification may not be provided beyond 18 months after the child was placed in foster care. The bill outlines when an extension for reunification may be granted.

### **Adoption**

Under this bill, no person or entity other than DSS, a child placing agency licensed in this State, or an attorney licensed in this State may advertise that a person or entity will place or accept a child for adoption. A violation of this provision is a misdemeanor. Also, the family court shall enjoin a person or entity from violating this provision. The legislation includes a definition for the term "advertise".

With regards to adoption of a spouse's child or adoption of a child relative, this bill provides that, upon good cause shown, the court may waive the requirement that the adoption proceeding must be finalized in this State.

**H.4215**, relating to the **REQUIRED NOTICE WHEN APPEALING A DECISION OF A MAGISTRATE**, received a favorable report. This bill provides that an appellant must serve a notice of appeal of a decision of a magistrate upon the officer or attorney who prosecuted the case in addition to the magistrate who tried the case.

**S.196**, relating to the **LIBALITY OF LIQUEFIED PETROLEUM GAS PROVIDERS**, also received a favorable recommendation. This legislation limits liability for liquefied petroleum gas providers for injuries or damages caused by certain alterations, modifications, or repairs of liquefied petroleum gas equipment. The bill further provides that the person who alters or modifies his liquefied petroleum gas equipment shall notify the licensed dealer who next fills or otherwise services his liquefied petroleum gas system. The dealer is required to notify their customers of this statutory obligation at least once a year in writing.

The full committee gave a favorable with amendment recommendation to **H.3924**. This bill revises provisions relating to **LIABILITY FOR DAMAGES CAUSED BY A PRESCRIBED FIRE** by adding that there is a rebuttable presumption that any landowner, lessee, employee, or agent that has conducted a prescribed fire in compliance with the law has not acted negligently.

The Judiciary Committee gave a favorable with amendment report to **H.3249**. If the State, an agency, a political subdivision, or an employee of these governmental entities is sued for **CIVIL CONSPIRACY BASED IN PART UPON A PERSONNEL OR EMPLOYMENT ACTION OR DECISION REGARDING A STATE EMPLOYEE**, this bill provides that the court, prior to trial, must make a determination whether the action or decision giving rise to the suit was made by the employee within the scope of official duty. If the court finds that the employee was acting within the scope of the employee's official duties, the State, an agency, a political subdivision, or an employee of these governmental entities is immune from suit, liability, and damages from the civil conspiracy claim. The immunity granted by this legislation does not limit any claim available at law, other than civil conspiracy, which challenges personnel or employment action of a governmental entity.

## LABOR, COMMERCE AND INDUSTRY

The full House Labor, Commerce and Industry Committee met on Thursday, March 25, and gave a report of favorable with amendments on **H.4663**, a bill pertaining to **AUTOMATIC RESIDENTIAL FIRE SPRINKLER SYSTEM REQUIREMENTS**. The legislation provides that a building code provision that requires an automatic residential fire sprinkler system be installed in a new one-family or two-family dwelling may not be enforced. The legislation provides certain prospective homeowners may choose whether to have an automatic sprinkler system installed. The legislation includes provisions to make the installation of an automatic sprinkler system approved by the International Residential Code available where required by that code. The legislation specifies the instances where these provisions control even when they conflict with another law or local ordinance.

## MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full Medical, Military, Public and Municipal Affairs Committee met on Tuesday, March 23, 2010, and reported on several bills.

The South Carolina Department of Health and Environmental Control is responsible for mass immunization projects that are administered throughout the State. As a result, the full committee gave a favorable with amendment report to **H. 4446**, regarding **MASS IMMUNIZATION PROJECTS**. The bill expands the immunity provision to cover all licensed nurses who participate in a mass immunization project. The bill also requires DHEC to establish a statewide immunization registry. The information will be covered by HIPA and state health care privacy laws.

**H.4508**, dealing with a **CHIROPRACTIC PRECEPTORSHIP OR RESIDENCY TRAINING PROGRAM**, was given a favorable with amendment recommendation by the full committee. This bill outlines that a "preceptorship or residency training program" means a clinical program of an approved college of chiropractic in which a chiropractic intern or resident practices chiropractic under the direct supervision of a licensed chiropractor. The bill requires a student who participates in a preceptorship or residency program to have met all academic requirements for graduation and work only

under the direct supervision of the student chiropractic preceptor. The chiropractic preceptor who supervises a student must have been licensed at least five years, have no licensure sanctions, swear not to have violated any state or federal regulations and have the approval of the student's chiropractic college to act in this capacity. The bill prohibits a chiropractic preceptor from supervising more than one student at a time in an off-campus setting. The student must be under the direct supervision and in the immediate vicinity of the chiropractic preceptor.

