



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 and the Senate adopted **H.5377**, a concurrent resolution **AUTHORIZING THE EXTENSION OF THIS YEAR'S LEGISLATIVE SESSION**. The legislation provides authority for the General Assembly to meet beyond its prescribed deadline for adjournment on June 7, 2012, to take up a limited list of matters including the state government budget, conference committee reports, and the Governor's vetoes.

The House amended Senate amendments to **H.4813**, the General Appropriations Bill, and **H.4814**, the joint resolution appropriating Capital Reserve funds, which together comprise the proposed **STATE GOVERNMENT BUDGET** for fiscal year 2012-2013, and returned this legislation to the Senate. The House adopted amendments that largely reverted the legislation to the budget proposals adopted by the body earlier this year, but the House did provide for the appropriation of roughly \$300 million in additional funds that the Board of Economic Advisors recently certified as available for appropriation since the budget left the House in March: \$65 million is devoted to small business income tax relief, reducing from five percent to three percent the tax rate for income derived from pass-through trade and business arrangements, such as sole proprietorships, partnerships, and "S" corporations; an additional \$120 million is made available for deepening the Charleston Harbor so that South Carolina can remain competitive in maritime shipping with a port capable of accommodating the larger vessels that will pass through the newly-expanded Panama Canal (should these additional funds not be required for the deepening of the port, funds would be redirected to support programs for special needs students, Other Post-Employment Benefits (OPEB) debt repayment, bridge replacement and repair, and a Medicaid Program Reserve Fund); \$10 million is added to the Local Government Fund to increase this total appropriation to the state's counties and municipalities to nearly \$200 million; the 2% state employee pay raise previously approved by the House is maintained, but funding is increased to cover the needs of the Employee Health Insurance Plan and avoid rate increases or benefit reductions; \$48 million is added to the Education Improvement Act Salary Supplement to guarantee a 2% state-funded pay raise for all teachers; \$43 million is added to the Deal Closing Fund that the Department of Commerce uses to recruit new business investment in the state; the Medicaid budget request is fully funded to include express lane eligibility for children; an \$800,000 is included for local health departments and an additional \$500,000 is provided for the Rural Physician Program; the additional 3% pay raise provided for Class 1 Law Enforcement Officers (a total of 5% when the state employee pay raise is included) is revised so that it applies only to those officers earning less than \$50,000 a year; funding is provided for additional circuit court and family court judges. Capital Reserve Fund appropriations are revised to allow negotiations about the proposal for purchasing certain tracts of land at the State Farmer's Market site. The House and Senate have appointed a conference committee to address the differences of the bodies on the budget legislation.

The House concurred in Senate amendments to **H.4654** and enrolled the bill for ratification. The legislation addresses the **APPLICATION OF THE POLLUTION CONTROL ACT** which regulates the discharge of sewage, industrial waste, and other pollutants through permitting programs at the Department of Health and Environmental Control. The legislation responds to a recent South Carolina Supreme Court ruling as it relates to who has standing to file a lawsuit under South Carolina's Pollution Control Act

and whether the act addresses waters, such as Carolina Bays and other isolated wetlands, for which DHEC has no permitting program. The legislation specifies that no private cause of action is created by or exists under the Pollution Control Act. The legislation provides that Pollution Control Act permit requirements do not apply to: (1) discharges in a quantity below applicable threshold permitting requirements established by the department; (2) discharges for which the department has no regulatory permitting program; (3) discharges exempted by the department from permitting requirements; or (4) normal farming, silviculture, aquaculture, ranching, and wildlife habitat management activities that are not prohibited by or otherwise subject to regulation. The legislation specifies that these limitations on permitting requirements must not be construed to impair or affect common law rights, repeal prohibitions or requirements of other statutory law or common law, or diminish the department's authority to abate public nuisances or hazards to public health or the environment, to abate pollution as defined in the Pollution Control Act, or to respond to accidental discharges or spills. A procedure is established for filing written petitions with DHEC for a declaratory ruling on the applicability of a specific, existing regulatory program to a proposed or existing discharge into the environment. The legislation authorizes DHEC to issue emergency orders to protect the public health or property from unpermitted discharges and provides that relief from departmental decisions is to be sought through hearings in the Administrative Law Court. The legislation also creates the "Isolated Wetlands and Carolina Bays Task Force" to review, study, and make recommendations concerning issues related to isolated wetlands and Carolina Bays in South Carolina. The legislation provides for the composition of the task force and requires it to issue a report before terminating.

The House concurred in Senate amendments to **H.4652**, a bill providing for **RIGHT TO WORK LAW ENHANCEMENTS**, and enrolled the bill for ratification. The legislation authorizes "Your Rights as a Worker in South Carolina" notifications that may be posted in workplaces in order to inform employees of the state's laws guaranteeing that a person's right to work must not be denied or abridged because of membership or nonmembership in a labor union or labor organization. The legislation revises criminal penalties for a violation of right to work laws by increasing the minimum fine from ten dollars to one thousand dollars and the maximum fine from one thousand dollars to ten thousand dollars. The legislation authorizes the award of treble damages as a remedy available to a worker for a violation of his right to work. An individual seeking relief from a court for a violation of his right to work must file with the director of the Department of Labor, Licensing and Regulation a copy of the court pleadings or an affidavit stating the legal and factual basis for his claim. The legislation increases from one hundred dollars to ten thousand dollars the maximum civil penalty that the Department of Labor, Licensing and Regulation may assess an employer, labor organization, or other person for a right to work violation. The legislation requires a labor organization with members that work in South Carolina to file with the state's Department of Labor, Licensing and Regulation copies of the documents required to be filed with the U.S. Secretary of Labor under federal law.

