



South Carolina House of Representatives

# Legislative Update

ROBERT W. HARRELL, JR., Speaker of the House

---

Vol. 30

April 16, 2013

No. 12

## CONTENTS

HOUSE WEEK IN REVIEW .....	02
HOUSE COMMITTEE ACTION .....	05
BILLS INTRODUCED IN THE HOUSE THIS WEEK.....	11

***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 approved **S.239** a **PROPOSED CONSTITUTIONAL AMENDMENT AUTHORIZING CHARITABLE RAFFLES CONDUCTED BY NONPROFIT ORGANIZATIONS**, and enrolled the joint resolution for ratification. Currently, only the state is allowed to operate a lottery under the terms of South Carolina's Constitution, and raffles are considered a lottery. This joint resolution proposes to amend the State Constitution so as to provide that a raffle is not a prohibited lottery if provided for by general law and conducted by a nonprofit organization for charitable, religious, fraternal, educational, or other eleemosynary purposes. The general law must define the types of nonprofit organizations authorized to operate and conduct a raffle, establish standards for the operation and conduct of raffles, provide for the use of proceeds for religious, charitable, fraternal, educational, or other eleemosynary purposes, provide penalties for violations, and establish other provisions necessary to ensure the proper functioning, honesty and integrity of the raffles. Having been approved by the General Assembly, the proposed constitutional amendment must be submitted to the state's voters as a ballot question at the next general election.

The House approved **S.213** and enrolled the bill for ratification. Should the constitutional amendment relating to charitable raffles be approved by the voters and ratified, this bill establishes general law provisions for **CHARITABLE RAFFLES CONDUCTED BY NONPROFIT ORGANIZATIONS**. Under the legislation, a nonprofit organization, recognized by both the South Carolina Department of Revenue and the United States Internal Revenue Service, must register with the Secretary of State prior to conducting a raffle unless the raffle consists of 1) a donated non-cash prize(s) with a total value of \$500 or less, or 2) a raffle where tickets are not sold to the general public in which the proceeds collected must not exceed \$950 and are evenly split between the prize winner and the nonprofit (fifty-fifty raffles). A nonprofit operating a raffle under one of these two exemptions may not conduct a raffle more than once every seven days. Otherwise, a nonprofit is required to submit an annual registration form in order to conduct a charitable raffle, along with a \$50 fee that will be retained by the Secretary for use in enforcement of these provisions. A nonprofit may have up to four raffles per year. If a nonprofit has qualified affiliates or subsidiaries, each may also operate up to four per year. The raffles shall run for a maximum of nine months from the first ticket sale. A nonprofit may not contract with a person to operate raffles on its behalf nor allow its name to be used in conjunction with other raffles. A nonprofit may advertise a raffle, but it must meet certain requirements. Restrictions on compensation and allowable expenses are established for the operation of raffles. A raffle award may not exceed a fair market value of \$40,000 for an individual, and the total value of all prizes offered may not exceed \$250,000. Real property may not be offered as a raffle prize. The maximum price for a raffle ticket is \$100. Nonprofits are required to submit annual financial reports on the conduct of their lotteries to the Secretary of State. Penalties are established for violations. These provisions that authorize and govern the conduct of charitable raffles are repealed July 1, 2020, and every ten years thereafter, unless the General Assembly reauthorizes them by joint resolution. A reauthorization vote may occur within two years of an upcoming repeal date.

The House amended, approved, and sent the Senate **H.3444**, a bill revising permitting requirements for pharmacies including new **PERMITTING, INSPECTION, AND**

**REPORTING REQUIREMENTS FOR OUT-OF-STATE PHARMACEUTICAL FACILITIES** that do business in South Carolina. These pharmaceutical facilities located outside the state are subject to new permitting and inspection requirements with the South Carolina Board of Pharmacy with all fees that are collected to be used exclusively to offset costs incurred by the board for nonresident permit holder facility permitting and inspection activities. The SC Pharmacy Board is afforded the options of contracting with an approved third party for out-of-state facility inspections, or entering into a memorandum of understanding with another state to rely upon its inspection process. Under the legislation, all facilities permitted by this state are required to notify the board within ten days of receipt of any order or decision by a regulatory agency imposing disciplinary action on the facility. If the permit or registration in the state where the facility is located is suspended or revoked, then the facility's registration in South Carolina must be immediately suspended or revoked for the same period of time. Failure to provide the required notification will result in suspension pending board action. The legislation also revises wholesale distributor permit provisions by establishing new requirements for providing proof of financial responsibility and designating a qualified representative who must submit an application with detailed identifying information for criminal and financial background checks as well as information relating to employment and legal history.

The House amended, approved, and sent the Senate on **H.3437**, a bill creating a **JOINT LEGISLATIVE COMMITTEE ON ECONOMIC DEVELOPMENT**. The legislation establishes a permanent joint legislative committee to conduct a continuing study of the laws, policies, and procedures of this state affecting economic development, including the imposition of any unreasonable penalties and interest charges as well as any legal requirements that make it difficult to do business in this State, so as to recommend appropriate modifications. The seven-member committee is composed of: (1) the Chairman of the Senate Labor, Commerce and Industry Committee, or his designee; (2) the Chairman of the House Labor, Commerce and Industry Committee, or his designee; (3) two members from the Senate appointed by the President Pro Tempore, at least one of whom is a member of the minority party; (4) two members from the House of Representatives appointed by the Speaker, at least one of whom is a member of the minority party; and (5) one member from the Department of Commerce appointed by the Governor. The committee is afforded authority to hold hearings and require the appearance of witnesses and the production of documents.

The House amended, approved, and sent the Senate **H.3518**, a joint resolution relating to **PERFORMANCE-BASED FUNDING RECOMMENDATIONS FOR PUBLIC COLLEGES AND UNIVERSITIES**. In order to support the General Assembly's evaluation of its method of annual appropriations to senior public colleges and universities, this legislation directs the Commission on Higher Education, in collaboration with the presidents of these institutions, to make recommendations on a funding method featuring specified evaluation criteria emphasizing accountability, performance, and outcomes to ensure that public institutions of higher learning receive financial support from the state based upon the quality and effectiveness of the services they provide to South Carolina's students.