The full committee gave a favorable with amendment report to **S.337**, relating to the South Carolina Department of Health and Environmental Control's **CERTIFICATE OF NEED (CON) PROGRAM**, which assist with the goal of promoting cost containment and preventing unnecessary duplication of health care facilities and services. Prior to construction of a new health care facility or most significant capital or new equipment expenditures for an existing facility, the facility must apply for a CON from DHEC. Among many things, the legislation makes comprehensive changes to the Certificate of Need statute, making the application and contested case processes more efficient and less costly for the applicant and other affected parties. The legislation also outlines that the first \$750,000 DHEC collects from existing CON fees will be remitted to the general fund. Fees in excess of this amount will be retained by DHEC exclusively to defray the cost of administering the program. (This provision is revenue neutral.) The bill also establishes a new \$100 initial filing fee to be retained by DHEC. This fee may be revised by regulation in the future. The bill authorizes DHEC to charge a licensing inspection fee. The bill stipulates that all CONs are valid for one year and allows each extension granted be good for nine months. The bill also addresses licensing changes.

**H.4341**, a joint resolution creating the **AUTISM SPECTRUM DISORDER STUDY COMMITTEE ON EARLY INTERVENTION**, was given a favorable recommendation by the full committee. Autism spectrum disorder is a bio-neurological developmental disability that generally appears before the age of three. The committee's study will include, but is not limited to, the following:

1. Research the age children are screened and diagnosed;
2. Evaluate the ability of parents and professionals to recognize signs and to access screening, diagnostic, and intervention services;
3. Evaluate the presence and effectiveness of education, training and program resources available to assist families and professionals in early recognition;
4. Identify gaps in training, medical care, education, and program services needed to achieve early screening, diagnosis, intervention, and evidence-based treatment;
5. Identify and determine application of best practices; and
6. Recommend changes in medical care, education, training, and other programs and services to ensure early screening, diagnosis, evidence-based intervention, and treatment.

The members will consist of two members of the Senate to be appointed by the President Pro Tempore, two members of the House of Representatives to be appointed by the Speaker of the House, one member to be appointed by the Governor, and State Superintendent of the Department of Education or his designee; Director of the Department of Disabilities and Special Needs, or her designee; Director of the Department of Mental Health, or his designee; Director of the Department of Health and Environmental Control, or his designee; Director of the Department of Health and

## Legislative Update, March 30, 2010

Human Services, or her designee; Director of First Steps, or her designee; Director of the S.C. Chapter of American Academy of Pediatrics, or his designee; Director of the Center for Disability Resources, Department of Pediatrics, University of South Carolina School of Medicine, or his designee; Director of the University of South Carolina College of Education Program in Special Education - Autism Program, or his designee; Director of the Medical University of South Carolina Department of Pediatrics, Division of Developmental Pediatrics, or his designee; Director of the Greenwood Genetic Center, or his designee; and the Director of the South Carolina Autism Society, or his designee. In addition, four parents recommended by various autism associations in South Carolina and appointed by the Governor as follows:

- (a) one parent of a child with autism spectrum disorder under six years of age;
- (b) one parent of a child with autism spectrum disorder age six through twenty- one years of age;
- (c) one parent of a child with autism spectrum disorder over twenty-two years of age;
- (d) one parent of a child with autism spectrum disorder.

The study committee will convene no later than 60 days after the effective date of this joint resolution. Staffing for the committee must be provided by the Department of Disabilities and Special Needs and the appropriate committees of the Senate and the House of Representatives. Members of the study committee may not receive compensation and are not entitled to receive mileage, subsistence, and per diem. The study committee must submit its findings and recommendations no later than December 1, 2011, at which time the study committee is abolished.