The House concurred in Senate amendments to **S.1125**, a bill providing a **DISQUALIFICATION FROM RECEIVING UNEMPLOYMENT COMPENSATION FOR THOSE WHO ARE FIRED FOR MISCONDUCT**, and enrolled the legislation for ratification. This legislation provides that a person discharged from employment for misconduct is ineligible for the twenty weeks of jobless benefits available under the state's unemployment compensation provisions. Misconduct is limited to conduct demonstrating such wilful and wanton disregard of an employer's interests as is found in

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

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

The House and the Senate adopted the conference report on **H.3757**, a bill that expands and enhances penalties for **HUMAN TRAFFICKING** and implements other measures to combat the practice of trafficking in persons where victims are subjected to involuntary servitude, sex trafficking, or debt bondage by means of physical restraint, extortion, control of immigration documents, drug dependency, or other forms of coercion. The bill was enrolled for ratification. The legislation provides expanded and enhanced felony offenses that apply to someone who knowingly attempts or actually recruits, entices, solicits, isolates, harbors, transports, provides, or obtains a victim for human trafficking purposes. These criminal offenses also apply to those who benefit financially from human trafficking ventures. Repeat offenses carry longer terms of imprisonment with a third or subsequent felony offense subjecting the offender to imprisonment for up to

forty-five years. Additional penalties are provided if a victim is under the age of eighteen. A person who aids, abets, or conspires with another person to commit human trafficking violations is considered a trafficker under the legislation and must be punished accordingly. The legislation provides for criminal liability and loss of business licenses for business owners that use their businesses to participate in or aid in human trafficking. Property and assets used in human trafficking ventures are subject to seizure and forfeiture. The legislation provides for prosecution by the State Grand Jury when a trafficking in persons offense involves more than one county. The legislation provides mandatory restitution for victims of human trafficking and includes these crime victims under the provisions of the Victims' Bill of Rights so that they are entitled to compensation through the State Crime Victim's Compensation Fund. Confidentiality provisions are included for such victims. Victims of human trafficking are afforded an affirmative defense in certain criminal prosecutions and are authorized to bring civil actions. The legislation establishes provisions to safeguard a trafficking shelter, or domestic violence shelter by prohibiting the presence of human traffickers at shelters and creating a criminal offense for publishing or otherwise disclosing the location of a shelter or the whereabouts of a trafficking victim. The legislation establishes an interagency task force to develop and implement a State Plan for the Prevention of Trafficking in Persons and provides for the creation of public awareness programs on human trafficking issues.

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

**S.1031** also includes revisions to the legislation that the General Assembly approved last year to address the problem of **COPPER THEFT** by enhancing penalties for unlawfully obtaining copper and other nonferrous metals and imposing new restrictions on the sales of such metals that require recyclers and others who sell, purchase and

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

The House concurred in Senate amendments to **H.4473** and enrolled the bill for ratification. The legislation establishes new restrictions **PROHIBITING CHILD MOLESTERS AND ABUSERS FROM ADOPTING CHILDREN OR SERVING AS FOSTER PARENTS** for children in the custody of the Department of Social Services. Current law already restricts foster care placements with individuals who have a substantiated history of child abuse or neglect or certain criminal backgrounds. This legislation adds to those restrictions and extends them to apply adoption placements. This legislation prohibits a child in the custody of the DSS from being placed in foster care with, or adopted by, a person if that person or anyone eighteen years of age or older residing in the home has pled guilty or no contest or been convicted of certain criminal offenses. Additional criminal offenses added by this legislation to the already existing list that would prohibit placement of a child include: unlawful conduct toward a child; cruelty to children; child endangerment; and criminal sexual conduct with a minor in the first degree. The legislation further provides that a person applying for approval for adoption placement must undergo a state fingerprint review. Also, DSS is authorized to pay from funds appropriated for foster care the costs of federal fingerprint reviews for foster care families.

The House concurred in Senate amendments to **H.3667** and enrolled the legislation for ratification. This legislation **ESTABLISHES THE FELONY OFFENSE OF CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE** when the actor is over the age of fourteen and commits certain acts with a child under the age of sixteen; the legislation includes an exception for certain consensual conduct when the actor is eighteen years of age or less and the other person is at least fourteen years of age. The legislation also repeals a current code provision relating to committing or attempting to commit a lewd act upon a child under the age of sixteen. Other code sections are updated to reflect these changes.

The House concurred in Senate amendments to **H.4699**, a bill providing for **ADDITIONAL CIRCUIT COURT AND FAMILY COURT JUDGES**, and enrolled the legislation for ratification. The legislation provides for three additional circuit court judges elected at-large by the General Assembly and six additional at-large family court judges elected at-large by the General Assembly.

The House and Senate adopted the free conference report on **H.3506**, a bill revising **ECONOMIC DEVELOPMENT PROVISIONS**, and enrolled the bill for ratification. The

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

The House approved **S.1007** and enrolled the bill for ratification. This legislation provides new requirements for the **DEPARTMENT OF TRANSPORTATION TO MAINTAIN AN ONLINE TRANSACTION REGISTER** that includes a complete record of all funds expended, from whatever source for whatever purpose. The register must be prominently posted on the department's website and made available for public viewing and downloading. The register must be searchable and updated at least once a month, with each monthly register maintained on the website for at least three years. The legislation also includes requirements for the department website to provide links to other agencies' postings of state procurement card statements.