The House amended, approved, and sent the Senate **H.3568**, a bill establishing **ENHANCED PENALTIES FOR BYPASSING UTILITY METERS AND TAMPERING WITH UTILITIES** in order to target practices that are used to provide power, water, or heat for illegal drug manufacturing and growing operations. This legislation increases

the penalties for repeat offenders who alter, tamper with, or bypass electric, gas or water meters. The legislation creates an offense of tampering with these meters for profit, and it provides a graduated penalty scheme when the tampering results in injury. The legislation also creates an offense of tampering with meters in conjunction with growing or manufacturing illegal drugs. The legislation increases penalties for repeat offenders who unlawfully appropriate gas from another for use and provides a graduated penalty scheme when violations result in injury. The legislation increases penalties for repeat offenders who wrongfully use gas and interfere with gas meters and provides a graduated penalty scheme when violations result in injury.

The House amended, approved, and sent the Senate **H.3580**, a bill relating to **CERTIFICATION FOR THE USE OF CANINES IN LAW ENFORCEMENT AND CORRECTIONAL DUTIES**. The legislation authorizes the South Carolina Criminal Justice Academy to establish or endorse training, certification, and written policy standards for law enforcement agencies in the use and deployment of canines in corrections or police work, and designate appropriate organizations to grant certification on an annual basis. The South Carolina Criminal Justice Academy shall verify that a patrol canine team has been certified by a nationally recognized police dog association or similar organization that has obtained its approval. No law enforcement or corrections agency may utilize a canine patrol team after July 1, 2014, unless the team has met all certification requirements. Patrol canine teams do not include canines used exclusively for tracking or specific detection.

The House approved and sent the Senate **H.3099**. This legislation provides for **CHILD SUPPORT ENFORCEMENT ASSISTANCE TO BE PROVIDED BY CLERKS OF COURT** in cases not being administered pursuant to federal law by the Department of Social Services. The legislation allows clerks of court to attempt to locate individuals for the purpose of establishing, modifying, and enforcing child support obligations, and it allows clerks of court access to certain enforcement information.

The House approved and sent the Senate **H.3538**, a bill that includes **ALTERNATIVE NICOTINE PRODUCTS**, such as electronic cigarettes, within the scope of the statute that prohibits the sale or purchase of tobacco products for minors. The legislation addresses products that offer alternative means of introducing nicotine into the body, including electronic cigarettes which are devices for producing a vapor that delivers nicotine or other substances when inhaled. The legislation requires any person engaged in the sale of alternative nicotine products over the internet or other remote sales method to perform an age verification through an independent service to ensure that the individual placing the order is eighteen years of age or older. The legislation amends statutes relating to the distribution of tobacco product samples, enforcement and reporting, and implementation to include alternative nicotine products.

The House amended, approved, and sent the Senate **H.3372**, a bill revising provisions for **HANDICAPPED PARKING PLACARDS** issued by the Department of Motor Vehicles. Currently an applicant for a handicapped parking placard must submit official certification of a handicap from a licensed physician. The legislation also allows this certificate to be obtained from a licensed nurse practitioner or a licensed physician assistant. While only one placard may be issued per vehicle, no more than two placards may be issued to an applicant.

The House amended, approved, and sent the Senate **H.3623**, a bill that provides **AUTHORIZATION FOR AUTOMOBILE INSURERS TO ISSUE COVERAGE VERIFICATION IN AN ELECTRONIC FORMAT** that may be displayed on an insured's mobile electronic device. If an automobile insurer chooses to provide verification in an electronic format, the insured may display this electronic proof of automobile insurance coverage on a smartphone or other mobile electronic device in order to provide a law enforcement officer with evidence that he satisfies the financial responsibility requirements established for drivers under state law. Information contained or stored in a mobile electronic device that is presented for proof of insurance purposes is not subject to a search by a law enforcement officer without a search warrant or the express written consent of the lawful owner of the device.

The House amended, approved, and sent the Senate **H.3504**, a bill relating to **GOLD AND SILVER COINS AS LEGAL TENDER**. This legislation provides that to the full extent allowed by the Constitution of the United States, gold and silver coins minted foreign or domestic shall be legal tender in South Carolina. The legislation further provides that no person or other entity may compel another person or other entity to tender or accept gold or silver coin unless agreed upon by the parties.

## HOUSE COMMITTEE ACTION

### JUDICIARY

The full Judiciary Committee met on Tuesday, April 9, and reported out several bills.

The full Judiciary Committee gave a favorable with amendment report to **H.3101**, which provides for **PROHIBITED ENFORCEMENT OF THE FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT (PPACA)**. The legislation includes declaration of authority under the United States Constitution as well as a stated policy of the South Carolina General Assembly that provisions of the PPACA grossly exceed the powers delegated to the federal government in the Constitution. The legislation provides that no state agency, officer or employee of the state, acting on behalf of the state may engage in any activity that aids any agency in the enforcement of those provisions of PPACA, and any subsequent federal act that amends the PPACA, that exceed the authority of the United States Constitution. The South Carolina General Assembly is empowered to take action to ensure that these provisions are adhered to by all agencies, departments, and political subdivisions of the state. The legislation authorizes the State Attorney General to bring an action when a person or business is being harmed by implementation of the PPACA, and the proceeding would be in the public interest. This legislation gives a South Carolina resident taxpayer a tax deduction if taxed under 26 U.S.C. Section 5000A of the PPACA, relating to the requirement to maintain minimum essential coverage, in the exact amount of the taxes or penalty paid to the federal government; the tax deduction allowed must be used in the year the federal tax or penalty is paid. A health insurer operating in this state must not accept any remuneration, credit or subsidy that may result in the imposition of penalties against an employer or individual in this state. If a health insurer violates this provision, the issuer's license to issue new business in the state must be suspended immediately and until such time as the issuer represents it has returned that remuneration, credit or

subsidy to its source and will decline any such future remuneration, credit or subsidy. This suspension must not be construed to impair the right of contract or the right to continue or renew existing business in the state. The State Attorney General shall take such action as necessary in the defense or prosecution of these rights protected. This legislation prohibits the state and political subdivisions of the state from establishing, operating, or purchasing insurance from a health benefit exchange and makes such health insurance contracts void. Additionally, the legislation prohibits an agency, department or state entity from authorizing employees, contractors, and vendors and any other persons to conduct or participate in involuntary maternal, infant, and early childhood in-home visitation pursuant to Section 2951 of the PPACA.

