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South Carolina House of Representatives

Legislative Update & Research Reports

Robert J. Sheheen, Speaker of the House

Volume 4

April 7, 1987 -

No. 13

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Printed by the Legislative Council

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Legislative Update

The Week in the House

Joint Assembly honors Easter Seal Society Representatives

The House and Senate met at noon on Wednesday, April 2, to commemorate the day as "Handicapped Childrens' Day" and endorse the "BAC Coffee Day for Handicapped Children" sponsored by the Easter Seal Society of South Carolina.

At this joint assembly the Easter Seal representatives for South Carolina were introduced. Representative Snow and Senator Doar were to have introduced four-year old Gerald Avant, but he was in the hospital at Georgetown. Senator Fielding and Representative Whipper presented three-year old Jessica Ashley Kent, from Mt. Pleasant. Senator Kay Patterson and Representative McBride introduced Monica Nelson, a six-year old from Columbia.

Senator Martin and Representative Crosby Lewis presented William Nixon, eight years old, from Ridgeway. Finally, Representative M. O. Alexander and Senator Thomas introduced Kenny Wilson. Wilson, four years old, has been a state representative for Easter Seals two years in a row.

Concurrent Resolutions: History, highways, anniversaries

Tuesday, March 31, the House adopted a Concurrent Resolution sponsored by Senator Thomas (S.429) designating February as American History Month. Since 1956 the Daughters of the American Revolution (DAR) have recognized February as American History Month, using it to encourage the study of our nation's past.

The Resolution is concerned that "our younger generation be made aware and our older citizens reminded that behind the cold print of history books there is the moving story about our Nation and its patriots who fought well for our freedom and who wanted to make certain that they had not fought in vain."

Also on Tuesday, the House received a resolution from the Senate urging Congress to override the presidential veto of the highway bill that would spend \$88 billion on road constructions (including three in South Carolina) and allow the speed limit to go from 55 miles per hour back to 65 mph. The measure was referred to the Committee on Invitations and Memorial Resolutions.

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Soon after the start of session on Thursday, April 2, the Committee submitted a favorable report on the resolution, which was then adopted and ordered returned to the Senate. (Later that same Thursday the United States Senate voted to override the President's veto of the highway bill. Coincidence, or ?)

On Wednesday the House considered H.2766 (Rep. Aydlette and others) which recognizes and congratulates the Ancient Free Masons of South Carolina on its 250 anniversary in this state. The measure was agreed to and ordered sent to the Senate. After the resolution was adopted, secret handshakes and mysterious tokens of recognition were exchanged.

On Wednesday, the House adopted a Concurrent Resolution sponsored by Rep. McAbee (H.2778) expressing concern over violence and abuse against women and children, and recognizing the "Take back the night" citizens' rally scheduled for April 22. The measure also authorizes the rally participants to use the House Chamber in case of inclement weather.

Government operations: oaths and expenses

On Tuesday, H.2305, (sponsored by Rep. Rudnick), was debated, amended and given second reading. On Thursday it received its third and final reading and was sent over to the Senate. This bill establishes when elected members of the Legislature take their oath of office. As amended by the House, the bill provides that the oath may be administered at 11:00 am on the Monday following the election ("or as soon thereafter as practicable"). The place would be the county courthouse, the oath administered by "an officer duly authorized." The measure will apply only to members whose election has been certified.

Another measure affecting the operation of state government was passed by the House during the week: H.2422 (Rep. Clyborne) requires proposed regulations published in the *State Register* to carry a statement of fiscal impact. Also, proposed regulations from state agencies filed with the President of the Senate and Speaker of the House would have to carry a fiscal impact statement prepared by the Budget and Control Board. This measure was given third reading on April 1 and dispatched to the Senate.

Elections: nicknames on the ballot

On Thursday the House considered, amended and passed on second reading H.2279 (Rep. Pearce), a bill which allows candidates to be listed on ballots by their nicknames, as well as their given names. Before passage the bill was amended so that the nicknames allowed do not imply "professional or social status, an office, or military rank." Once this change was made the bill was passed and ordered to third reading.