The House concurred in Senate amendments to **H.4945**, a bill authorizing **ONLINE ELECTRONIC VOTER REGISTRATION**, and enrolled the bill for ratification. This legislation authorizes a person who is qualified to register to vote and who has a valid South Carolina driver's license or state identification card issued by the South Carolina Department of Motor Vehicles (DMV) to submit an application for voter registration electronically on the website of the State Election Commission. An application is effective upon receipt by the commission if it is received 30 days before an election to be held in the precinct of the person submitting the application. The applicant shall attest to the truth of the information provided and assent to the use of his signature from his driver's license or state identification card issued by the DMV. A person who submits an application electronically must include his: driver's license or state identification card number; date of birth; last four digits of his social security number; name and address; and any other information the commission considers necessary to establish the identity of the applicant. Upon submission of an application, the electronic voter registration system must provide immediate verification of the data with information on file with the DMV. Should there be a failure to match any of the required information with the DMV, the commission shall immediately notify the applicant of the failure and inform the applicant that his application for registration was not accepted. The legislation further provides that the commission shall establish and maintain a voter registration database that shall be made continuously available to each board of elections and to other agencies. State agencies shall provide any information and data to the commission that it considers necessary in order to maintain the database, except where prohibited by federal law or regulation. The commission shall ensure the confidentiality of database information. The name or address of a registered elector shall only be updated upon the elector's filing of a notice of change of name and/or address. A county board of registration shall contact a registered elector by mail at the address on file to verify the accuracy of the database information when there is a discrepancy with information on the elector maintained by a state agency. The commission may enter into agreements to share the information or data with other states or groups of states.

The House concurred in Senate amendments to **H.4497**, the "**CERVICAL CANCER PREVENTION ACT**", and enrolled the bill for ratification. The legislation provides that, beginning with the 2012-2013 school year, the Department of Health and Environmental Control may offer the cervical cancer vaccination for adolescent students enrolling in the seventh grade in any school, public or private, in this State. No student is required to

have the this cervical cancer vaccination, the human papillomavirus vaccination series, before enrolling or attending school. DHEC is authorized to develop and provide schools with informational brochures concerning adolescent vaccinations, including the cervical cancer vaccination series, which must specifically mention the optional nature of the cancer vaccination series and encourage the student's parent or guardian to take the child to their own health care provider to be vaccinated. At the beginning of the school year each district may provide these informational brochures to the parents or guardians of all students in the sixth grade. Implementation of this legislation is contingent upon the appropriation of state and federal funding to DHEC to fully cover the costs of providing this vaccine to eligible students as well as the availability of funds to produce the informational materials.

The House and Senate adopted the free conference report on **H.3527** and enrolled the bill for ratification. This legislation provides that it is **UNLAWFUL FOR AN INMATE TO UTILIZE ANY INTERNET-BASED SOCIAL NETWORKING WEBSITE FOR PURPOSES OF HARASSING, INTIMIDATING OR OTHERWISE CONTACTING A CRIME VICTIM**. This prohibition also applies to someone acting on the inmate's behalf or enabling the inmate to engage in these unlawful activities. A violation is a misdemeanor subject to a fine of up to five hundred dollars and/or imprisonment for up to thirty days. These provisions apply only to inmates incarcerated in a State Department of Corrections facility.

The returned **S.741** to the Senate with amendment and the Senate subsequently concurred in these amendments and enrolled the bill for ratification. The legislation establishes more **EXPANSIVE PROVISIONS FOR HUNTING COYOTES, FERAL HOGS AND ARMADILLOS** to reduce the rising populations of these nuisance animals. The legislation includes provisions for the nighttime hunting of these animals with or without the aid of bait, electronic calls, artificial light, or night vision devices, and year-round hunting with a bow and arrow and certain other weapons.

The House and Senate adopted the conference report on **H.3730** and enrolled the bill for ratification. The legislation establishes more **EXPANSIVE PROVISIONS FOR HUNTING COYOTES** and other nuisance animals. The legislation provides that there is no closed season for hunting or taking coyotes with weapons and allows these animals to be hunted with recorded calls or sounds or their electronically amplified imitations. The legislation includes more expansive provisions for the Department of Natural Resources to issue special permits, at no cost to the applicant, for the taking, capturing, or transportation of destructive wildlife. The legislation includes provisions allowing live traps to be used to capture feral animals at any time without a license or permit. New provisions are included for using and checking on traps. In addition to a valid state hunting license, the legislation requires an annual **COMMERCIAL FUR LICENSE** of all persons who sell or take by any means, for commercial purposes, and all persons who trap or who attempt to trap any furbearing animals. The license is issued by the DNR at a cost of twenty-five dollars for residents and two hundred dollars for nonresidents. Any person having in his possession more than five furbearing animals or raw or green pelts shall have a valid commercial fur license, but these provisions do not apply to a processor, manufacturer, or retailer. A person under the age of sixteen may purchase a commercial fur license without having to purchase a state hunting license after completing the 'Trappers Education Course', and is exempt from these licensing requirements while in the presence of a commercial fur licensee, but may not sell any furbearing animals or raw or green pelts unless licensed. The legislation also

establishes a procedure that affords a nonresident an opportunity to purchase a lifetime combination license which grants the same privileges as a statewide combination license from D NR's Columbia office.

