



South Carolina House of Representatives

Legislative Update

James H. "Jay" Lucas, Speaker of the House

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HOUSE WEEK IN REVIEW

The House of Representatives amended, approved, and sent the Senate **H.3184**, a bill establishing **ENHANCEMENTS TO ETHICS LAWS** by providing for more independent means of investigating alleged misconduct of public officials and by systematically reorganizing which ethics violations are considered civil matters and which are criminal violations of the public trust. The legislation discontinues current practices of the executive, legislative, and judicial branches of state government each exclusively investigating the alleged ethics violations of their own members, and instead provides for all allegations of public misconduct to be investigated by panels made up of members selected by all three branches of government. To that end, the State Ethics Commission is reconstituted and expanded from a nine-member body, composed exclusively of gubernatorial appointees, to a twelve-member body made up of four selections by the Governor, four selections by the Supreme Court, two selections by the Senate, and two selections by the House of Representatives. Provisions are included to structure the legislative and gubernatorial selections in a bi-partisan fashion and to exclude from service on the commission legislators, judges, and other public officials, recent lobbyists, certain employees, and the family members of those who make the selections. A commission member serves for a term of five years and, afterwards, is not eligible for reappointment. Under the legislation, the State Ethics Commission is set up to conduct investigations of alleged ethics violations of those in the executive and legislative branches. If a State Ethics Commission investigation determines that a legislator has committed an ethics violation, the commission's report is relayed to the appropriate legislative ethics committee to pursue the matter and decide if it is appropriate to take such actions as imposing penalties, issuing reprimands, or recommending that the legislative body expel a member. The Commission on Judicial Conduct is established in statute to address allegations of judges' misconduct or incapacity. The twenty-four-member commission is composed of eight judicial members elected by the Supreme Court, four selections by the Senate, four selections by the House of Representatives, and eight selections by the Governor. Provisions are included to: require representation of attorneys and non-attorneys in the membership; specify how the various courts are to be represented by the members of the commission who are sitting judges; preclude current legislators, executive branch employees, and members of the Governor's staff from serving on the commission; and, structure the legislative and gubernatorial selections in a bi-partisan fashion. Commission members serve four-year terms and are eligible for reappointment. The investigations of both the State Ethics Commission and the Commission on Judicial Conduct are to be conducted in strict confidentiality, with penalties provided for improper disclosures, but, should a commission make certain findings regarding misconduct, reports and various documents and materials become public. Whenever either commission finds evidence of a criminal violation the matter must be relayed to the Attorney General or other appropriate authority. The legislation also revises which Ethics Act violations are considered civil matters and which are criminal violations. Under the revisions, criminal penalties are reserved for wilful actions of public officials, public members, and public employees, while unintentional actions such as late filings or inadvertent lapses in required disclosures are subject to civil penalties. In many instances, the legislation establishes graduated penalties for violations where penalties become more severe as the sums of money involved increase in amount. The legislation establishes an array of criminal ethics violations, some of

which are felony offenses, addressing such wrongdoing as bribery, nepotism, and the use of campaign funds for personal expenses.

The House approved and sent the Senate H.3188, a bill **PROHIBITING LEADERSHIP POLITICAL ACTION COMMITTEES** under the statutory provisions that govern campaign finance in elections. Because of their status as noncandidate committees, these leadership PACs have not been subject to limitations and requirements that the Ethics Act imposes on the finances of individual candidates' campaign accounts. The legislation eliminates the statutory provisions that have authorized a public official or candidate to form and operate a political action committee in order to raise funds for making contributions to the campaigns of other candidates. The legislation also prohibits a candidate from accepting campaign contributions from a noncandidate committee that is directly or indirectly established, financed, maintained, or controlled by a candidate or public official or any other sort of arrangement maintained by or affiliated with a candidate or public official. This provision does not apply to legislative caucus committees or political parties and it does not prohibit a candidate or public official from making a contribution of their personal funds to a candidate for another office.