Crime and punishment

Provisions in South Carolina law relating to the plea of "guilty but mentally ill" would be changed if H.2446 (Rep. Wilkins) is adopted. On Wednesday, the House gave its approval to the measure as amended, and ordered it to third reading. Basically, the bill still allows a verdict of "guilty but mentally ill," but would no longer allow courts to accept such a plea.

Bombs, whether sink, tear-gas or others, are the subject of S.98 (Senator Peeler) which was considered and approved by the House on Wednesday. The measure increases the penalties for setting off such devices. The Senate version had set the minimum penalty at a term of one year or a fine of \$5,000 or both; the House stiffened this by setting the minimum imprisonment at five years. In addition, the bill was amended to permit the court to order part or all of the fines to be paid to injured persons for their medical expenses.

Workers' Compensation bill

For another week the House considered the first of a series of bills relating to adjustments in the Workers' Compensation procedures in South Carolina. H.2482 (Labor, Commerce and Industry Committee) would set a time limit of 30 days for hearings on start or stop payment of Workers' Compensation payments. The bill was under discussion on Tuesday when the House adjourned.

The measure came up again for discussion on Wednesday. A considerable amount of parliamentary maneuvering occurred--motions to table, motions to reconsider motions to table, points of order and calls for roll call votes. Amendments to the bill were still under discussion when the House adjourned, and on Thursday the House adjourned again while the bill was being debated.

Legislation Introduced

Children and Families

Evidence of child abuse and neglect (H.2790, Rep. Moss). This legislation would provide that during Family Court hearings, proof of the abuse or neglect of one child could be admitted as evidence on the issue of abuse or neglect of other children under the care of the same person.

Education

State Education Assistance Authority (H.2783, Ways and Means Committee). This authority provides the means of making loans to students for their education. Current law provides that eligible students must be residents of South Carolina. Federal law, however, now requires that loans be available to all students attending qualifying institutions—or federal funds will not be available to such programs. This bill would make the appropriate changes in South Carolina law.

Student fees (H.2785, Rep. Fair). This bill would permit the boards of trustees of local school districts to charge students "reasonable matriculation and incidental fees," including fees for materials, equipment and supplies. Students from families financially unable to pay the fees would be exempted.

State-supported colleges: Outside income (H.2793, Rep. Foxworth). This bill would provide that any state-supported college or university would have to report any money it receives from a nonprofit educational foundation associated or affiliated with the institution. In addition, the amount of any compensation paid to a school employee by such foundations would also have to be reported.

The reports would go to the House Ways and Means Committee and the Senate Finance Committee, and would have to be submitted by January 1, so that the committees "may have this information when considering the next year's general appropriation bill."

Environment

Game wardens become Conservation Officers (H.2758, Rep. Foxworth). This bill would make our present bird wardens, nonmigratory fish wardens and game wardens all Conservation Officers. It would also delete the reference in the Code that sets their term of office as two years.

Prisoners and litter control (S.568, Sen. Shealy). If asked by the county manager (or other appropriate official) the sheriff of a county would furnish nonviolent prisoners to pick up litter. For each three days they worked, the prisoners would get one day credit. Prisoners who left their assigned area would be treated as if they were escaping. If prisoners were assigned areas individually, then the areas would have to be assigned by lot.

Cruelty to animals (H.2769, Rep. Harvin). This bill would revise definitions of cruelty and mistreatment of animals. It would increase the penalties for cruelty and failure to provide proper and human care by imposing fines of between \$50 and \$200. Currently provisions allow for a fine up to \$100 and a jail term up to 30 days.

The bill also would establish offenses of torturing, needlessly mutilating, inflicting unnecessary pain and otherwise seriously harming animals. These offenses could be punished by a fine of \$1,000, one year in prison, or both.

Our friend the ferret (H.2776, Rep. J.W. McLeod). This bill would allow ferrets to be kept as pets in South Carolina, by removing them from the list of carnivores which may not be kept as pets. Ferrets would no doubt be grateful for being taken from the unsavory company of wily coyotes, ravenous wolves, unscrupulous weasels, noxious civit cats, spotted skunks and the sly lynx.

Hazardous waste burial (H.2797, Rep. E.B. McLeod). This bill would prohibit the burial of hazardous waste in commercial landfills in South Carolina after December 31, 1992. Between now and that date, the bill would steadily reduce the tonnage of waste that may be buried, and steadily increase the fee per ton.