The House concurred in Senate amendments to **S.105**, which creates an **AGRITOURISM AND TOURISM ORIENTED SIGNAGE PROGRAM**, and enrolled the bill for ratification. This legislation directs the Department of Transportation (DOT) to create and supervise a coordinated, self-funded, statewide program providing directional signs along the state's major rural highways and non-interstate scenic byways leading to tourism and agritourism-oriented facilities. Participating facilities are responsible for the cost of the signs and their installation and maintenance. The statewide program shall be operated according to standards and regulations consistent with the Manual on Uniform Traffic Control Devices authorized to be adopted and promulgated by DOT. DOT shall coordinate with the Department of Agriculture and the Department of Parks, Recreation and Tourism (PRT) to allow those departments to promote tourism and agritourism facilities participating in this directional signage program. The criteria for selection of qualified agritourism facilities shall be recommended by the Department of Agriculture and the criteria for the selection of qualified tourism facilities shall be recommended by PRT to be incorporated into DOT regulations. The approval of applications for signs for agritourism and tourism oriented facilities must be determined by an oversight committee composed of representatives from these government agencies and representatives from the state's tourism and outdoor advertising industries. The Department of Agriculture and PRT must develop logos to be utilized for the signage. These logos may be used by the departments for other promotional purposes associated with tourism and agritourism. **S.105** also provides that it is **UNLAWFUL FOR ANY PERSON TO CAMP, SET FIRES, OR COOK WITHIN THE RIGHT-OF-WAY OF A HIGHWAY** open to vehicular traffic for more than forty-eight hours. A violation is a misdemeanor punishable by a fine of up to \$100, or imprisonment of not more than 30 days, or such other lesser disposition, penalty, or non penalty as the court determines.

The House approved **S.168**, relating to the **THEFT OF TIMBER**, pine straw, and other forest products, and enrolled the bill for ratification. This legislation enhances penalties for cutting, destroying, removing, or transporting trees and other forest products without the consent of the landowner, establishing a tiered system in which the severity of the criminal penalties, along with fines and terms of imprisonment, increases with the value of the forest products stolen.

The House concurred in Senate amendments to **H.4082**, a bill addressing **FUNDING FOR FORESTRY COMMISSION FIREFIGHTING ACTIVITIES AND EQUIPMENT**, and enrolled the bill for ratification. The legislation provides that, from July 1, 2013, through June 30, 2017, two and one-quarter percent of insurance premium tax revenue must be transferred to the South Carolina Forestry Commission and used by that agency for firefighting and firefighting equipment replacement.

The House returned **S.263** to the Senate with amendments. The Senate subsequently concurred in these amendments and enrolled the bill for ratification. This legislation provides that when the death of a person ensues within three years as a proximate result of injury by the driving of a vehicle in reckless disregard of the safety of others, the person operating the vehicle is guilty of **RECKLESS VEHICULAR HOMICIDE**; previously this was referred to as reckless homicide. Also, this legislation allows a judge to grant a route restricted license; previously a judge could grant a provisional license.

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The legislation further provides that when a person is suspected of causing a motor vehicle incident resulting in the death of another person by the investigating law enforcement officer on the scene of the incident, the driver must submit to field sobriety tests if he is physically able to do so.

The House concurred in Senate amendments to **H.4614**, legislation establishing procedures and requirements relating to **COURT-ORDERED JOINT CUSTODY OF CHILDREN**, and enrolled the bill for ratification. The legislation provides that, at all temporary hearings where child custody is contested, each parent must prepare, file, and submit to the court a parenting plan, which reflects parental preferences, the allocation of parenting time to be spent with each parent, and major decisions, such as the child's education, medical and dental care, extracurricular activities and religious training. However, the parties may elect to prepare, file, and submit a joint parenting plan. The court shall issue temporary and final custody orders only after considering these parenting plans, but failure to submit a parenting plan does not preclude the court from issuing a temporary or final custody order.

The court shall make the final custody determination in the best interest of the child based upon the evidence presented and may award joint custody to both parents or sole custody to either parent. If custody is contested or if either parent seeks an award of joint custody, the court shall consider all custody options in its final order, stating its determination as to custody and its reasoning for that decision. The legislation provides matters that may be included in a custody order and establishes factors the court may consider in issuing or modifying a custody order when considering the best interest of the child. When a court orders sole custody to one parent, the custodial parent, except in cases of abuse, neglect, or abandonment, should facilitate opportunities for reasonable telephonic and electronic communication between the minor child and the noncustodial parent, as appropriate, as provided for by court order if the court determines that this type of communication is in the best interest of the child. When a court orders joint custody to both parents, each parent should facilitate opportunities for reasonable telephonic and electronic communication between the minor child and the other parent, as appropriate, as provided for by court order if the court determines that this type of communication is in the best interest of the child. The legislation provides that, notwithstanding custody arrangement, each parent has equal access and the same right to obtain all educational records and medical records of minor children and the right to participate in the children's school activities and extracurricular activities that are held in public locations unless prohibited by an order of the court or state law. The legislation also creates the South Carolina Family Court Study Committee to study the feasibility of tracking the outcome of contested temporary and final custody proceedings in the family court and issue a report by January 31, 2013.

