



South Carolina House of Representatives

# Legislative Update

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

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# HOUSE WEEK IN REVIEW

The House of Representatives approved and sent the Senate **H.4576**, a joint resolution **AUTHORIZING SCHOOL DISTRICTS TO FORGIVE UP TO FIVE DAYS MISSED THIS SCHOOL YEAR DUE TO INCLEMENT WEATHER**. Under the legislation, the governing body of a school district may waive the requirement that schools make up full days missed due to inclement weather for five or fewer full school days that students who attend schools or charter schools in the district missed due to inclement weather during the 2013-2014 school year. When a district waives a make-up day under this legislation, the make-up day also is waived for any student participating in a home schooling program approved by the board of trustees of the district in which the student resides.

The House amended Senate amendments to **H.3847** and returned the bill to the Senate. The legislation makes **REVISIONS TO THE SOUTH CAROLINA MANUFACTURER RESPONSIBILITY AND CONSUMER CONVENIENCE INFORMATION TECHNOLOGY EQUIPMENT COLLECTION AND RECOVERY ACT**, that was established in order to keep certain discarded electronics out of the state's waste landfills where toxic components found in these electronic devices could make their way into the groundwater or pose other environmental harms. The legislation establishes registration fees and shortfall fees for manufacturers of computers, televisions, and other covered devices to fund required recycling of electronic waste. The legislation includes computer monitors in labeling requirements and recycling program requirements imposed on televisions. Beginning in 2015, the legislation requires a manufacturer to either fulfill its legal obligations on its own or join a representative organization created by manufacturers of covered electronic devices to develop and oversee implementation of a statewide consumer electronic device stewardship program.

The House approved **H.3644**, legislation establishing provisions for **CLEAN ENERGY INDUSTRY MARKET DEVELOPMENT**, and sent the bill to the Senate. The legislation establishes within the Division of State Development of the Department of Commerce a fourteen-member Clean Energy Industry Market Development Advisory Council to assist in the development of clean energy technology, materials, and products manufactured in this state. The legislation provides for the new advisory council's membership and responsibilities. The Renewable Energy Tax Credit Incentive Program is revised so as to: redesignate the program the South Carolina Clean Energy Tax Incentive Program; extend the income tax credit so that it is also available to companies engaged in hydrogen, energy storage, and energy efficiency operations; decrease the investment thresholds and job creation requirements that must be met in order to qualify for the credit; require written notification to the Department of Commerce of an intention to claim the credit; and, extend the availability of the credit, currently set to expire at the end of 2015, so that it is available through 2020. The legislation also revises tax incentive provisions for ethanol or biodiesel production in this state, so that the income tax credit applies to the production of any liquid fuel that will power an internal combustion engine and is derived from algae, cellulose, corn, natural gas, soy, used oil, waste oil, or yellow grease and used as a substitute for gasoline or diesel fuel. The legislation reduces the amount of liquid fuel that must be produced in order to be eligible for the credit, removes the cap placed on total claims, and extends the period during which the credit may be claimed through 2020.

The House amended, approved, and sent the Senate **H.4384**, a bill establishing new **MOPED SAFETY REQUIREMENTS**. This legislation requires moped operators and passengers to wear reflective vests. The legislation prohibits the operation of a moped on public roads that have a speed limit of greater than forty-five miles per hour. A moped is, however, allowed to cross an intersection at a public road with a speed limit in excess of forty-five miles per hour.

The House amended and gave second reading approval to **H.3833**, a bill providing **AUTHORITY FOR CONDUCTING WINE TASTINGS AND BEER TASTINGS IN LARGE RETAIL SETTINGS**. This legislation allows the holders of a retail wine permit for off-premises consumption whose retail space is at least 10,000 square feet and whose primary product is not beer, wine, or distilled spirits to obtain an annual wine tastings permit for each separate place of business in order to conduct, in accordance with Department of Revenue rulings or regulations, up to twelve wine tastings at the retail location in a calendar quarter, and it provides restrictions. The legislation also allows the holder of a retail permit authorizing the sale of beer for off-premises consumption whose retail space is at least 10,000 square feet and whose primary product is not beer, wine, or distilled spirits to obtain an annual beer tastings permit for each separate place of business in order to conduct, in accordance with Department of Revenue rulings or regulations, up to twelve beer tastings in a calendar quarter, and it provides restrictions. These tastings may not be held in conjunction with one another; also a tasting may not be held in conjunction with a tasting in a retail alcoholic liquor store that is adjacent to and licensed in the same name of the retail permit authorizing the sale of beer. A sampling must not be offered for more than four hours, and a retailer may not offer more than one sampling per day. The tasting must be held in a designated, stationary tasting area of the retail store with a distinctive barrier clearly in place, indicating the tasting area. No one under twenty-one may be allowed in the tasting area. There are restrictions on sample sizes and the number of samples, and no person may be served more than one sample of each product. In addition to other applicable fines and penalties, a retailer who violates these provisions must be assessed a fine of five hundred dollars for the first violation and five hundred dollars for the second violation in a twelve month period. Subsequent violations in a twelve month period are punishable by the loss of the retail off-premises consumption permit for thirty days. The revenue from these fines must be directed to the State Law Enforcement Division (SLED) for supplementing funds required for regulation and enforcement of the tastings.