Total amount of hazardous waste allowed to be buried each year would be reduced to 90,000 tons by July, 1987; to 50,000 tons by July 1988; and to 15,000 tons by July, 1989. Fees charged for buried waste would rise from an extra \$10 a ton in 1987 to \$25 a ton in 1988 and \$50 a ton starting in 1989. This money would go into a special fund to respond to problems arising from commercial disposal sites. The bill would also provide a tax credit for landfill operators who reduce the amount of waste buried at their sites.

Government Operations

Probate Courts and modern technology (H.2750, Rep. J.C. Johnson). Probate courts are required to keep records of many kinds of documents--wills, estates of minors and incompetents, bonds, liens, marriage licenses and marriages, etc. Presently they are required to keep a second, separate book with a copy of these sorts of documents. This bill would strike that requirement, so long as the court kept the original document in its master file, and a copy on microfilm or similar method. An index would have to be maintained so the copies could be easily located.

Lobbyist regulations (H.2751, Judiciary Committee). In its own words, the purpose of this legislation is "to preserve and maintain the integrity of the governmental policy-making process in South Carolina." In doing this, "it is necessary that the identity, expenditures, and activities of certain persons who engage in efforts to influence any state official or employee on matters within their official jurisdiction, either by direct communication to any official or employee or by the solicitation of others to engage in such efforts, be publicly and regularly disclosed."

In other words, the bill would require lobbyists to register, file records of who has hired them, how much they are paid, which legislation or other government actions they are seeking to influence, and how much (and on whom) they spend during their activities.

The bill provides that lobbyists would have to file with the State Ethics Commission, paying a registration fee of \$200. Lobbyists would also have to file an annual report with the Commission, reporting their activities and expenditures. According to the bill's present form, some specifics are required—for example, "bill numbers or other numbers where relevant."

Expenditures would have to be broken down by category, including food and refreshments, entertainment, living accommodations, advertising, contributions, and so forth. Special events for public officials—parties, dinners, athletic events, entertainment and the notorious "other functions"—would also have to be listed, with dates, locations, persons invited and total expenses.

The Ethics Commission would be granted a range of powers to enforce the provisions of this legislation, including the authority of subpoena, and to impose fines on persons filing late or fraudulent reports.

Lobbyists violating the law would be guilty of a misdemeanor and could be fined up to \$1,000 and/or imprisoned for up to 90 days. Further, they would be barred from lobbying for three years after their conviction.

One final note of interest: no person could work as a lobbyist if his or her pay was contingent upon the passage or defeat of any proposed legislation, or any action being taken or not taken by the state government.

Magistrate jurisdiction increased (H.2752, Judiciary Committee; H.2756, Rep. Wilder). These two bills would widen the jurisdiction of magistrate courts in South Carolina. The first would raise the monetary limit on cases in magistrate courts from the present \$1,000 to \$2,500.

The second would affect the courts jurisdiction over bad checks. Now they deal with such checks for \$200 or under; H.2756 would up that limit to \$500. Currently, the punishment available for third and subsequent offenses in writing fraudulent checks is a thirty day term. This bill proposes adding a fine of between \$200 to \$500, and/or a term of up to one year.

Dual office holding (H.2770, Rep. Blackwell; H.2771, Rep. Blackwell). The first is a proposed constitutional amendment which would add members of organized fire fighters and notaries public to the lists of persons not to be considered dual office holders. The second bill would make the same change in statutory law.

State political conventions--location (S.239, Senator Long). This bill would allow state political conventions to be held in sites other than Columbia--now the only place allowed by law. The convention site could be anyplace "determined by the state committee to have adequate facilities" for holding a convention.

Once the site the selected, the state committee would have to notify delegates of available accommodations there, including names, locations, cost per day, and any special rates during the convention. All accommodations would have to be included in the list.

A similar House bill is H.2411 (Rep. Thrailkill) which also allows conventions to be held in sites other than Columbia. H.2411 requires that the state committees must "consider only cities or areas which are able to provide adequate lodging and restaurant and banquet facilities for all delegates and alternate delegates."

State employee sick days (S.274, Sen. Setzler). This bill would allow State employees to use up to five sick days a year in tending for ill members of their immediate family. Immediate family members are defined in the bill as "spouse" or "children."