The House concurred in Senate amendments to **H.4042**, relating to **MOTOR VEHICLE GLASS REPAIR**, and enrolled the bill for ratification. The legislation provides that when an insured has suffered damage to the glass of a motor vehicle ('vehicle glass'), both the insurer providing glass coverage and the third party administrator that administers glass coverage for that insurer must not require that repairs be made to the insured's vehicle by a particular provider of glass repair work. The legislation designates certain misrepresentations and activities of motor vehicle glass repair businesses as unlawful trade practices.

The House and Senate adopted the conference report on **H.4763**, a bill revising **PRENEED FUNERAL CONTRACT** provisions, and enrolled the legislation for

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ratification. This bill establishes a biennial term for preneed funeral contract licensure and provides for a \$250 initial licensure fee and a \$200 fee for each license renewal application. The Department of Consumer Affairs is directed to use half of the renewal fee for administration and deposit the other \$100 dollars of each license renewal fee into the Preneed Loss Reimbursement Fund, which is used to make reimbursements in cases of fraud where payments have been made in advance for contractual funeral services that were never provided. The legislation eliminates the provision that sets the maximum amount of the Preneed Loss Reimbursement Fund at five hundred thousand dollars with a five percent adjustment compounded annually. Restrictions are placed on the transfer of preneed funeral contracts. The legislation enhances criminal penalties for those who enter into preneed funeral contracts but fail to provide promised funeral services when the beneficiary dies. New felony offenses are established for violations involving larger dollar amounts. Those convicted of a misdemeanor or felony offense may be prohibited from entering into further preneed funeral contracts when the department finds the offense sufficiently grievous. The department is also authorized to make use of a warning notice of deficiency, additional education requirements, or a cease and desist order in responding to violations.

The House concurred in Senate amendments to **H.3028** and enrolled the bill for ratification. This legislation **INCREASES THE INDUCTION CONTRACT PERIOD FOR TEACHERS FROM ONE YEAR TO A MAXIMUM OF THREE YEARS**. Instead of the current one-year induction period, the legislation provides that at the end of each year of the three-year induction period, the school district may employ the teacher under another induction contract, an annual contract, or may terminate his employment. If employment is terminated, the teacher may seek employment in another school district

The House concurred in Senate amendments to **H.4786**, a bill relating to **SUBSTITUTE TEACHERS EMPLOYED BY TEMPORARY STAFFING AGENCIES**, and enrolled the bill for ratification. The legislation revises provisions governing the payment of unemployment benefits so that substitute teachers employed by private temporary employment agencies that have contractual relationships with school districts are not allowed to collect benefits during vacation period or holiday recess.

The House concurred in Senate amendments to **H.3986**, relating to the **RETENTION OF SCHOOL FACILITIES FUNDS**, and enrolled the legislation for ratification. This joint resolution provides that, until December 31, 2012, a school district may apply for and receive its allotted share of EIA school building funds under Section 59-21-430 of the 1976 Code for fiscal year 2011-2012 under the terms and conditions applicable to all school districts. If the school district's allotted portion of these EIA school building funds have lapsed to the Education Improvement Act of 1984 Fund or to some other fund or account, the funds may nevertheless be withdrawn from that fund or account under warrant of the Department of Education and distributed to that school district on or before December 31, 2012, and used by the district for the purposes required by law.

The House concurred in Senate amendments to **H.3747** and enrolled the bill for ratification. This bill provides a **SALES TAX EXEMPTION FOR INJECTABLE MEDICATIONS AND INJECTABLE BIOLOGICS**, so long as the medication or biologic is administered by a physician in an office which is under the supervision of a physician, or in a Center for Medicare or Medicaid Services (CMS) certified kidney dialysis facility. The legislation specifies that biologics are products that are applicable to the prevention, treatment, or cure of a disease or condition of human beings and that are produced

using living organisms, materials derived from living organisms, or cellular, subcellular, or molecular components of living organisms.

The House concurred in Senate amendments to **H.4687**, regarding the **ELECTRONIC TRANSMITTAL OF DEATH CERTIFICATES**, and enrolled the bill for ratification. The legislation requires death certificates to be electronically filed with the Bureau of Vital Statistics. Death certificates must be transmitted electronically between the funeral home director and the physician, coroner, or medical examiner certifying the cause of death in order to document the death certificate information and required signatures must be electronic. An exemption from the requirement is provided for: an individual who acts, without compensation, as a funeral director on behalf of a deceased family member or friend; physicians certifying fewer than twelve deaths per year; or funeral homes that perform fewer than twelve funerals per year.

The House concurred in Senate amendments to **H.4766**, the "**SOUTH CAROLINA BENEFIT CORPORATION ACT**", and enrolled the bill for ratification. The legislation establishes a mechanism for organizing as, or converting to, a benefit corporation, a domestic corporation arrangement that involves not only accountability to the interests of corporate shareholders but also adherence to third-party standards for benefiting the public welfare through environmental, religious, charitable, scientific, literary, or educational missions and similar pursuits. With regard to accountability, benefit corporations are required to consider the impact of their decisions not only on shareholders but also on workers, community, and the environment. Additionally, benefit corporations must publicly report annually on overall social or environmental performance against a third party standard. A benefit corporation may include in its governing documents other corporate purposes, including engaging in any lawful business. This status has no tax implication for the corporation. A benefit corporation may terminate its status by amending its governing documents.