The House approved and sent the Senate **H.4603**, a joint resolution to provide that the Department of Health and Environmental Control, by emergency order or approval of an order, may authorize **SAND SCRAPING AND SANDBAGGING AS PROTECTION FOR GOLF COURSES** through 2015.

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

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

**H.4574 ENVIRONMENTAL CERTIFICATION BOARD Rep. Hardwick**

Among many things, the bill revises and adds definitions relating to the Environmental Certification Board. The bill changes the manner in which an initial complaint for board investigations be referred to an investigator. The bill eliminates the Board's authority regarding reports of certain violations that do not allege unlicensed practice.

**H.4596 SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC REGION  
Rep. Goldfinch**

This Concurrent Resolution opposes any additional live bottom marine protected areas off the coast of South Carolina associated with the South Atlantic Fishery Management Council's proposed regulatory amendment or any future amendments to the Fishery Management Plan for the Snapper-Grouper Fishery of South Atlantic region.

**H.4599 REGULATION OF CONSTRUCTION OR IMPROVEMENT OF FARM STRUCTURES Rep. Hardee**

The bill further defines farm structures. As a result, "primitive camp" means any structure primarily used or associated with outdoor camping activities, including structures used for educational, instructional, or recreational purposes for campers and for management training. "Primitive farm building" means any structure used for activities, instruction, training, or reenactment of traditional or heritage farming practices. The term includes, but is not limited to, sheds, barns, outhouses, dog houses, or other structures that are utilized to store any equipment, tools, commodities, livestock, or other items supporting farm management.

## **EDUCATION AND PUBLIC WORKS**

**H.4608 BLUE COLORED HEAD LAMPS Rep. Williams**

This legislation provides that a motor vehicle may be equipped with factory-installed blue colored head lamps; however, it is unlawful for an owner of a motor vehicle to install blue colored head lamps on a motor vehicle.

**H.4609 PUBLIC SCHOOLS MUST BE CLOSED ON VETERANS DAY  
Rep. Williams**

This legislation requires public schools to close on the eleventh day of November in observance of Veterans Day; however, public schools will not close to observe Veterans Day in years in which the eleventh day of November falls on a Saturday or Sunday. This day must not be considered as one of the regular school days for the year for public schools. These provisions do not apply to state-supported institutions of higher education.

**H.4621 "SOUTH CAROLINA AUTONOMOUS VEHICLE ACT"  
Rep. G. R. Smith**

This legislation enacts the "South Carolina Autonomous Vehicle Act". The legislation provides for the operation of autonomous motor vehicles, which are sometimes referred to as driverless cars, along the state's highways.

**H.4631 POLICY OF THE STATE OF SOUTH CAROLINA AGAINST TEXTING WHILE DRIVING Rep. W. J. McLeod**

The stated purpose of this legislation is to set forth the policy of the State of South Carolina against texting while driving. This legislation makes it unlawful for a person to use an electronic device to communicate while driving a motor vehicle. The legislation defines the term 'communicate' to include any form of electronic or digital messaging, including texting, text messaging, email or electronic mail or instant messaging. This provision does not apply to a person operating a motor vehicle while using a hands-free device, a global positioning system, or a navigation system. A person who is adjudicated to be in violation of this provision must be fined not more than twenty-five dollars, no part of which may be suspended. No court costs, assessments, or surcharges may be assessed against a person. A person must not be fined more than fifty dollars for any one incident of one or more violations. A custodial arrest for a violation must not be made, except upon a warrant issued for failure to appear in court when summoned or for failure to pay an imposed fine. A violation of this section does not constitute a criminal offense.