Health

Blood tests for food workers (H.2788, Rep. Wells). Before being hired by a food service or food processing establishment, a person would have to present a DHEC certificate that they have taken a blood test within thirty days and are free of any communicable disease or the HTLV-III antibody (the AIDS antibody). Anyone employing a person without this certificate could be fined \$1,000 and/or sentenced to one year in prison.

Highways and Byways

DUI and driver's license (H.2796, Rep. J.C. Johnson). This bill would have a person arrested for DUI (alcohol or drugs) surrender his or her driver's license to the arresting officer, receiving in

return a copy of the arrest warrant which could be used as temporary authorization to drive.

At the trial, the person would receive the license back if found innocent. If found guilty, or pleading *nolo contendere*, the license would be immediately surrendered to the court, which would forward it to the Department of Highways and Public Transportation. The registration and license of the motor vehicle would also be revoked for six months, and would have to be returned to DHPT within five working days.

Breath tests in serious accidents (H.2801, Rep. Sharpe). All drivers involved in an accident resulting in death or bodily injury would be required to take breath tests to determine their blood alcohol content.

Driving without a license (S.89, Sen. Lourie). This legislation would increase penalties for driving without a license. The precise increase in penalties, however, depends upon which version of the bill is consulted--the Senate passed version, or the House Judiciary Committee's, which rewrote the bill during its consideration.

The two versions compare as follows:

<u>Offense</u>	<u>Senate Version</u>	<u>House Judiciary Version</u>
1st	\$100 fine or 30 days	\$200 fine or 30 days
2nd	\$500 fine and 30 to 60 days, no suspension by trial judge	\$500 fine and 60 days
3rd	\$1,000 fine and 90 days to 6 months, no suspension by trial judge	90 to 60 days, no suspension by trial judge

Another difference between the two versions is that the Senate bill exempts persons who don't have a license because they failed to furnish proof of financial responsibility. The Senators also would not allow persons to be charged under this section if the period of suspension, cancellation or revocation had passed--whether the driver had a valid license or not.

Parking on private property (S.398, Sen. Hayes). Currently the law allows towing (at owner's expense) of a motor vehicle parked illegally on private property. This bill would add a fine of up to \$100 or a jail term of 30 days. The House version of this legislation (H.2513, Rep. Hayes) contains the same provisions.

Labor, Commerce and Industry

Changes in wages (H.2772, Labor, Commerce and Industry Committee). This bill makes adjustments in the statutes governing wages in South Carolina. The definition of the term is changed so that vacations, holidays, sick leave and severance payments are no longer included. While employers would still be required to give seven days notice before wages are changed, they would not have to give such notice when wages are increased.

In addition, employers would have to keep for three years records of employees and wages paid to them. Any mandatory wage deposit plan requiring deposit in a specific financial institution would have to allow employees at least one withdrawal for each deposit—without a service charge. The financial institution would have to do business in this state, be insured by the federal government, and furnish each employee a statement of earnings and withholdings.

Employers who violate provision of the section of the Code dealing with wages could be assessed a civil penalty not to exceed two thousand dollars. Employees wishing to lodge a civil action for the recovery of wages would have a two-year statute of limitations under this bill.

Law and Justice

Blackmail against family members (S.240, Senator Lee). This bill would expand the crime of blackmail to threats against a person's immediate family as well as the person himself. The relevant House bill is H.2251, Rep. Waldrop.

A clean slate (H.2773, Rep. Wilkins). First-time offenders under 25 who have completed their sentences could have their records wiped clean if this bill passes into law. This option would be available only for the crimes listed in the bill—generally, less serious offenses.

Five years after the sentence has been served, the person could petition the circuit court to have the criminal offense expunged from his or her record. All information—arrest, indictment, trial, finding of guilt, conviction, sentence—would be wiped from the public record. (SLED would retain a non-public record solely for use by the courts to determine if a person commits a subsequent offense.)

In the words of the bill, the court order clearing the persons record would "restore the person, in the contemplation of the law, to the status he occupied before the arrest or indictment."