[H.3563](#), which makes **REVISIONS TO THE "SOUTH CAROLINA SELF-SERVICE STORAGE FACILITY ACT,"** received a favorable report from the full committee. Highlights of the legislation include the following. This legislation defines 'electronic mail' and allows certain notices relating to self-service storage facilities to be provided by electronic mail. The legislation deletes the current requirement that an occupant must make a deposit equal to one month's rent. The legislation provides when rent or other charges are five or more days past due the owner may deny the occupant access to the personal property located in the self-storage facility, and the occupant is considered in default. The legislation provides that when rent or other charges are fourteen or more days past due the occupant must be notified. The legislation provides the process by which a defaulting occupant's personal property may be destroyed or sold. The legislation amends the advertisement requirements before making a public sale by allowing advertising in any commercially reasonable manner, which is defined as commercially reasonable if at least three independent bidders attend the sale at the time and place advertised. Additionally, the legislation clarifies that partial payment of rent or other charges does not satisfy the lien, stop or delay the owner's right to foreclose on the occupant's property unless the owner agrees to such an action in writing.

The Judiciary Committee gave a favorable recommendation to [H.3560](#), pertaining to the **NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM (NICS) AND MENTAL HEALTH ADJUDICATION AND COMMITMENT REPORTING.** NICS is used by federal firearms licensees to instantly determine whether a prospective buyer is eligible to buy firearms. The legislation provides that under state law persons adjudicated as mental defective or who have been committed to a mental institution are prohibited from shipping, transporting, possessing or receiving firearms or ammunition; note such a prohibition already exists under federal law. This legislation requires the Judicial Department and the State Law Enforcement Division (SLED) to work in conjunction with the appropriate court of each county in developing procedures for the collection and submission of information of persons who have been adjudicated as a mental defective or who have been committed to a mental institution. Information relating to a person's diagnosis or treatment may not be submitted. Courts submit this information to SLED on an ongoing basis, and SLED transmits the information to the NICS. Information submitted by courts to SLED is confidential, and it may only be disclosed to NICS. Additionally, SLED must review the state's concealed weapons permit holder list to see if a person adjudicated as a mental defective or who has been committed to a mental institution possess a current concealed weapons permit. If the review reveals a person adjudicated as a mental defective or who has been committed to a mental institution possesses a current concealed weapons permit, the permit is revoked and must be surrendered to law enforcement. Procedures are included for law enforcement to retrieve the permit should the permit holder fail to return the permit within

ten days of being notified of its revocation. The legislation includes an appeals process by which a person adjudicated as a mental defective or committed to a mental institution may petition the court that issued the original order to remove the firearms and ammunition prohibition from SLED's records and as a result the NICS.

**H.3014**, which enacts the "**VETERANS TREATMENT COURT PROGRAM ACT**," received a favorable with amendment recommendation from the Judiciary Committee. This legislation authorizes each circuit solicitor to establish a veterans treatment court program subject to the available of funds. The legislation provides for the appointment, powers, and duties of a veterans treatment court judge, and it provides requirements for an offender to qualify for admission to a veterans treatment court program. The stated purpose is to divert qualifying nonviolent military veteran offenders away from the criminal justice system and into appropriate treatment programs, thereby reserving prison space for violent criminals and others for whom incarceration is the only reasonable alternative.

**H.3024**, pertaining to **REPORTING CHILD ABUSE AND NEGLECT**, received a favorable with amendment report from the full committee. This legislation adds the following to the list of mandatory reporters: school or college administrators; coaches; firefighters; camp counselors, scout leaders; animal control officers; and any other persons whose duties require direct contact or supervision of children. Additionally, the legislation requires reporting when information is received as a volunteer. The legislation specifically provides that a duty to report is not relieved by reporting suspected abuse or neglect to a supervisor or person in charge of an institution, school facility or agency; there remains a duty to report the abuse or neglect to the county department of social services or to a law enforcement agency in the county where the child resides or is found.

The Judiciary Committee gave a favorable with amendment recommendation to **H.3602**, legislation which pertains to **OFFENSES RELATING TO RETAIL THEFT**. Highlights of this legislation include the following. This legislation creates a felony offense relating to stealing goods or merchandise from a merchant by affixing a product code created for the purpose of fraudulently obtaining goods or merchandise at less than actual sale price. The legislation creates the felony offenses of committing or conspiring with another person to commit retail theft, amounting to more than \$2,000 over a 90-day period, with the intent to sell the stolen property or to place the stolen property in the control of a retail property fence, which is a person or business that that buys retail property knowing or believing that the retail property is stolen. The legislation provides that it is unlawful for a person to possess stolen retail property while knowing or having reasonable grounds to believe the property is stolen. The legislation creates an offense for the use of a false or altered identification to commit retail theft by way of a refund. Violations are a misdemeanor if the value is less \$2,000, and violations are a felony if the value is \$2,000 or more. Regardless of the value involved, if an offender has two or more prior convictions, the third violation is a felony. The legislation allows multiple offenses occurring within a 90-day period to be aggregated into a single count with the aggregated value used to determine whether the value is a misdemeanor or felony. When a defendant is ordered to make restitution by a magistrate or municipal court, this legislation requires the court, upon a motion, to hold a hearing to require a defendant who is in default to show cause why his default should not be treated as a civil judgment and judgment lien attached. A magistrate may convert unpaid court ordered payments into a civil judgment.

## LABOR, COMMERCE AND INDUSTRY

The Labor, Commerce and Industry Committee met on Thursday, April 11, and reported out several bills.