## JUDICIARY

**H.4579 COUNTY BOUNDARIES Rep. Loftis**

This legislation relates to the duties of the South Carolina Geodetic Survey (SCGS) with respect to determining county boundaries. This legislation authorizes and directs the SCGS to clarify county boundaries and mediate boundary disputes between counties by providing a procedure allowing the SCGS administratively to adjust county boundaries. The legislation provides procedures including notice that SCGS must follow in making such adjustments. The legislation provides that affected parties may appeal these adjustments to the administrative law court in a de novo hearing, and it provides the method of determining the effective date of these administrative county boundary adjustments and the notice requirements for these adjustments to be effective. The legislation further provides that nothing contained in this administrative process restricts the authority of the General Assembly by legislative enactment to adjust or otherwise clarify county boundaries by legislative enactment.

**H.4580 "SOUTH CAROLINA STREET GANG AND CRIMINAL ORGANIZATIONS ACT" Rep. J. E. Smith**

This legislation enacts the "South Carolina Street Gang and Criminal Organizations Act". The legislation creates the offense of participating in, or conspiring to participate in, an enterprise involving acts of qualifying criminal activity, and it provides felony penalties. The legislation provides for the forfeiture of property and proceeds derived from a violation of the offense, and it provides procedures regarding forfeiture. The legislation allows other equitable and legal remedies including the recovery of treble damages for damages sustained and court costs of a prevailing plaintiff.

**H.4593 STATUTE OF LIMITATIONS FOR DEFAMATION ACTIONS**

**Rep. Clemmons**

This legislation provides that a cause of action for libel or slander is not considered to have accrued until two years after the aggrieved party has discovered or should have discovered the libel or slander that is the basis of the cause of action.

**H.4598 REINSTATEMENT FOLLOWING ADMINISTRATIVE DISSOLUTION OF A CORPORATION Rep. Hardee**

Current law provides that a corporation administratively dissolved under Section 33-31-1421 may apply to the Secretary of State for reinstatement within two years after the effective date of dissolution. This legislation deletes the requirement that the application for reinstatement must be made within two years of dissolution.

**H.4601 DUTIES OF THE SERGEANTS AT ARMS AND DIRECTORS OF SECURITY OF BOTH THE SENATE AND HOUSE OF REPRESENTATIVES Rep. Jefferson**

This legislation provides that the Sergeants at Arms and Directors of Security of the Senate and House of Representatives have the authority to remove a member of their respective body, at the direction of the President Pro Tempore in the case of the Senate or the Speaker in the case of the House of Representatives, when a member's behavior is deemed disrespectful or disruptive during the speech of a statewide elected official during the course of an address to the General Assembly meeting in joint session for the purpose of the address.

**H.4607 "TRESPASSER RESPONSIBILITY ACT" Rep. Hiott**

This legislation establishes the "Trespasser Responsibility Act," which provides a limitation on liability by land possessors to trespassers. The legislation provides that a possessor of land owes no duty to a trespasser except to refrain from causing a wilful or wanton injury. This provision does not affect the common law doctrine of attractive nuisance. Also, this provision does not affect any immunities from or defenses to civil liability established by another section of the South Carolina Code of Laws or available at common law to which a possessor of land may be entitled.

**H.4610 MINUTE OF SILENCE AT THE BEGINNING OF EACH SCHOOL DAY Rep. Williams**

Under current law schools provide for a minute of mandatory silence at the beginning of each school day. This legislation give schools the discretion whether to provide for that time and allows students to use that time to reflect on their faith or other matters of personal significance.

**H.4612 APPLICABILITY OF THE STATE'S UNIFORM TRAFFIC LAWS UPON THE STATE'S POLITICAL SUBDIVISIONS Rep. Bales**

This legislation provides that a political subdivision, county, or municipality that enacts an ordinance, rule, or regulation that imposes a fine for an offense that exceeds the fine imposed by a similar offense contained in the Uniform Act Regulating Traffic on Highways may not collect an amount that exceeds the maximum fine contained in the similar offense contained in this act.

**H.4622 PROPOSED CONSTITUTIONAL AMENDMENT ALLOWING FOR RECALL OF ELECTED OFFICIALS Rep. Loftis**

This joint resolution proposes to amend the State Constitution so as to provide procedures for recalling and removing from public office persons holding elected public

offices of the state or its political subdivisions in the executive and legislative branches of state or local governments. The proposed amendment must be submitted to the qualified electors at the next general election for representatives.