The House concurred in Senate amendments to **H.3676**, the **SOUTH CAROLINA COMMUNITY LAND TRUST ACT**, and enrolled the bill for ratification. The legislation authorizes the formation and operation of a community land trust, which is a nonprofit community organization that safeguards land in order to provide affordable housing opportunities. The legislation provides that a community land trust must have as its primary purpose to hold legal and equitable title to land and the leasing of land for the purpose of preserving the long-term affordability of housing created for predominately low income and moderate income households. The legislation makes certain findings and provides the manner in which community land trusts are funded and provides the process by which community land trusts operate.

The House returned **S.580** to the Senate with amendments and the Senate subsequently concurred in those amendments and enrolled the bill for ratification. The legislation enacts the **COMPUTER AND DIGITAL FORENSICS REGISTRY ACT** to establish within the State Law Enforcement Division (SLED) a registry of those engaged in the search for or collection of evidence from computer systems, computer networks, cellular telephones, personal digital assistants, hereafter 'PDAs', and all other electronic storage media, in a standardized and well-documented manner to maintain its admissibility and probative value in a legal proceeding. This bill provides that provisions governing the licensure and regulation of private security and investigation agencies do not apply to a person based solely on his being engaged in computer or digital forensic

services, the acquisition, review, or analysis of digital or computer-based information, or system vulnerability testing.

The House concurred in Senate amendments to **H.4738**, a bill relating to the **COURT'S CONSIDERATION OF THE RETIREMENT OF SUPPORTING SPOUSE WHEN DETERMINING ALIMONY**, and enrolled the bill for ratification. The legislation provides that retirement by the supporting spouse is sufficient grounds to warrant a hearing, if so moved by a party, to evaluate whether there has been a change of circumstances for alimony. The legislation establishes the factors the court shall consider, such as whether the retirement is mandatory or voluntary, whether retirement would result in a decrease in income, and the age and health of the supporting spouse.

The House concurred in Senate amendments to **H.3127**, pertaining to **EXPUNGEMENT OF CRIMINAL RECORDS FOR A PERSON RECEIVING A PARDON**, and enrolled the bill for ratification. The legislation establishes a mechanism that allows a person who is applying for an order of pardon for an offense may request that the South Carolina Board of Pardons and Paroles recommend the expungement of records related to the offense. The legislation includes the payment of a nonrefundable recommendation of expungement application fee of one hundred dollars, which must be retained by the South Carolina Department of Probation, Parole and Pardon Services and used to defray the costs associated with the expungement process.

The House returned **S.1055** to the Senate with amendments and the Senate subsequently concurred in these amendments and enrolled the bill for ratification. This legislation makes revisions to the **COMPOSITION OF THE JUDICIAL COUNCIL**. Notably, the legislation includes on the council the Chief Judge of the Court of Appeals, one person recommended by the Charleston School of Law, the President of the South Carolina Bar or his designee, and one magistrate and one municipal judge.

The House returned **S.300** to the Senate with amendments and the Senate subsequently concurred in these amendments and enrolled the bill for ratification. This legislation authorizes the **DEPARTMENT OF JUVENILE JUSTICE** to allow any child adjudicated delinquent for a status offense, a misdemeanor offense, or violation of probation or contempt for any offense who is temporarily committed to the department's custody for a residential evaluation, to reside in that child's home or in his home community while undergoing a community evaluation, unless the committing judge concludes that the child presents an unreasonable flight or public safety risk to his home community. This legislation further authorizes the department to grant probationers and parolees up to a ten-day term reduction for each month they are compliant with the terms and conditions of their probation or parole.

The House returned **S.1099** to the Senate with amendments and the Senate subsequently concurred in these amendments and enrolled the bill for ratification. This legislation provides that **MEMBERS OF THE BOARD OF JUVENILE PAROLE AND THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES** shall receive compensation in an amount provided by the General Assembly in the annual appropriations act.

The House approved **S.1329** and enrolled the bill for ratification. This legislation revises the **APPOINTMENT OF MEMBERS OF THE BOARD OF PROBATION, PAROLE AND PARDON SERVICES**. Currently, the board is composed of seven members with six

elected from the current congressional districts and one elected on an at-large basis. As there is a new seventh congressional district, this legislation provides that all seven members of the board must be selected from a congressional district. The legislation further provides that at least one appointee shall possess the qualifications that the at-large appointee formerly met.

The House concurred in Senate amendments to **H.4513**, relating to the **ADULT PROTECTION COORDINATING COUNCIL** under the auspices of the South Carolina Department of Health and Human Services (DHHS), and enrolled the bill for ratification. This legislation revises the council's membership and duties and provides that its duties are subject to the appropriation of funding and allocation of personnel to carry out the functions of the council, and staffing for the council must be provided by DHHS. An annual report is required on the council's activities and accomplishments.

The House concurred in Senate amendments to **H.3918** and enrolled the bill for ratification. This comprehensive legislation updates and modernizes statutes pertaining to the **DIVISION OF AERONAUTICS**. Notably, the legislation codifies the proviso transferring the division from the Department of Commerce to the Budget and Control Board; updates definitions and rules relating to the division to conform them to Federal Aviation Administration provisions; and restructures the Aeronautics Commission to reflect the new seventh congressional district.