The committee gave a report of favorable with amendments on **H.3592**, a bill revising **ENERGY EFFICIENT BUILDING STANDARDS FOR STATE CONSTRUCTION**. The legislation revises the “Energy Independence and Sustainable Construction Act of 2007”, to provide that the Budget and Control Board may utilize the Green Globes Rating System in place as of January 1, 2013, or the LEED Silver standard in place as of January 1, 2013, as a building rating system standard.

The committee gave a report of favorable with amendments on **H.3609**, a bill establishing **RESTRICTIONS ON MINORS PURCHASING AND POSSESSING LASER DEVICES**, which have been misused to cause eye injuries and to create dangerous distractions from remote locations, involving, most notably, the temporary blinding and debilitating of those piloting aircraft. The legislation prohibits the sale laser pointers and other laser devices to someone under the age of eighteen years or to someone who does not present, upon demand, proper proof of age. Criminal penalties are established for violations. The legislation prohibits a minor under the age of eighteen years from possessing or purchasing a laser device or offering fraudulent proof of age in an attempted purchase. The legislation establishes exceptions allowing a minors to possess and use laser devices in the course of business or education, for emergency signaling purposes, or with lawfully used gun sights. A violation of these prohibitions on the possession and use of laser devices by minors is not a criminal or delinquent offense and no criminal or delinquent record may be maintained. A minor may not be detained, taken into custody, arrested, placed in jail or in any other secure facility, committed to the custody of the Department of Juvenile Justice, or found to be in contempt of court for a violation of these provisions, nor may a violation be used a disqualification for state scholarships or other university financial assistance programs.

The committee gave a report of favorable with amendments on **H.3869**, a bill **REVISING THE RENEWAL OF LICENSES ISSUED BY THE SOUTH CAROLINA RESIDENTIAL BUILDERS COMMISSION**. The legislation makes the renewal period biennial, rather than annual, and requires a licensee seeking renewal to submit a certificate of compliance with continuing educational requirements. The legislation establishes specific requirements for mandatory continuing education required of a licensee, and provides that no additional continuing education or examination may be required by a county or municipality. The legislation authorizes the commission to establish additional professional designations for licenses to recognize enhanced professional qualifications and experience. The legislation requires residential specialty contractor licensees to complete certain continuing education approved by the commission, and provides that a residential specialty contractor who has completed continuing educational requirements in addition to other existing requirements is exempt from related additional examinations required by a county or municipality.

The committee gave a report of favorable with amendments on **H.3818**, a bill relating to **CLOSED PANEL HEALTH INSURANCE PLANS** offered by employers. This legislation

eliminates the requirement that an employer who employs more than fifty eligible employees and who offers to employees major medical, hospitalization, and surgical health insurance coverage only under a closed panel health plan must also offer its employees a point-of-service option for this health insurance coverage. The legislation provides that differences between coinsurance percentages for in-network and out-of-network covered health care services or supplies in a point-of-service option may not exceed a maximum differential of thirty percent, rather than the current twenty percent. The legislation adds physical therapists and occupational therapists to the list of providers who cannot be discriminated against by being excluded from participation in a point-of-service option or closed panel health plan,

The committee gave a report of favorable with amendments to **H.3224**, the “**MILITARY SERVICE OCCUPATION, EDUCATION, AND CREDENTIALING ACT**”. The legislation authorizes a state-supported-post-secondary educational institution, including a technical and comprehensive educational institution, to award educational credit to a student honorably discharged from the Armed Forces of the United States for a course that is part of the military training or service of the student, provided: (1) the award must be made within three years after the enrollment of the student at the institution; (2) the course meets the standards of the American Council of Education or equivalent standards for awarding academic credit; and (3) the award is based upon the admissions standards, role, scope, and mission of the institution. The legislation provides an individual is exempt from completing continuing education requirements for his professional or occupational licensing while serving on active military duty. The legislation also allows military personnel who come to the state through duty assignment to avail themselves of the provisions for obtaining temporary professional and occupational licenses that were established to assist military spouses to continue their careers following relocation.

The committee gave report of favorable with amendments on **H.3782**, the “**PUBLIC EMPLOYER PAYROLL DEDUCTION POLICY ACT**” which prohibits unauthorized payroll deductions in the compensation of employees of the state or any of its political subdivisions, including school districts. The legislation provides that, except where otherwise specifically authorized by law and by a signed writing of the public employee, deductions from the compensation of a public employee must not be made for dues, fees, and assessments for transmission to any public employee organization, any intermediary, or private individual.

The committee gave a favorable report on **H.3870**, a bill revising **FIREFIGHTER MOBILIZATION AND EMERGENCY RESPONSE** provisions. The legislation provides in the “Firefighter Mobilization Act of 2000” that the South Carolina Law Enforcement Division (SLED) has specific and exclusive jurisdiction on behalf of the state in matters pertaining to the response to, and crisis management of, acts of terrorism and emergency event management of explosive devices. The legislation adds the Chief of SLED to the South Carolina Firefighter Mobilization Oversight Committee. The legislation revises the South Carolina Firefighter Mobilization Plan provisions, so as to rename the committee as the South Carolina Firefighter Mobilization And Emergency Response Task Force Plan, to add the task force to those resources that the plan is intended to offer, and to provide the plan is operational when the Chief of SLED directs a response to a terrorist or explosive device event. The legislation revises the duties of the committee, so as to provide the committee shall develop guidelines for using resources allocated to the task force at the state and regional level. The legislation

requires the Office of State Fire Marshal to provide administrative support as required by the committee to perform its prescribed functions. The legislation requires the state coordinator appointed by the committee to report to the State Fire Marshal and provide administrative support to the committee.

The committee submitted a favorable report on **H.3771**, a bill that revises provisions governing the membership of the **SOUTH CAROLINA REAL ESTATE COMMISSION**, so as to detail procedures for appointing the seven commissioners who represent the seven congressional districts. The legislation requires the Department of Labor, Licensing and Regulation to designate certain personnel, including full-time inspector-investigators, for the exclusive use of the commission and prohibits the department from assigning other work to these personnel without approval of the commission. The legislation provides that these personnel only may be terminated by the director.

The committee submitted a favorable report on **H.3815**. This bill provides for the **LICENSURE OF AUCTIONEERS** to be biennial, rather than annual. The legislation conforms continuing education requirements for auctioneers to the new schedule by doubling the requirements for a licensing period to make it eight hours rather than four hours.