**H.4628 EXPANDED PROHIBITION ON THE REGULATION OF WEAPONS  
Rep. Pitts**

Current law provides that no governing body of any county, municipality, or other political subdivision in the State may enact or promulgate any regulation or ordinance that regulates or attempts to regulate the transfer, ownership, possession, carrying, or transportation of firearms, ammunition, components of firearms, or any combination of these things. This legislation includes knives among the weapons covered and also provides that a local governmental body may not enforce any regulation or ordinance that regulates or attempts to regulate these weapons.

**H.4629 BAD FAITH ASSERTION OF PATENT INFRINGEMENT Rep. Finlay**

This legislation provides that it is an unlawful trade practice for a person or entity to make a bad faith assertion of patent infringement. The legislation provides evidentiary considerations and remedies.

**H.4630 EXPIRATION OR LAPSE OF THE LAW ENFORCEMENT  
CERTIFICATION OF AN OFFICER UPON HIS**

**DISCONTINUANCE OF EMPLOYMENT Rep. Funderburk**

Relating to the expiration or lapse of the law enforcement certification of an officer upon his discontinuance of employment, this legislation provides an exemption when the employment is discontinued because of his absence from work due to a disability he sustained in that employment for which he receives workers' compensation benefits and from which he has not been authorized to return to work without restriction. The legislation requires satisfaction of continuing education requirements for this period, and the legislation make these provisions retroactive to January 1, 2013.

## **LABOR, COMMERCE AND INDUSTRY**

**H.4578 MODULAR BUILDINGS CONSTRUCTION ACT REVISIONS  
Rep. Sandifer**

This bill provides for revisions to the South Carolina Modular Buildings Construction Act so as to revise the definition of the term "approved inspection agency" to require that an approved inspection agency retain a building construction-oriented engineer or architect to ensure compliance. The legislation revises provisions for the inspection and certification of a modular building, so as to provide that final plan approval for a single family residential modular building be performed by an approved inspection agency, and to provide that final approval for a commercial modular building be performed by the Department of Labor, Licensing and Regulation.

**H.4604 EXEMPTION FROM ENGINEER LICENSURE REQUIREMENTS FOR  
MANUFACTURING COMPANY ACTIVITIES Rep. Sandifer**

This bill revises exemptions from the licensure requirement to practice engineering, so as to provide an exemption for certain activities performed by full-time employees or other personnel of a manufacturing company.

**H.4627 SC WORKS PAYMENTS DISALLOWED FOR WORKFORCE TRAINING**

**PROVIDERS WHO ARE FOUND TO BE INEFFECTIVE** Rep. Goldfinch

This bill provides that, when implementing the Workforce Investment Act, SC Works annually shall review the performance of each paid provider of training to its clients based on certain criteria established by the Department of Employment and Workforce. The legislation provides that SC Works may not pay a provider whose performance is considered ineffective to train its client for six months following the issuing of the grade, and only then upon a satisfactory demonstration by the provider that it has remedied the deficiencies that resulted in its receipt of an ineffective rating.

## WAYS AND MEANS

**H.4575 ADJUTANT GENERAL ASSIGNED FINANCIAL AND ADMINISTRATIVE RESPONSIBILITY OVER HEADQUARTERS**

Rep. J. E. Smith

This bill provides that the Adjutant General is financially and administratively responsible for the building and grounds located at 1 National Guard Road in Columbia. This responsibility includes maintaining necessary reserves for deferred and future depreciation and maintenance, and assuming improvement obligations and other costs of operation, such as building maintenance, systems and equipment maintenance, custodial services, horticulture and grounds maintenance, insurance, and utilities.

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**H.4600 "SOUTH CAROLINA ROADS FOR ECONOMIC DEVELOPMENT ACT"**

Rep. Simrill

This bill enacts the "South Carolina Roads for Economic Development Act" which establishes provisions that allow for incremental tax revenues derived from the sales tax in transportation improvement project areas to be used to pay for transportation improvements within the district so long as the percentage is approved by the local governing body and the State Fiscal Accountability Authority. The legislation makes use of provisions of Article X of the Constitution of South Carolina under which the General Assembly may authorize by general law that indebtedness for the purpose of redevelopment within political subdivisions may be incurred and that the debt service of such indebtedness be provided from the added increments of tax revenues to result from the project. The legislation authorizes transportation improvements as a means by which the political subdivisions of this state may address the needs of their local blighted, conservation, and sprawl areas.