The full committee gave a favorable with amendment recommendation to **H.4413**, which enacts the "**LICENSURE OF IN-HOME CARE PROVIDER ACT**". This bill requires the South Carolina Department of Health and Environmental Control to establish a licensure program for in-home care providers. "In-home care" means assistance with activities of daily living and personal care. "In-home care" does not mean skilled care or specific therapy for an illness or injury. DHEC's in-home care licensure program must be at least equivalent to Medicaid Scope of Services for Personal Care II Services. The program will include application and renewal procedures; criminal background checks for licensed applicants; requirements for bonding, recordkeeping and reporting. The department may charge for the application process. The regulations will also include criteria that a licensee's employee, agent, independent contractor or referral must satisfy before providing in-home care services. These criteria must include, but are not limited to, personal information, completion of a minimum education requirement, completion of minimum training and continuing education requirements and screening for communicable diseases and sanctions that may be imposed for violations.

**H.3815**, regarding **LICENSURE AND REGULATION OF COSMETOLOGISTS**, was given a favorable recommendation by the full committee. This bill deletes the term "rental booth" from the definition of "beauty salon or salon." The bill also states that an individual licensed to practice in a booth rental or as an independent contractor may not be charged a license fee or license renewal fee other than the fee charged for individual licensure or licensure renewal.

## 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.4764 COAL-FIRED POWER PLANT Rep. J. E. Smith**

This bill states that any coal-fired power plant that discharges wastewater into the Wateree River, directly or indirectly, or into groundwater that is hydrologically connected to the Wateree River from any water source must not exceed a daily maximum arsenic discharge of forty parts per billion. In addition, within five years, the Department of Health and Environmental Control shall develop a plan to remove arsenic contamination from the Wateree River and groundwater connected to the river and to prevent further arsenic contamination of these waters. The plan must be submitted for approval to the legislative delegations of those counties through which the Wateree River flows within one year of this act's effective date.

### **S.1261 HARVESTING TIMBER ON LANDS HELD BY THE DEPARTMENT OF NATURAL RESOURCES Sen. Cromer**

The bill outlines that the lands owned by the Department of Natural Resources, which have been used for agriculture or managed forestland before acquisition by the department, must be managed and the timber harvested to provide optimum fish and wildlife habitat and timber production. The Department must use Best Management Practices as prescribed by the South Carolina Forestry Commission. It further states that managing or harvesting timber on a historical or archeological site using Best Management Practices does not constitute a disturbance of the historical or archeological site. The bill also requires the Department of Natural Resources to coordinate the cutting and sale of such timber with the State Forester for approval. The bill provides procedures for the harvest and sale of timber if an emergency or natural disaster occurs necessitating immediate harvesting of timber. The bill authorizes the director of Natural Resources, rather than the board, to execute deeds and contracts required to carrying out this emergency procurement provision.

## EDUCATION AND PUBLIC WORKS

### **H.4765 REVISIONS TO OPERATION OF GOLF CARTS ALONG THE STATE'S HIGHWAYS Rep. Herbkersman**

When a golf cart owner's residence is located within a gated community, this bill provides that the two-mile limit within which a golf cart owner may operate his golf cart must be measured from the community's primary entrance and not from the owner's residence.

### **H.4773 CITADEL ALUMNI ASSOCIATION "BIG RED" SPECIAL LICENSE PLATES Rep. Limehouse**

The bill allows the Department of Motor Vehicles to issue Citadel Alumni Association "Big Red" license plates.

### **H.4788 CHILD ABUSE TRAINING FOR TEACHERS Rep. Mitchell**

The legislation requires the Department of Education, in consultation with the Department of Social Services, to develop a model training program to educate teachers on the warning signs and dangers of child abuse. Each school district must develop its own child abuse education program, and each teacher in a public school is required to participate in at least three hours of child abuse continuing education every three years.

## JUDICIARY

### **S.336 HABITUAL OFFENDERS Sen. Grooms**

This bill provides that an habitual offender who drives a motor vehicle on any public highway of this State when the offender's license to drive has been canceled, suspended, or revoked, and when driving does any act forbidden by law or neglects any duty imposed by law in the driving of the motor vehicle, which act or neglect proximately causes great bodily injury or death to a person other than himself, is guilty of a felony. The bill outlines punishments as well as provides for the suspension of the offender's driver's license.