The offenses which could be wiped from the record are all offenses, and are crimes such as malicious injury to real property

under \$1,000; swindling (also less than \$1,000); unlawful use of telephones; cockfighting; scalping tickets; simple assault; writing back checks (again, less than \$1,000 worth); sale of alcohol to minors; first offense for moonshining.

Killing of law enforcement officers (H.2791, Rep. Moss). Persons charged with taking the life of a law enforcement officer, court officer, employee of the Department of Parole and Community Corrections, or a firefighter, while on their duty, would not be eligible for bail. A person convicted of killing one of these officials while on duty would not be eligible for parole.

Prison industries (S.588, Corrections and Penology Committee). This bill would make changes in the employment of convicts in prison industries. Specifically, the legislation would place inmates "in a realistic working and training environment." This would mean giving them the opportunity to acquire usable, marketable skills, and paying them wages high enough to make restitution to their victims and help support themselves and their families.

Participation would have to be voluntary, and correction officials would have to make sure that no currently employed, non-prison workers would be put out of their jobs. Between 5 to 25 percent of the ages earned by the inmates would go to programs set up for victims' assistance.

The topic of prison industries has aroused interest among legislators and state government officials in recent years. The *Legislative Update* recently published a two-part series on this very topic. These research reports go into detail on the requirements set up by the federal government for programs such as the one proposed in S.588, and other aspects of prison industry operations.

The reports on prison industries can be found in *Legislative Updates* numbers 8 (March 3) and 12 (March 31).

Attorney General Sends Annual Letter
To General Assembly

Background

Each year, as required by state law, the Attorney General sends a letter to members of the General Assembly with observations and recommendations. Attorney General Medlock's letter this session touches on several issues, but highlights his concern over illegal drugs in South Carolina.

Number one priority

In his letter, the Attorney General affirms that "the drug problem will be the number one priority of my office and the primary focus of my recommended legislation this year." In the war against illegal drugs, Medlock proposes a two-pronged attack, against demand and supply.

To combat the demand for drugs, he endorses comprehensive drug education programs, especially in our schools. He notes that his own office is taking the lead in this effort with the "Be Free to Succeed" campaign which features prominent South Carolinians from a variety of backgrounds--athletes, coaches, educators, an astronaut and a television program.

The Attorney General also cites several drug education efforts now operating in our public schools, such as in Richland District 2. He also supports the Department of Youth Services' Wilderness Program for Juvenile Offenders, a 6-month outdoor program where non-violent offenders avoid overcrowded correctional facilities and at the same time pursue their high school GED and learn vocational skills.

Statewide Grand Jury proposed

The linchpin in the Attorney General's assault on the drug supply would be the creation of a statewide grand jury. In his letter, Medlock says that this body would be "the most effective legal tool I know to combat drug trafficking today..." A prime reason, he says, is that "Sophisticated organized crime--whether in drug trafficking, pornography or auto theft rings--respects no county lines."

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The state grand jury would be convened by the Supreme Court at the petition of the Attorney General. It would have the ability to investigate and indict on a statewide basis. Creation of the grand jury would require amending the state constitution.

Legislation has been filed to implement this proposal: House bills H.2735 and H.2736, with 111 sponsors. (Details of these bills can be found in last week's *Legislative Update*.)

Medicaid fraud and tinted glass

The Attorney General also recommended passage of S.313, which would provide penalties for fraudulent actions regarding Medicaid benefits—the actions being done by either the providers or recipients.

The second bill, H.2361, would prohibit tinting of motor vehicle glass beyond a certain darkness. "I share the concern of law enforcement officers, especially highway troopers in the field, about the obvious inherent danger from the occupants of vehicles with severely tinted glass on only one said," the Attorney General writes.

Other measures supported

In his letter, the Attorney General also supports the need to amend sections of the Code relating to minimum sentences for drug traffickers [44-53-370(e) (1), (2) and (3)]. He also mentions the crimes of child pornography, sexual exploitation and prostitution as being "particularly repugnant to all decent and law-abiding South Carolinians." To deal with these he encourages "careful consideration of H.2072." (H.2072, Rep. Fair, aims at strengthening state laws relating to children and pornography.)

Finally, Attorney General Medlock expresses his sympathy for volunteer fire fighters who might be considered in violation of the constitution's ban on dual office holding, and he notes that H.2497 (Rep. Harvin) would correct this by a proposed amendment.