The House approved and sent the Senate H.3187, a bill **REVISING LEGAL DEFINITIONS OF COMMITTEES UNDER CAMPAIGN FINANCE PROVISIONS** by eliminating language that was struck down in federal court for being overly broad and putting in its place descriptions that are geared towards fitting within the parameters laid out in court rulings. Broad references to influencing the outcome of elections are removed from definitions of committees, including party committees, legislative caucus committees, and noncandidate committees, and are replaced with more narrowly focused references to a committee having as its major purpose the nomination, election, or defeat of one or more candidates. The definition for a ballot measure committee is similarly revised.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

The full Agriculture, Natural Resources and Environmental Affairs Committee met on Thursday, January 29, and reported out four bills.

H.3266, a bill establishing the “**TRESPASSER RESPONSIBILITY ACT**”, was given a favorable recommendation by the committee. The bill provides a limitation on liability by land owners to trespassers, as well as provides language for the protection of children. The bill outlines several conditions a land owner is subject to liability for physical harm to children trespassing.

H.3118, a bill regarding the **HUNTING AND TAKING OF WILD TURKEY**, received a favorable with amendment report from the committee. The season for the hunting and taking a male wild turkey is March 20 through May 5. The season bag limit per person

for male wild turkeys is reduced from five to three which may be taken with archery equipment or any lawful firearm and ammunition. An archery-only turkey tag may be obtained to take one additional male wild turkey during the open season by means of archery equipment only. The bill also outlines that the Saturday preceding March 20 of each year is declared to be "South Carolina Youth Turkey Hunting Day".

The full committee gave a favorable report to **H.3323**, legislation that deals with the "**SOUTH CAROLINA NOXIOUS WEED ACT**". Currently, Clemson University manages the plant pests program. As a result, the legislation makes technical changes by replacing the South Carolina Department of Agriculture with Clemson University as the director of the noxious weeds program. The change allows for Clemson University to take control and be the final decision authority in the designation and management of noxious weeds. This effort allows for a more streamline approach in the state with no additional costs. The legislation also replaces the term "Agriculture Commissioner" with the "South Carolina State Crop Pest Commission".

H.3035, a bill that enacts the "**TAKE PALMETTO PRIDE WHERE YOU LIVE ACT**", received a favorable with amendment recommendation from the committee. This bill creates a statewide strategy to reduce litter by establishing the Take Palmetto Pride Where You Live Commission. The 12-member commission shall develop a state plan that must address the overall goal of reducing litter through developing coordinated, cost effective, and efficient methods of litter removal, litter reduction and prevention, and litter law enforcement.

The commission will consist of various state agencies, local governments, the private profit and nonprofit sectors, and business and industry sectors. The Department of Natural Resources will serve as the lead coordinating agency and the commission shall meet at least twice a year. The members of the commission shall serve ex officio and payment of any mileage, per diem, or subsistence is the responsibility of the department or organization the member represents.

JUDICIARY

The House Judiciary Committee met on Tuesday, January 27, 2015.

H. 3193 CAMPAIGN FINANCE received a favorable report. The bill revises the manner in which campaign contributions are attributed to a primary election and to a primary election runoff. If there is a primary runoff, a contribution made after the date of the primary and through the date of the primary runoff is attributed to the primary runoff.

H. 3197 CAMPAIGN REPORTS received a favorable report. The bill requires a campaign report to be filed seventy-two hours before an election showing contributions of more than one hundred dollars and expenditures to or by the candidate or committee for the period commencing at least twenty days before the election and ending seventy-two hours before the election.

H. 3200 received a favorable report. The bill regarding **INTELLECTUAL PROPERTY** states that certain provisions pertaining to use of official position or office for financial gain do not apply to a public employee of an institution of higher learning who

participates in the development of intellectual property that benefits the institution and the State of South Carolina, provided that the institution of higher learning retains some royalty rights to the intellectual property.