### **S.962 CORONERS Sen. Knotts**

This bill allows a person appointed by a coroner to the position of deputy coroner may, at the discretion of the coroner, attend the South Carolina Criminal Justice Academy to be trained and certified as a Class III officer. Further a law enforcement officer who is certified by the South Carolina Law Enforcement Training Council and appointed to serve as a deputy coroner may, at the discretion of the coroner, retain law enforcement status as a Class III officer. The classification is limited to the deputy coroner's official duties as provided by law and does not authorize the officer to enforce the state's general criminal laws. The bill also revises the qualifications necessary to become a coroner. A candidate for the office of coroner is required to file an affidavit with the county executive committee of the person's political party indicating he meets the required qualifications for the office.

### **S.1014 DISSOLUTION OF NONPROFIT ORGANIZATIONS Sen. Jackson**

This bill provides that before the Secretary of State may accept for filing articles of dissolution of an existing nonprofit organization executed by a person authorized to take such action, the Secretary of State shall require this person to attach an affidavit to the filing when the person under oath subject to a penalty of perjury certifies that he holds

the requisite authority to take such action. The bill further provides that the nonprofit organization shall submit to the Secretary of State copies of all documents provided to the Attorney General at the time of the filing of the articles of dissolution.

**S.1167 REPEAL OF THE SUBVERSIVE ACTIVITIES REGISTRATION ACT**

**Sen. L. Martin**

The bill repeals Chapter 29, Title 23 of the 1976 code, relating to the Subversive Activities Registration Act.

**S.1172 REVISIONS PERTAINING TO THE DEPARTMENT OF SOCIAL SERVICES ABUSE AND NEGLECT PROCEEDINGS AND ADOPTION**

**Sen. Fair**

This comprehensive bill makes revisions pertaining to the Department of Social Services' abuse and neglect proceedings as well as adoptions. Among other things, the bill makes revisions relating to family preservation, termination of parental rights; placement plans, permanency planning and adoption.

**H.4766 "BECCA'S LAW" - ADOPTIONS Rep. Sellers**

Relating to executing a consent or relinquishment for the purpose of adoption, this bill provides that a mother or a father must not execute a consent or relinquishment until fifteen days after the child is born.

**H.4774 SEX OFFENDERS PROHIBITED FROM ENTERING STATE PARKS**

**Rep. Limehouse**

This legislation prohibits a registered sex offender from entering or remaining in a park or facility under the jurisdiction of the Department of Parks, Recreation and Tourism (PRT). Violations are misdemeanors. The legislation also requires PRT to establish policies for posting information regarding unsolved attacks that occur in the state parks.

**H.4787 FUNDS FOR SOLICITOR'S SERVICES TO VICTIMS OF CRIME**

**Rep. Harrison**

Relating to municipal court assessments, dispositions, fund retention for crime victims' services, and audits, this bill provides that 50% of the funds designated for remission to the municipality must be distributed to the appropriate solicitor's office for use in providing services to victims of crime. Relating to general sessions court surcharges, fund retention for crime victims' services, reports, and audits, the bill adds a \$50 surcharge on all convictions in municipal courts and provides that 50% of the funds designated for remission to the municipality must be distributed to the appropriate solicitor's office for use in providing services to victims of crime.

**H.4791 EXPUNGEMENT OF MOTOR VEHICLE VIOLATIONS Rep. Sellers**

The bill provides that a person may apply to the court to have a criminal record for a motor vehicle violation expunged under certain circumstances.

## **LABOR, COMMERCE AND INDUSTRY**

**S.1224 INSURANCE PROVISIONS Sen. Thomas**

This bill requires health insurance issuers to permit a dependent child on a medically necessary leave of absence from a postsecondary educational institution to continue dependent coverage. The legislation revises the definition of “creditable coverage” for group health insurance coverage and special enrollment in group health insurance coverage, both under the Health Insurance Portability and Accountability Act of 1996, so as to add coverage of an individual under the State Children’s Health Insurance Program and to enact federal requirements set forth in the Children’s Health Insurance Program Reauthorization Act of 2009 to provide for special enrollment of an employee or an employee’s dependent in the case of termination of Medicaid coverage or coverage under a state children’s health insurance program or the individual becoming eligible for assistance in the purchase of employment-based coverage. The legislation revises the definition of “creditable coverage” for the South Carolina Health Insurance Pool, so as to add coverage of an individual under the State Children’s Health Insurance Program. The legislation revises capitalization requirements for captive insurance companies, so as to provide that the Director of Insurance may consider the net amount of risk retained for an individual risk when arriving at a finding relating to additional capital or net assets requirements. The legislation revises requirements for captive insurance companies. The legislation enacts federal requirements set forth in the Genetic Information Nondiscrimination Act of 2008 to prohibit discrimination on the basis of genetic information and provide for the requirements relating to the collection of genetic information.