The House returned **S.1220**, which relates to the **SURFACE WATER WITHDRAWAL PROGRAM**, to the Senate with amendments and the Senate subsequently concurred with these amendments and enrolled the bill for ratification. The legislation continues fees for surface water withdrawal applications and permits that would otherwise have been repealed January 1, 2013. The legislation also authorizes fees the Department of Health and Environmental Control may charge for surface water withdrawal and applications and permits for purposes of implementing and operating the regulatory program.

The House concurred in Senate amendments to **H.5098** and enrolled the bill for ratification. The legislation revises provisions that relate to **TEMPORARY PERMITS FOR THE POSSESSION, SALE, AND CONSUMPTION OF ALCOHOLIC LIQUORS BY THE DRINK IN A COUNTY OR MUNICIPALITY UPON A FAVORABLE REFERENDUM VOTE**, so as to further provide for how such a referendum may be conducted.

The House concurred in Senate amendments to **H.4888** and enrolled the bill for ratification. This legislation makes a variety of **REVISIONS RELATING TO THE DEPARTMENT OF MOTOR VEHICLES (DMV)**. Among other things, the legislation requires DMV to convene a working group chaired by its director, or his designee, consisting of representative stakeholders for the purpose of assisting in the development of a process to be used for the titling of vehicles for which no title can be provided. The legislation also makes numerous technical changes pertaining to the DMV as it updates statutes to reflect that DMV is no longer under the Department of Public Safety; and it repeals certain provisions relating to Shriners License Plates as there are other provisions in law relating to these plates. The legislation allows a low speed vehicle to be operated on a highway for which the posted speed limit is thirty-five miles an hour or less. The legislation makes revisions pertaining to the repeal of a code provision which relates to the suspension of a driver's license of a person convicted of a controlled

substance violation. This particular code section was repealed by the General Assembly last year by Act 13 of 2011. This legislation enacts language in order to carry out the intentions of the General Assembly when it enacted this legislation to **DISCONTINUE THE SUSPENSION OF THE DRIVER'S LICENSE OF A PERSON WHO WAS CHARGED WITH A CONTROLLED SUBSTANCE VIOLATION** before April 12, 2011, but whose conviction occurred on or after April 12, 2011.

The House concurred in Senate amendments to **H.4798** and enrolled the bill for ratification. Relating to the trial of a person in a **MUNICIPAL COURT**, this legislation revises the period of time in which a person must be tried after the date of his arrest to make it consistent with the timeframe established in other provisions.

The House concurred in Senate amendments to **S.1167** and enrolled the bill for ratifications. The legislation provides for a **TAX INCREMENT FINANCING LAW REVISION** by establishing conditions under which a municipality may modify a redevelopment plan through ordinance.

The House returned **S.1354** to the Senate with amendments and the Senate subsequently concurred in these amendments and enrolled the bill for ratification. This legislation requires all **CEASE AND DESIST ORDERS ISSUED BY THE SECURITIES COMMISSIONER** to be public documents subject to the Freedom of Information Act and to be published on the Attorney General's website searchable by the name of the parties involved. Also, a copy of a final order must be forwarded to the Department of Revenue and the Secretary of State's Office.

The House concurred in Senate amendments to **S.1231**, which provides for the **CLASSIFICATION OF COBIA AS A SALTWATER GAME FISH**, and enrolled the bill for ratification. The bill classifies Cobia *Rachycentron canadum* as a saltwater game fish. The bill adds that it is unlawful to sell, purchase, trade, or barter or attempt to sell, purchase, trade, or barter cobia taken from state waters. In addition, the legislation revises provisions for commercial Shad fishing.

The House concurred in Senate amendments to **H.4054** and enrolled the bill for ratification. The legislation provides that it is **UNLAWFUL TO HUNT MIGRATORY WATERFOWL ON LAKE MOULTRIE, LAKE KEOWEE, AND ANDERSON COUNTY'S BROADWAY LAKE WITHIN TWO HUNDRED YARDS OF A DWELLING** without written permission of the owner and occupant.

The House approved **S.512** and enrolled the bill for ratification. The legislation provides that it is **UNLAWFUL TO HUNT MIGRATORY WATERFOWL ON LAKE MOULTRIE WITHIN TWO HUNDRED YARDS OF A DWELLING** without written permission of the owner and occupant.

The House adopted the conference report on **H.4008**, a bill that establishes protections from legal liability that apply to **HOSPITAL QUALITY ASSURANCE REVIEWS**, peer reviews, medical staff credentialing processes, and similar evaluations and provides for confidentiality of records in such proceedings.

The House adopted the conference report on **H.3400**, relating to **TERMINATION OF A CHILD SUPPORT OBLIGATION**.

The House adopted the conference report on H.3124, the **OMNIBUS SPECIAL LICENSE PLATE BILL**, which provides for the issuance of various new special license plates

The House and Senate appointed a conference committee to address their differences on H.5025, a bill revising the **GOVERNANCE OF SOUTH CAROLINA STATE UNIVERSITY**.

The House and Senate appointed a conference committee to address their differences on S.45 which revises the handling of **BOND AND BAIL** issues in the judicial system.

The House and Senate appointed a conference committee to address their differences on S.1321. This legislation makes **REVISIONS TO THE "OMNIBUS CRIME REDUCTION AND SENTENCING REFORM ACT OF 2010"**.