H. 3041, a joint resolution, **CONSTITUTIONAL OFFICERS** received favorable reporting and proposes an amendment to the Constitution of South Carolina to delete the Superintendent of Education from the list of state officers which the Constitution requires to be elected and provide that the Superintendent of Education must be appointed by the Governor upon the advice and consent of the Senate for a term coterminous with the Governor.

H. 3114 received a favorable report. It enacts the “**SOUTH CAROLINA PAIN-CAPABLE UNBORN CHILD PROTECTION ACT**”. After defining terms, the bill requires a physician to calculate the probable post-fertilization age of an unborn child before performing or inducing an abortion; provides that an abortion may not be performed if the probable post-fertilization age of the unborn child is twenty or more weeks; provides for exceptions; requires certain reporting by physicians who perform abortions to the Department of Health and Environmental Control; and, requires the Department Of Health And Environmental Control to prepare public reports that provide data on abortions performed in the state. The bill promulgates regulations and provides for a civil right of action for certain individuals against a physician performing an abortion in violation of the Act. It also establishes injunctive relief and creates criminal penalties.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

H.3449 NONGAME FISHING DEVICES AND GEAR THAT ARE PERMITTED TO BE USED IN CERTAIN BODIES OF FRESHWATER Rep. Bales

The bill provides that the Department of Natural Resources may issue recreational licenses for the use of hoop nets along the Wateree River.

EDUCATION AND PUBLIC WORKS

H. 3435 "B.P. ACT" Rep. Rivers

This bill enacts the "B.P. Act" relating to bullying prohibition policies adopted by school districts.

H. 3440 MOPEDS Rep. Crosby

This bill provides that a moped must be registered, carry liability insurance, and may not be operated on a public road that has a speed limit greater than thirty-five miles an hour.

H. 3442 NEXT OF KIN DATABASE Rep. Ridgeway

This bill establishes a database of the next of kin of persons who register a motor vehicle, are issued a permit or license to operate a motor vehicle, or an identification card.

H. 3446 FAILURE TO STOP Rep. Crosby

This bill increases certain penalties associated with a violation of the offense of failure to stop a motor vehicle when signaled to stop by a law enforcement vehicle.

H. 3447 MEDICALLY ACCURATE INFORMATION Rep. Horne

This bill defines "medically accurate information" and amends requirements that the State Board of Education provide comprehensive health education units and sexual abuse and assault awareness units to local school districts and requirements that local school districts implement comprehensive health education programs.

H. 3453 DISCIPLINARY HEARINGS Rep. Forrester

This bill provides that a student enrolled at a public institution of higher learning and a student organization officially recognized by a public institution of higher learning may be represented by an attorney or a non-attorney advocate at a disciplinary hearing before the institution.

H. 3463 LEFT LANE Rep. Crosby

This bill provides the circumstances when it is lawful to drive a commercial motor vehicle in the left lane of an interstate highway.

JUDICIARY

H. 3427 FORFEITURE OF BENEFITS Rep. Ballentine

This bill involves the forfeiture of benefits for certain actions for certain members.

H. 3428 FORFEITURE OF BENEFITS Rep. Ballentine

This bill involves the forfeiture of benefits for certain actions for certain members.

H. 3430 TIRES Rep. Simrill

This bill provides that it is unlawful to sell or install an unmounted, unsafe used tire onto a passenger car or light truck.

H. 3432 MARTIN LUTHER KING, JR. DAY AND MEMORIAL DAY

Rep. Atwater

This bill provides that Martin Luther King, Jr. Day and Memorial Day must be recognized as holidays for all local school districts of the state and that the schools and offices of the districts must be closed on those dates.

H. 3433 "DOMESTIC VIOLENCE REFORM ACT" Rep. Erickson

This bill enacts the "Domestic Violence Reform Act".

H. 3439 VOTING Rep. M. S. McLeod

This bill provides a procedure allowing a physically disabled person or a person sixty-five years of age or older who has been reassigned to a polling place different from that where he previously voted to vote at a polling place of the voter's choosing.