The committee gave a report of favorable with amendments on **H.3797**, a bill that revises provisions governing the operation of **CAPTIVE INSURANCE COMPANIES**. The legislation establishes a protocol under which the Director of the Department of Insurance has authority to declare inactive by order a captive insurance company other than a risk retention group or association captive if such captive insurance company has no outstanding liabilities and agrees to cease providing insurance coverage. The legislation establishes provisions under which a protected cell may be either unincorporated or incorporated. The legislation provides that a licensed captive insurance company that meets the necessary requirements imposed upon an insurer must be considered for issuance of a certificate of authority to act as an insurer in this state. The legislation revises financial responsibility requirements for captive insurance companies, particularly as they relate to the assets and liabilities of protected cells.

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

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

#### **H.3925 *PROHIBITING THE DISCHARGE OF POLLUTANTS INTO THE ENVIRONMENT AND REMEDIES FOR VIOLATIONS* Rep. Hardwick**

This bill clarifies persons who may file a petition with DHEC; do not include certain agencies and departments of the state and to provide that any decision of the department is not subject to judicial review.

## **EDUCATION AND PUBLIC WORKS**

### **H.3893 STATEWIDE EDUCATION STANDARDS AND ASSESSMENTS**

**Rep. Bedingfield**

This legislation prohibits the implementation of any new statewide education standards and assessments adopted by the State Board of Education through the Department of Education for use as an accountability measure until approved by the General Assembly by joint resolution.

### **H.3897 PARKING VIOLATIONS Rep. D. C. Moss**

This legislation prohibits a local governing body from increasing the amount of a parking violation fine without mailing written notice of the increase to the address of record of the person cited within forty-eight hours of the increase or the increase is void.

### **H.3904 ELECTRONIC VEHICLE REGISTRATION, LIENS AND TITLING**

**Rep. Daning**

Relating to the Department of Motor Vehicles (DMV) allowing licensed motor vehicle dealers to issue first time motor vehicle registration and license plates directly from their dealerships, this legislation makes a technical change. The legislation further provides that the DMV may certify third-party providers to process title, license plates, temporary license plates, and vehicle registration transactions on behalf of the department. The legislation allows the DMV and third-party providers to collect transaction fees from entities who transmit or retrieve certain data from the department. Relating to liens recorded against motor vehicles and mobile homes by the DMV, the legislation makes technical changes. The legislation further provides that lien recordings may be electronically transmitted to the DMV; the legislation provides that the owners of motor vehicles or mobile homes may retain the electronic copy of the vehicle's title with the department once all liens are satisfied. Also, the legislation authorizes the DMV to convene a working group to develop program specifications relating to governing the transmission of electronic lien information.

### **H.3905 "BACK TO BASICS IN EDUCATION ACT OF 2013" Rep. Loftis**

This legislation adds cursive writing and memorization of multiplication tables to the required subjects of instruction in public schools, and it requires students to demonstrate competence in each subject before completion of the fifth grade. The legislation requires the State Department of Education to assist the school districts in identifying the most appropriate means for integrating this requirement into their existing curriculums, and it makes these provisions applicable beginning with the 2013-2014 school year.

### **H.3907 METHODS OF PAYMENT FOR DEPARTMENT OF MOTOR VEHICLE SERVICES Rep. Willis**

This legislation authorizes the Department of Motor Vehicles (DMV) to accept uncertified checks for payment for products or services issued by the DMV; in its discretion the DMV may contract with banks or vendors to guarantee collection of funds by uncertified checks. The legislation authorizes the DMV to refuse to provide a person any product or service, except an identification card, until the person has paid all fees owed the DMV as a result of a returned check. The legislation allows the DMV to charge a fee to cover the costs associated with the collection of fees, and the legislation provides that the DMV may charge a processing fee for the use of credit cards. The legislation provides that all

processing fees collected must be placed in a special restricted account to be used by the DMV to defray its costs.

**H.3908 SOUVENIR LICENSE PLATES AND TEMPLATES FOR FUTURE SPECIALIZED LICENSE PLATES Rep. Willis**

Currently, the Department of Motor Vehicles (DMV) is authorized to issue a sample license plate of the same size and general design of regular motor vehicle plates; the fee for the issuance of such sample license plates is set at \$10 and currently goes to the State General Fund. This legislation makes technical changes and authorizes the DMV to retain the fee charged for the issuance of sample license plates. The legislation expands the issuance of sample "souvenir" plates to specialty plate classes already in production and any new plates, for an additional fee to be distributed to the organization sponsoring the specialty plate. The sponsoring organization must agree to make the license plate available as a souvenir license plate. Sample or souvenir plates may only be displayed on the front of the vehicle or as otherwise allowed by law in the owner's home state. The legislation further provides that the DMV must develop a standard license plate design for all special organizational license plates which must be issued for all organizational license plates requested after July 1, 2013.

**H.3919 MODIFICATION OF HIGH SCHOOL EXIT EXAM REQUIREMENTS AND CREATION OF THE HIGH SCHOOL ASSESSMENT STUDY COMMITTEE Rep. Owens**

Currently, passage of the high school exit exam is required for graduation. This legislation provides that all students must take the exit exam but need not attain any minimum score on the exit exam to graduate. The legislation further provides that an eligible student who previously failed to receive a high school diploma or was denied graduation solely for failing the exit exam may reenroll in high school and will not have to pass the exit exam to receive a high school diploma, and the legislation requires the Department of Education to remove any conflicting requirements and promulgate conforming changes in its applicable regulations. The legislation makes certain conforming changes. Additionally, the legislation creates the High School Assessment Study Committee to consider whether the high school assessment program should remain the accountability assessment used by the state and to recommend an alternative, if necessary. The legislation provides for the composition and staffing of the study committee, and it requires the committee to make a report to the General Assembly no later than January 31, 2014.