The House and Senate appointed a conference committee to address their differences on S.1137, the **"ARCHITECTS' AND ENGINEERS' VOLUNTEER ACT"**. The legislation provides immunity from legal liability for licensed architects and licensed engineers who provide volunteer services during declared emergencies.

The House and Senate appointed a conference committee to address their differences on S.1229, legislation establishing an **EXEMPTION FROM INSURANCE ADJUSTER LICENSING PROVISIONS** covering those entering data into a portable electronics insurance automated claims adjudication system and other support staff for such automated systems.

The House and Senate appointed a conference committee to address their differences on S.1088. This comprehensive legislation makes **REVISIONS TO THE MEMBERSHIP OF BOARDS AND COMMISSIONS TO REFLECT THE ADDITION OF A SEVENTH CONGRESSIONAL DISTRICT**. Generally, the legislation either adds an additional seat or converts an existing at-large seat into representation for the seventh congressional district.

The House and Senate appointed a conference committee to address their differences on H.4801. This bill revises the qualifications of persons who may be appointed to the governing board of the **PIONEER RURAL WATER DISTRICT** of Oconee and Anderson Counties and the manner of their appointment.

The House returned S.1419, a bill revising provisions relating to insurance brokers and **SURPLUS LINES INSURANCE**, to the Senate with amendments. The legislation provides that the revenue collected from the broker's premium tax rate must be credited to a special earmarked fund and provides the manner in which the fund may be used and disbursed. The legislation authorizes the director of the Department of Insurance to conduct examinations of broker records and allows the department to promulgate necessary regulations. The legislation provides the manner in which the Nonadmitted and Reinsurance Reform Act of 2010 may be implemented. For the purposes of carrying out the Nonadmitted and Reinsurance Reform Act of 2010, the director of the Department of Insurance or his designee may enter to in an agreement with a single state to facilitate the collection, allocation, and disbursement of premium taxes attributable to the placement of surplus lines insurance, provide for uniform methods of allocation and reporting among surplus lines insurance risk classifications, and share

information among states relating to surplus lines insurance premium taxes. The legislation provides authority to participate in a clearing house established through a multistate agreement approved by the General Assembly for the purpose of collecting and disbursing to reciprocal states any funds collected that relate to properties, risks, or exposures located or to be performed outside of this State. To the extent that other states where portions of the properties, risks, or exposures reside have failed to enter into an agreement or reciprocal allocation procedure with this State, the net premium tax collected shall be retained by this State. The legislation revises provisions relating to municipal license fees and taxes, so as to disallow a municipality from charging an additional license fee or tax based upon a percentage of premiums for purposes of surplus lines insurance.

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

### **EDUCATION AND PUBLIC WORKS**

**S.1556 JASPER COUNTY BOARD OF EDUCATION Sen. Pinckney**

Relating to the Jasper County Board of Education as the governing body of the Jasper County School District, this legislation provides that beginning with the year 2012, the county board of education rather than the county council shall impose the tax levy necessary for school purposes. The legislation further provides procedures for and limitations on this school tax levy.

**S.1583 JASPER COUNTY BOARD OF EDUCATION Sen. Pinckney**

This legislation is to reapportion the specific election districts from which members of the Jasper County Board of Education shall be elected beginning with school board elections in 2012, and it provides for demographic information in regard to these newly drawn election districts.

### **JUDICIARY**

**S.1353 UPDATED STATEMENTS OF ECONOMIC INTERESTS Sen. Rose**

Notwithstanding another provision of law, a person required to file a statement of economic interests within 30 days of leaving the public position, public office, or public employment, must file a closeout statement of economic interests that covers the period from the date of the person's last filed statement of economic interests through the date on which the person left public office or employment. A statement of economic interests required by this section must be filed electronically. Updated statements of economic interests must also include the name of each contributor, the amount of the contribution made by each contributor, and the date of the contribution to a political action committee organized by or on behalf of the person filing the updated statement of economic interest.

**S.1557 JASPER COUNTY REGISTER OF DEEDS Sen. Pinckney**

Beginning with the general election in November of 2014, this legislation provides that the register of deeds in Jasper County is elected for a term of four years and until a successor is elected in the general election and qualifies.

## WAYS AND MEANS

**S.224 FREE HIGHER EDUCATION TUITION FOR CHILDREN OF PURPLE HEART RECIPIENTS Sen. Knotts**

This bill revises provisions allowing free tuition at the state's institutions of higher learning for certain veterans' children, so as to provide that the child of a recipient of the Purple Heart is eligible to receive this free tuition not only when the parent is a veteran but also while the parent is a current active duty service member with honorable wartime service.

**S.418 "BUDGET PROVISIO CODIFICATION ACT OF 2012" Sen. Leatherman**

This bill provides for the language of numerous provisos contained in the annual general appropriations act to be incorporated into the permanent statutory provisions of the South Carolina Code of Laws, and provides for other provisions related to the annual general appropriations act effective for fiscal year 2011-2012 only.

**S.1183 APPROPRIATION OF OTHER FUNDS Sen. Setzler**

This bill provides that all other funds collected by an agency must be deposited into the general fund for appropriation by the General Assembly. However, for purposes of any calculation or limitation based on general fund revenue collections, these other funds must not be considered general fund revenue. Under the legislation, other funds are any funds determined to be earmarked funds in the 2012-2013 General Appropriations Act, except, funds constitutionally required to be expended for a specific purpose, tuition, and funds dedicated towards debt service.

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