H. 3441 VIDEO RECORDINGS Rep. Norman

This bill revises the circumstances upon which a video recording of the incident site and the breath test site of a person charged with operating a motor vehicle while under the influence of alcohol or another illegal substance, charged with an unlawful alcohol concentration, or charged with felony driving under the influence is required to be made, the procedures that must be followed when a video recording is made, and the circumstances that exempt an officer from making a video recording.

H. 3444 DIGITAL ASSETS Rep. McKnight

This bill establishes a framework for the management and disposition of digital assets upon death or incapacitation.

H. 3450 BEER Rep. Bannister

This bill prohibits a beer wholesaler from delivering beer to a retail beer and wine permit holder unless the beer has been received, unloaded, and stored or warehoused at its licensed premises.

H. 3457 SEXUALLY EXPLICIT MATERIALS Rep. Norrell

This creates the offense of unlawful dissemination of sexually explicit materials with intent to cause substantial emotional distress.

H. 3458 "TEEN DATING VIOLENCE PREVENTION ACT" Rep. Norrell

This bill enacts the "Teen Dating Violence Prevention Act" and creates the offense of teen dating violence.

H. 3462 "DOMESTIC VIOLENCE AWARENESS EDUCATION ACT"

Rep. Crosby

This bill provides before January 1, 2016, the Department Of Education shall develop a model domestic violence awareness curriculum to assist school districts in delivering age-appropriate instruction on the subject of domestic violence to all public school students and to promote awareness of domestic violence in all public schools, to provide the department also shall develop a model domestic violence policy to assist schools in developing and implementing policies for the manner in which students and employees may report a suspected incident of domestic violence, and to provide the department

also shall develop guidelines and materials for continuing education concerning domestic violence for school faculties and administrators.

H. 3466 ADOPTION Rep. Horne

This bill requires agencies and attorneys providing inter-country adoption services to be licensed in this state and comply with federal law, including the requirement to be accredited pursuant to the Inter-country Adoption Act and the Hague Convention on Inter-country Adoption. It also prohibits an adoptive parent, or a person acting on behalf of an adoptive parent, from placing the adopted child with another person without approval of the court, unless the other person is a relative of the adoptive parent of the first, second, or third degree and in addition requirements relating to birth certificates and post adoption services.

S. 8 ADJUTANT GENERAL Sen. Martin

This bill ratifies an amendment to provide that upon the expiration of the term of the Adjutant General serving in office on the date of the ratification of this provision the Adjutant General must be appointed by the Governor upon the advice and consent of the Senate for a term not coterminous with the Governor.

S. 9 RAFFLES Sen. Cleary

This bill ratifies an amendment to provide that the General Assembly may authorize raffles to be operated and conducted by religious, charitable, or nonprofit organizations for religious, charitable, or eleemosynary purposes.

LABOR, COMMERCE AND INDUSTRY

**H.3431 LOCAL GOVERNMENTS PROHIBITED FROM REQUIRING
EMPLOYEE**

BENEFITS Rep. Sandifer

This bill revises provisions relating to the scope of authority of a political subdivision to set minimum wage rates, so as to provide a political subdivision of this state may not mandate or otherwise require employee benefits, such as health benefits, disability benefits, death benefits, group accidental death and dismemberment benefits, paid days off for holidays, paid sick leave, paid vacation leave, paid personal necessity leave, retirement benefits, and profit-sharing benefits.

**H.3452 ACCIDENT AND HEALTH INSURERS PROHIBITED FROM MAKING
DIRECT PAYMENTS TO AN INSURED FOR HEALTH CARE
SERVICES**

RECEIVED Rep. Allison

This bill provides that a licensed accident and health insurer may not make a payment of money directly to an insured for a health care service received by the insured. These provisions do not apply to: (1) supplemental or secondary insurance coverage; or (2) a person who documents to the insurer that he has fully paid the health care provider for the service rendered.