**H.3926 "SOUTH CAROLINA READ TO SUCCEED ACT" Rep. Sellers**

This legislation enacts the "South Carolina Read to Succeed Act" so as to create the South Carolina Read to Succeed Office to offer a comprehensive, systemic approach to reading. The legislation creates a Reading Proficiency Panel within the office and provides for the composition of this panel. The legislation requires the State Department of Education, in consultation with the Reading Proficiency Expert Panel and with approval by the State Board of Education, to develop, implement, evaluate, and continuously refine a comprehensive state plan to improve reading achievement in public schools. This legislation provides related requirements of the Department of Education, State Superintendent of Education, school districts, colleges, and universities that offer certain related graduate education, and educators and administrators. Among other things, the legislation provides that beginning with the 2015-2016 school year, a student must be retained in the third grade if the student fails substantially to demonstrate third-grade reading proficiency at the end of the third grade.

**H.3943 COMMON CORE STANDARDS Rep. Rivers**

This legislation prohibits the State Board of Education from adopting and the State Department of Education from implementing the common core standards, and it provides any action taken to adopt or implement these standards is void.

## JUDICIARY

**S.176 MAGISTRATES COURT Sen. Young**

This legislation increases the time period in which a motion for a new trial may be made in magistrates court from five to ten days.

**S.284 HUMAN TRAFFICKING Sen. Hutto**

This legislation provides that the subject matter jurisdiction of the state grand jury includes a crime involving or relating to the offense of trafficking in persons when a victim is trafficked in more than one county or a trafficker commits the offense of trafficking in persons in more than one county. This legislation requires the following to post information regarding the National Human Trafficking Resource Center Hotline: (1) establishments which has been declared a nuisance for prostitution; (2) adult businesses including a nightclub, bar, restaurant, or another similar establishment in which a person appears in a state of sexually explicit nudity or semi-nudity; and (3) airports, train stations, and bus stations. The posting must be in a prominent location conspicuous to the public at the entrance of the establishment where posters and notices are customarily posted; the legislation includes the required text of the posting. The Department of Revenue and the Department of Transportation have regulatory control and enforcement authority over these provisions. The legislation authorizes fines for violations.

**S.295 DISSOLUTION OF CERTAIN SPECIAL PURPOSE DISTRICTS Sen. Fair**

This legislation allows the governing body of a special purpose district created by act of the General Assembly that provides recreational services and has as its boundary the same as the county in which it is located to voluntarily dissolve itself and transfer its assets and liabilities to a county under certain circumstances. For purposes of calculating the millage limitation imposed pursuant to Section 6-1-320 for a county, any millage for operating purposes imposed by the dissolved special purpose district is considered to have been imposed by the county. These provisions do not apply to a special purpose district that provides both recreational and aging services. Further, these provisions expire two years after the effective date of the legislation.

**S.296 MALICIOUS INJURY TO A PLACE OF WORSHIP Sen. Jackson**

This legislation provides that whoever wilfully, unlawfully, and maliciously vandalizes, defaces, damages, or destroys or attempts to vandalize, deface, damage, or destroy any fixtures or improvements of a place of worship, or aids, agrees with, employs, or conspires with any person to do or cause to be done any of these acts is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than \$10,000, or both. Current law provides for malicious injury to the structure or building of worship; also, current law provides for a minimum term of imprisonment of not less than six months.

**S.405 ADMINISTRATIVE LAW JUDGES Sen. L. Martin**

This legislation provides that the Commission on Judicial Conduct, under the authority of the Supreme Court, shall handle complaints against administrative law judges for possible violations of the Code of Judicial Conduct in the same manner as complaints against other judges.

**S.406 CONTROLLED SUBSTANCES Sen. Peeler**

This legislation alphabetizes certain listings to drugs designated as controlled substances and adds drugs to these designations to conform to federal drug designations and designations of adjacent states in order to enhance and improve illicit drug enforcement.

**H.3894 FACTORS THAT MAY BE CONSIDERED WHEN DETERMINING JUST COMPENSATION IN CONDEMNATION ACTIONS REGARDING EMINENT DOMAIN Rep. Clemmons**

Relating to factors that may be considered when determining just compensation in condemnation actions regarding eminent domain, this legislation includes diminution in value of the landowner's remaining property caused by reconfiguration of roadways and circuitous access as one of the factors that may be considered.

**H.3895 ADMINISTRATIVE LAW COURT Rep. Herbkersman**

Relating to hearings and proceedings before the Administrative Law Court, this legislation provides that a party may move for the court to lift or modify a stay imposed by the court. The legislation requires the court to balance the needs and interests of all parties, as well as public policy, when seeking to determine whether good cause has been shown. In deciding whether to lift the stay, the court must be guided by the impact of lifting the stay on public health, safety, and welfare; environmental and cultural resources; and job creation and retention. The legislation provides that nothing may be construed, as matter of state law, as a preference toward preserving, modifying, or lifting a stay.

**H.3898 REVISIONS TO SOUTH CAROLINA ADOPTION ACT Rep. D. C. Moss**

This legislation makes revisions relating to people who may adopt a child. The legislation provides that any resident of the state may adopt a child, except as prohibited by Section 63-9-65. This legislation adds section 63-9-65 to prohibit residents and nonresidents from petitioning to adopt a child in the custody of the Department of Social Services (DSS) after the child has been placed in a home for the purpose of adoption. The legislation consolidates existing provisions that address circumstances in which a nonresident may adopt a child, the requirement that family courts include findings in orders as to the basis for the exemption allowing adoption by a nonresident, the applicability of the Interstate Compact on the Placement of Children to all adoptions by nonresidents, and the prohibition of DSS delaying or denying placements with nonresidents for children in its custody.

**H.3899 SEX OFFENDER REGISTRATION Rep. D. C. Moss**

This legislation provides that a sex offender is not considered to have registered with a sheriff until the offender has paid the statutorily authorized registration fee.

**H.3901 RECYCLING PLAN REQUIRED FOR PERMIT HOLDERS FOR ALCOHOL CONSUMPTION ON PREMISES Rep. J. E. Smith**

This legislation requires a holder of a permit that allows on-premises consumption of beer, wine, or alcoholic liquors to recycle each recyclable beverage container sold on the premises in accordance with a model recycling program developed by the Department of Health and Environmental Control. Relating to applications for licenses and permits from the Department of Revenue, this legislation requires an applicant for a permit for on-site consumption of alcohol to provide certification of the existence of a recycling plan or a basis for exemption from the requirement.