**H.4602 USE OF THE EDUCATION CAPITAL IMPROVEMENTS SALES AND USE TAX TO DEFRAY SCHOOL DISTRICT DEBT OBLIGATIONS AND REDUCE PROPERTY TAXES Rep. Stavrinakis**

This bill revises the Education Capital Improvements Sales and Use Tax Act to allow the tax to be imposed to defray debt obligations of the school district, thereby reducing property taxes. The legislation allows the referendum to include a separate question on the authorization of general obligation bonds pursuant to the constitutional exemption. The legislation provides the form of the question and changes the timing of a reimposition referendum to no earlier than within the calendar year which is two years before the calendar year in which the tax is scheduled to terminate.

**H.4613 ZERO BASE BUDGET PROCESS Rep. Atwater**

This bill provides for the General Assembly to implement a zero base budget process, beginning with the annual general appropriations act for Fiscal Year 2015-2016, and establishes a rotating schedule under which the agency functional areas for all of state government are periodically subjected to the zero base budget process. A zero-based process makes use of an agency operating plan or budget that starts with the assumption that there are no authorized or appropriated funds. In a zero-based budget, each activity to be funded must be justified as the budget is prepared and considered.

**H.4619 INCENTIVES FOR HYBRID ELECTRIC, BATTERY ELECTRIC VEHICLE, AND ALTERNATIVE FUEL MOTOR VEHICLES Rep. Loftis**

This bill establishes a tax credit for the in-state purchase or lease of a new qualified hybrid electric vehicle, new qualified battery electric vehicle, or new qualified alternative fuel motor vehicle under 8,500 gross vehicle weight rating. The legislation provides a ten percent credit for the in-state purchase or lease of a new qualified hybrid electric vehicle, new qualified battery electric vehicle, or new qualified alternative fuel motor vehicle, with a credit amount that varies based on the gross vehicle weight rating. The legislation revises fleet management program provisions, so as to provide that the program shall seek to promote the use of clean, domestic, and efficient fuels. The legislation revises state fleet acquisitions provisions, so as to add preference for compressed natural gas, liquefied natural gas, liquefied petroleum gas, and battery electric vehicles, when practical. The legislation revises provisions relating to the feasibility of using alternative fuels for the state vehicle fleet, so as to require the Division of Motor Vehicle Management to provide a plan for the replacement of state-owned vehicles with vehicles using alternative fuels that must be submitted to the General Assembly and Governor. The legislation revises provisions relating to the use of biodiesel fuel in the state school bus fleet, so as to provide a preference in purchasing hybrid, plug-in hybrid, biodiesel, hydrogen, fuel cell, compressed natural gas, liquefied natural gas, liquefied petroleum gas, battery electric, or flex-fuel school buses when performance, quality, and life cycle costs are comparable to other school buses. A similar tax credit for the purchase of certain vehicles is repealed with the implementation of this legislation's tax credit provisions.

**H.4623 SOUTH CAROLINA POLICE OFFICERS RETIREMENT SYSTEM PROVISIONS REGARDING THE RETURN TO EMPLOYMENT AFTER RETIREMENT Rep. Rivers**

This bill revises South Carolina Police Officers Retirement System provisions relating to the return to employment after retirement, so as to provide that the ten thousand dollar earnings limitation does not apply if the retired member of the system who has been

retired for at least thirty consecutive calendar days returns to employment covered by the system as an employee of: a municipality that has a population of less than twenty-four thousand; or a county in which the sheriff's office has a personal services budget of less than eleven million dollars or the detention center has a personal services budget of less than three million dollars.

**H.4624 INCOME TAX CREDIT FOR COSTS OF HOME SCHOOL OR PRIVATE SCHOOL INSTRUCTION Rep. Rivers**

This bill establishes an income tax credit of up to a five thousand dollars for a parent or guardian who teaches a qualifying student at home for instruction-related expenses. The legislation provides for an up to a five thousand dollar income tax credit for a parent for tuition paid to an independent school on behalf of their child.

**H.4632 "CHARLESTON UNIVERSITY ACT" Rep. Stavrinakis**

This bill enacts the "Charleston University Act" to create Charleston University which is to be constituted by merging the College of Charleston and the Medical University of South Carolina, including its Hospital Authority, into one institution as determined by the board of trustees of the university. The legislation establishes a framework for the merger which must occur before July 1, 2016.

## Legislative Update, February 11, 2014

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