**H.4767 “FREEDOM OF CHOICE IN HEALTH CARE ACT” Rep. Bedingfield**

This bill enacts the “Freedom of Choice in Health Care Act”, so as to: provide that citizens of this state have the right to purchase private health insurance; provide that the General Assembly may not require any person to purchase health care insurance; and require the Attorney General to challenge the constitutionality of any health care plan mandated by Congress.

**H.4780 SECONDARY METALS RECYCLERS Rep. Cobb Hunter**

This bill requires secondary metals recyclers to register with the Department of Labor, Licensing and Regulation. The legislation establishes registration and renewal requirements, provides criminal penalties for failing to register, and authorizes sanctions and administrative penalties for violations of statutory provisions or orders of the department.

**H.4783 TELEPHONE SOLICITATIONS BY CHARITABLE ORGANIZATIONS  
Rep. Kirsh**

This bill provides that a charitable organization may not block its telephone number when making telephone calls to solicit contributions.

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

**S.1078 COMMUNITY RESIDENTIAL CARE FACILITY Senator Jackson**

The bill states that the owner of a nursing home or a community residential care facility shall undergo a state and national fingerprint-based criminal records check, as a

requirement of licensure. In addition, an owner shall not be issued, or may be revoked if issued, a license if the criminal records check is required to register under the sex offender registry or convicted of certain crimes.

**H.4775 CHILD ABUSE AND NEGLECT CHECKS Rep. Loftis**

Under current law, to be employed or to provide services at a childcare facility, a person must undergo SLED and FBI fingerprint-based background checks and a central registry check to be conducted by SLED to determine any abuse or neglect perpetrated by the person upon a child. This bill deletes the requirement for the Department to conduct the Central Registry check.

## WAYS AND MEANS

**H.4792 "SOUTH CAROLINA JOBS, OPPORTUNITY, AND BUSINESS SUCCESS ACT OF 2010" Rep. Loftis**

This bill enacts the "South Carolina Jobs, Opportunity, and Business Success Act of 2010."

**H.4793 "SOUTH CAROLINA AGRIBUSINESS ECONOMIC DEVELOPMENT AUTHORITY ACT OF 2010" Rep. Loftis**

This bill enacts the "South Carolina Agribusiness Economic Development Authority Act of 2010", to create this authority within the Department of Agriculture to help alleviate the shortage of capital and credit available for investment in agribusiness. The legislation establishes the authority's members, officers, and employees, and provides for the authority's powers including, among other things, the authority to make agribusiness loans, to issue bonds in order to make and purchase agribusiness loans, and to insure and reinsure agribusiness loans. The legislation provides that the authority is exempt from property tax. The legislation further provides the duties and obligations of the authority and procedures under which the authority shall carry out its powers, duties, and obligations.

**H.4794 ANNUAL EDUCATION FINANCE ACT ALLOCATIONS Rep. Chalk**

This bill revises provisions for the determination of annual Education Finance Act allocations, so as to provide that a district that is substantially located in a county in which the average wages of the county are greater than one hundred five percent of the total state average wages must provide at least thirty percent of the cost of its foundation program. The legislation provides minimum amounts of funds that a district shall receive toward the cost of its foundation program.

---

The *Legislative Update* is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (<http://www.scstatehouse.gov>) and click on "*Publications*," then click on "*Legislative Update*." This will list all of the *Legislative Updates* by date. Click on the date you need. Also available on the website is a bill summary index, where bills referenced in one or more issues of the *Legislative Update* are listed in numeric order. Links to the specific text of the *Legislative Update* issue are provided in the bill summary index.

**NOTE: THE LEGISLATIVE UPDATE IS AVAILABLE TO LEGISLATIVE TRACKING SUBSCRIBERS. YOU MAY REGISTER FOR THIS FREE SERVICE ON THE SOUTH CAROLINA GENERAL ASSEMBLY HOME PAGE BY CLICKING ON "BILL TRACKING & REPORTS" (UNDER "LEGISLATIVE RESOURCES").**