**H.3921 RECKLESS DRIVING INCLUDES CERTAIN PERSONS WHO DRIVE A VEHICLE WHILE USING A WIRELESS COMMUNICATION**

**DEVICE** Rep. Rivers

This legislation provides that persons who drive a vehicle while using a wireless communication device to manually type, send or read a written communication which includes, but is not limited to, a text message, instant message or electronic mail, text-messaging device, a personal digital assistant, a laptop computer or any other substantially similar communication device that is readily removable from a vehicle to write, send, or read a text message or data through manually inputting data into the device are guilty of reckless driving. The legislation authorizes a law enforcement agency to subpoena the data usage record of a person charged with violating this provision and to use it as evidence in a judicial proceeding. If the device's data usage record is presented as evidence in a judicial proceeding that results in the conviction of the person, then the court must impose an additional fine of \$500 upon the person. One half of the additional fine must be placed in the State's General Fund and used to maintain and repair highways, roads and bridges; the remainder of the fine must be placed in the general fund of the jurisdiction in which the law enforcement agency that brought the charge is located. These provisions do not apply to a person who is using a wireless communication device while operating: (1) a motor vehicle off the travel portion of a roadway; (2) a motor vehicle that is stopped at a red traffic signal light; (3) a motor vehicle while using an electronic communication device in hands-free, voice-activated, or voice-operated mode that allows the user to review, prepare and transmit an electronic message without the use of either hand except to activate, deactivate, or initiate a feature or function; (4) an authorized emergency or law enforcement vehicle within the scope of his emergency or law enforcement duties; or (5) a moving motor vehicle while using a wireless communication device to report illegal activity or summons medical or emergency help. A wireless communication device does not include: (1) a device being used for global positioning or navigation service; (2) a system or device that is physically or electronically integrated into a vehicle; or (3) citizens band radios, citizens band radio hybrids, commercial two-way radio communication devices, and electronic communication devices with a push-to-talk function.

**H.3924 "SOUTH CAROLINA FAMILY LAW ARBITRATION ACT" Rep. Pitts**

This legislation enacts the "South Carolina Family Law Arbitration Act" so as to provide for arbitration as a means of resolving certain matters related to marital separation and divorce. The legislation provides default rules for conducting arbitration proceedings; assures access to the family courts for proceedings ancillary to arbitration; and provides for the award of certain costs and interest.

**H.3940 STATUTE OF LIMITATIONS FOR AN ACTION BASED ON SEXUAL ABUSE OR INCEST Rep. King**

This legislation provides that there is no limitation on the commencement of a civil action based on sexual abuse or incest when the victim is under the age of eighteen.

**H.3945 SOUTH CAROLINA ETHICS ACT REFORM Rep. G. M. Smith**

This is a skeleton bill.

## **LABOR, COMMERCE AND INDUSTRY**

**S.438 PROHIBITION ON MAKING THE AWARD OF PUBLIC CONSTRUCTION CONTRACTS CONTINGENT UPON PROJECT LABOR AGREEMENTS Sen. L. Martin**

This bill provides that in awarding a contract for the construction, repair, remodeling, or demolition of a public building the state and its political subdivisions subdivisions a prohibited from requiring or prohibiting a bidder, offeror, contractor, or subcontractor from entering into or adhering to an agreement with one or more labor organizations in regard to the construction projects or otherwise discriminating against parties based on the presence of project labor agreements.

**S.460 DUTIES OF A SURPLUS LINES INSURANCE BROKER PLACING BUSINESS WITH NONADMITTED INSURERS Sen. Hayes**

This bill revises provisions relating to the duty of due care that a surplus lines insurance broker must exercise when placing business with nonadmitted insurers, so as to exempt those brokers from this requirement when seeking to procure or place nonadmitted insurance for an exempt commercial purchaser in certain circumstances.

**S.464 INCREASE IN AUTOMOBILE INSURANCE REQUIRED MINIMUM COVERAGE Sen. Hayes**

This bill revises the mandatory uninsured motorist provision for automobile insurance policies, so as to increase the minimum coverage to twenty-five thousand dollars because of bodily injury to or death of one person in any one accident.

**H.3880 "SIGN LANGUAGE INTERPRETERS ACT" Rep. Allison**

This bill enacts the "Sign Language Interpreters Act" to provide for those who provide sign language interpreting services in a community setting or certain educational settings for remuneration to be licensed and regulated by the newly-created Sign Language Interpreter Board within the Department of Labor, Licensing and Regulation.

**H.3903 "COMPETITIVE INSURANCE ACT" Rep. McCoy**

This bill enacts the "Competitive Insurance Act". The legislation requires the Director of the Department of Insurance to engage in efforts to provide market assistance and promote consumer education to coastal residential property insurance consumers and make annual reports to select legislative leaders regarding the status of the coastal property insurance market. The legislation establishes provisions under which insurers may be eligible to receive a premium tax credit against the premium taxes imposed on full coverage policies written outside of the coastal area to reduce the insurance premium tax levied to one percent of the total premiums written on full coverage policies outside of the coastal area. The legislation makes revisions to the South Carolina

Hurricane Damage Mitigation Program so as to provide for the program to utilize one percent of the premium taxes due to this state by brokers placing property insurance within the eligible surplus lines market and two percent of the premium taxes collected annually and remitted to the department by insurers licensed to do business in this state. The legislation requires that all insurers, at the issuance of a new policy and at each renewal notify the applicant or policyholder of a personal lines residential property insurance policy of pertinent disclosures, and the director or his designee shall prescribe the form and manner for insurer notices or disclosures for informational purposes only.

**H.3922 "SOUTH CAROLINA COMMUNITY LAND BANK ACT OF 2013"**

**Rep. Mitchell**

This bill enacts the "South Carolina Community Land Bank Act of 2013", to allow nonprofit corporations to be formed to acquire, manage, and provide a new purpose and use for vacant, foreclosed, or abandoned properties.