**H.3461 SALES OF CHILDREN'S PRODUCTS WITH FORMALDEHYDE
PROHIBITED Rep. Mitchell**

This bill prohibits the sale of a children's product containing formaldehyde or that releases formaldehyde, and provides that manufacturers may not replace formaldehyde with other harmful chemicals.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.3443 PURCHASING, POSSESSING, ADMINISTERING, SUPPLYING, AND PRESCRIBING OF CERTAIN PHARMACEUTICAL AGENTS BY OPTOMETRISTS Rep. Long

This bill clarifies that Schedule II controlled substances that have been reclassified from Schedule III to Schedule II on or after October 6, 2014, may continue to be purchased, possessed, administered, and supplied and prescribed by an optometrist.

H.3448 "AIR AMBULANCE AFFORDABILITY ACT" Rep. Hardee

The legislation outlines that no aircraft may be operated as an air ambulance unless it has a licensed owner who applies for and receives an air ambulance permit issued by the South Carolina Department of Health and Environmental Control for that aircraft. The legislation states that "air ambulance" means an aircraft intended for use and maintained and operated to transport people who are sick, injured, or otherwise incapacitated.

The legislation also adds that all individual and group health insurance policies and health maintenance organizations shall provide coverage for air ambulance transportation to a hospital or medical facility for emergency treatment or when a physician considers air transportation a medical necessity. In addition, coverage for this service must pay for the Medicare rate, plus fifteen percent. The provisions of this section are retroactive five years from the effective date of this section.

H.3451 ANESTHESIOLOGIST'S ASSISTANT Rep. Hayes

The bill states that an anesthesiologist may not supervise more than four rather than two anesthesiologist's assistants at any one time.

H.3464 LICENSING REQUIREMENTS FOR BARBER SCHOOLS AND BARBER SCHOOL INSTRUCTORS Rep. L. R. Brown

The legislation revises that a license is required to operate a barber school. A barber school may be operated in and as part of an accredited high school, career center, or technical school or college. Barber school that is not part of a secondary school is considered a post-secondary school. In addition, the legislation requires barber school instructors to be licensed by the board.

WAYS AND MEANS

H.3429 LOCAL GOVERNMENT FUND RESTORATION Rep. Southard

This bill establishes a funding schedule for incrementally increasing appropriations to the Local Government Fund so that the fund is restored to the level provided by the statutory formula by Fiscal Year 2017-2018. The legislation dedicates funds from state individual and corporate income tax revenues in amounts necessary for funding this restoration schedule for the Local Government Fund. The legislation revises provisions relating to

amending or repealing provisions of the State Aid to Subdivisions Act, so as to provide that such provisions may not be suspended except in separate legislation solely for that purpose.

**H.3437 REVISING STATE EMPLOYEE BENEFITS TO REFLECT CHANGES
IN**

MARITAL STATUS Rep. Toole

This bill revises State Health Plan provisions, to provide that an active or retired employee may remove a dependent spouse at any time after the parties divorce. The legislation revises provisions relating to allowances under the South Carolina Retirement System, so as to provide a retired member may alter the form of monthly payments at any time after a change in marital status.

**H.3438 MANDATORY EMPLOYEE FURLOUGH PROGRAM AT SOUTH
CAROLINA STATE UNIVERSITY Rep. Cobb-Hunter**

This joint resolution establishes provisions for imposing a mandatory employee furlough program at South Carolina State University of up to five or fifteen days, depending on annual salary.

**H.3445 ADDITIONAL MOTOR FUELS USER FEE FOR ROAD FUNDING
Rep. Whipper**

This bill imposes an additional user fee equal to seven cents a gallon on certain motor fuels and provides for the revenue it generates to be credited to the State Highway Fund. The legislation provides for the termination of this additional user fee if wholesale prices exceed averages. The legislation imposes an additional road tax in the same manner as the additional user fee.

**H.3454 TEXTILE MILL REDEVELOPMENT INCOME TAX CREDITS MADE
TRANSFERABLE Rep. Hamilton**

This bill revises provisions for the tax credits allowable for a portion of the expenses incurred by a taxpayer in the rehabilitation, renovation, or redevelopment of a textile mill site, so as to make the income tax credits allowed transferable.

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