**H.3941 POLITICAL SUBDIVISIONS PROHIBITED FROM MANDATING AN EMPLOYEE BENEFIT** Rep. Sandifer

This bill revises provisions governing a political subdivision's authority to set a minimum wage, so as to also prohibit a political subdivision from establishing, mandating, or otherwise requiring an employee benefit such as health benefits, disability benefits, death benefits, group accidental death and dismemberment benefits, paid days off for holidays, sick leave, vacation, personal necessity, retirement benefits, and profit-sharing benefits.

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

**S.341 PULSE OXIMETRY SCREENING ON EVERY NEWBORN** Sen.

**Alexander**

Every licensed birthing facility shall perform a pulse oximetry screening on every newborn in its care, when the baby is twenty-four to forty-eight hours of age, or as late as possible if the baby is discharged from the hospital before reaching twenty-four hours of age. Pulse oximetry is a noninvasive test that estimates the percentage of hemoglobin in blood that is saturated with oxygen. This screening is often more effective at detecting critical, life-threatening congenital heart defects which otherwise go undetected by current screening methods. "Birthing facility" means an inpatient or ambulatory health care facility licensed by the Department of Health and Environmental Control that provides birthing and newborn care services.

**H.3902 "HOSPITAL SAFETY ACT"** Rep. Finlay

Under the "Hospital Safety Act", this bill adds definitions for healthcare practitioner and healthcare facility. The bill requires all health care practitioners providing health care in a health care facility to wear medical identification badges clearly stating their names, using at a minimum either first or last names with appropriate initials, their job or trainee titles, level of training, and name of state licensing board under which they are regulated. This information must be clearly visible and must be stated in terms reasonably understandable to the average person, as recognized by the Department of Health and Environmental Control.

## WAYS AND MEANS

### **H.3896 LIMITATIONS ON TUITION INCREASES UNDER THE SOUTH CAROLINA TUITION PREPAYMENT PROGRAM Rep. Merrill**

This bill revises limitations on tuition increases under the South Carolina Tuition Prepayment Program, so as to provide that, beginning with the 2013-2014 school year, a public institution of higher learning in this state shall accept as full payment of all tuition and fees due for those in-state undergraduate students whose tuition and fees are paid pursuant to a tuition prepayment contract under the Tuition Prepayment Program the amount of tuition and fees charged in-state undergraduate students for school year 2008-2009 who did not participate in the program. The legislation also provides for the manner in which the Tuition Prepayment Program, beginning with the 2013-2014 school year, shall pay tuition and fees for students participating in the program who attend in-state private institutions or out-of-state institutions, and for other matters related to the implementation of these requirements.

### **H.3900 ECONOMIC DEVELOPMENT BONDS Rep. Harrell**

This bill revises the State General Obligation Economic Development Bond Act, so as: to make additional findings regarding the enhancements to the state's business climate and benefit to citizens of the construction of infrastructure utilizing Economic Development Bonds; to revise the definition of "economic development project"; and, to add a definition for an "enhanced economic development project" that extends to a project originally qualifying as an economic development project based on at least a four hundred million dollar investment and creation of at least four hundred new jobs in this state which qualifies as an enhanced economic development project because of a total investment of 1.1 billion dollars and the creation of a total of at least two thousand jobs in this state. The legislation authorizes the issuance of one hundred twenty million dollars in State General Obligation Economic Development Bonds in connection with the development of an enhanced economic development project, to provide for the application of the constitutional limit on general obligation debt to these additional bonds and the application of notice and timely issuance requirements for these additional bonds.

### **H.3906 RURAL INFRASTRUCTURE FUND GRANTS Rep. Kennedy**

This bill revises eligibility provisions for Rural Infrastructure Fund grants, so as to provide that grants also may be awarded to counties and municipalities located within counties with a population of less than forty thousand.

### **H.3923 COMPENSATORY TIME OFF FOR STATE EMPLOYEES REQUIRED TO WORK ON LEGAL HOLIDAYS Rep. Bales**

This bill revises provisions governing compensatory time off for state employees required to work on a legal holiday, so as to provide that permanent full-time state employees whose regular work schedule consists of longer hours on fewer than five days who work those regular hours on a state holiday or a day observed as a state holiday are entitled to compensatory time equal to hours worked by the employee.

### **S.301 RETENTION OF OWNER-OCCUPIED RESIDENTIAL PROPERTY TAX ASSESSMENT BY ACTIVE DUTY MILITARY PERSONNEL Sen. Bennett**

This bill provides that an active duty member of the Armed Forces of the United States, who is a legal resident of this state receiving the special property tax assessment ratio for owner-occupied residential property retains that four percent assessment ratio for so long as the owner remains on active duty, regardless of the owner's subsequent relocation or change of duty station and regardless of any rental income attributable to the property. These retention provisions do not apply if the special four percent assessment ratio is claimed for any other residential property located in this state. The retention provisions includes the spouse of the service member who jointly owns the qualifying property.

**H.3938 "LOCAL OPTION SCHOOL OPERATING MILLAGE PROPERTY TAX CREDIT ACT" Rep. Herbkersman**

This bill enacts the "Local Option School Operating Millage Property Tax Credit Act" so as to allow a county governing body, with referendum approval, to impose a one cent sales tax the revenue of which is used to provide a credit against property tax levied in the county for school operations. The legislation establishes provisions regarding the required referendum, the distribution of the revenue, the calculation and application of the credit, and the way in which the tax may be rescinded by referendum initiated by a petition of fifteen percent of the qualified electors of the county or by ordinance if the governing body of the county determines that changes in state law providing for the financing of school operations make the original purpose of the tax impossible to accomplish under the existing law.

**H.3942 SALES TAX EXEMPTION FOR CLOTHING PURCHASED BY PRIVATE**

**CHARITIES TO DONATE TO NEEDY CHILDREN Rep. Goldfinch**

This bill provides an exemption from the state sales and use tax for the gross proceeds of sales or sales price of children's clothing sold to a private charitable organization for the sole purpose of distribution, at no cost, to needy children.

---

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 Updates*." 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 "TRACK LEGISLATION" (ON THE VERTICAL MENU BAR).**