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South Carolina House of Representatives

Legislative Update & Research Reports

Robert J. Sheheen, Speaker of the House

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Legislative Update

The Week in the House

Background

During the week of May 19 through May 22 the House met with the Senate to elect members of the Board of the Department of Social Services, passed legislation to get tough on "crack cocaine," and decided to set aside (for this session, at least) a plan to amend the state constitution and change the date the General Assembly convenes.

The proposal to make changes in the state's automobile insurance was a topic early in the week, but must wait until later for full consideration by the House. The House took up the subject of candidate's nicknames on ballots, and it also heard Miss South Carolina 1987 (Dawn Smith) sing "Amazing Grace."

Agreement with the Senate on FOI

Tuesday the House agreed to the version of changes in the Freedom of Information Act as worked out by the conference committee. The law now specifically covers public bodies such as committees, subcommittees and advisory committees. It removes the provision that allowed boards and commissions to shield records and files by a three-fourths vote.

It sets out the salaries that must be revealed to the public: the specific dollar figure for all public employees making more than \$50,000 per year; and a salary range for persons making below that amount.

Crime

On Wednesday the House passed S.102 (Sen. Verne Smith) which makes possession or distribution of "crack cocaine" a specific offense in South Carolina. Possession of less than a gram of crack could bring a prison term of no less than two years and as much as five years, and a fine of \$5,000. Repeat offenders could receive four to seven years and would have to pay \$10,000. A third offense would bring ten to 15 years and a \$15,000 fine.

Making crack or having enough of it to qualify as a dealer would bring a stiff 15 to 20-year sentence and a \$25,000 fine the first time around. Twenty-five to 30 years and a \$50,000 fine would be given out to second offenders, and those who tried to peddle the dope for a third time and got caught would spend 30 to 40 years behind bars and pay a \$100,000 fine.

An additional, separate offense of distributing crack near schools could bring another 10 to 15 years and a \$10,000 fine.

Elections: Nicknames and DSS

S.553 would permit candidates to be listed on election ballots by their nicknames, instead of their given names. The House took up the measure on Wednesday, made some amendments, and ordered it to a Thursday third reading.

In another election, a Joint Session of the House and Senate chose members of the DSS Board for the First, Third and Fifth Congressional Districts.

Mrs. Delores S. Greene was selected to serve from the First Congressional district; Mrs. Betty C. Davenport was chosen from the Third; and Dr. Agnes H. Wilson from the Fifth.

Those shrimp again

On Tuesday the Senate sent over a billet doux about H.2742, the shrimp baiting bill, indicating that it was not going to concur in House amendments on the bill. The House insisted on its amendments and the Speaker appointed members to the conference committee.

Eminent Domain Code

The bill which brings together the various aspects of the state's eminent domain law (S.135) was considered by the House on Tuesday, May 19, and amended by the House and returned to the Senate. This bill would create a single, unified section of the Code to deal with the transfer of private property to public use.

No February start for General Assembly (for now at least)

On Thursday the House decided to set aside a proposed amendment to the state constitution that would change the mandatory date to convene the General Assembly. The proposal was to move the date from January to February; it was continued, which means it could return during the second year of this session of the General Assembly.

The House has already given approval to a bill which would change the forecasts sent over by the Board of Economic Advisors and curtail the ending date of the Legislature.

Meanwhile, over in the Senate...

Friday afternoon, as the *Legislative Update* was being readied for the press, the Senate was still considering the General Appropriation Bill. The Senate finished its version of the measure over the weekend.

Legislation Introduced

Business and Industry

Building Code Council (H.3153, Rep. Hearn). This measure would restructure the makeup of the state's Building Code Council. If a local government wants to use a code that is not a standard building code, approval must first come from this Council.

The new Council would have the following members: a SC registered architect, a municipal certified building official, a county certified building official, representatives from the following trades and professions: plumbing, electricians, and mechanical and gas, a representative of the State Engineer, a structural engineer, a certified building inspector, a licensed residential homebuilding, and a representative of the State Fire Marshall. Members would serve four year terms.

Thar's gold (or something) in them thar hills (H.3163, Rep. Corning). This bill would make changes in the mining permit procedure in South Carolina by reducing the length of a permit from ten years to four years, and by requiring an environmental impact statement before a mining permit could be granted. The statement would have to assure that no "harmful gas, liquid or chemical" would present a danger to the environment or persons around the proposed mining activity. The statement would have to be approved both by DHEC and the Land Resources Conservation Commission. Public hearings on the proposed mine would be held in all counties affected.

In recent days a possible gold mine in Fairfield County has drawn attention and public debate over the potential hazards involved. For some more information on mining in South Carolina, see page 8 of this issue of the *Update*.

Fiscal

Filing for property tax classification (H.3154, Rep. Hearn). This bill would remove the power of local taxing authorities to grant extensions for filing applications for classification of property for tax—for example, homeowners filing for the 4 percent rate. Instead, applications could be filed after May 1 if the person filing paid a \$25 late fee. If the person didn't file within the tax year, then too bad.

Insurance

Exemptions for church insurance companies (H.3152, Rep. J. Bradley). Insurance companies which are exempt from the federal income tax because of their non-profit status (the famous Section 501(c)(3) or 501(c)(4) parts of the IRS Code) and which only insurance churches and church property, would be exempt from insurance profit taxes in this state, under the provisions of this bill.

Law and Order

Qualifications for sheriff (H.3175, Rep. Wilkins). This bill would set the minimum standards required of sheriffs in South Carolina. Specifically, the county's top law officer would have to: 1) be a US citizen; 2) be a resident of the county for at least one year before election; 3) be a registered voter; 4) be 21 years old; 5) have a high school diploma, its equivalent, or five years experience in the criminal justice field; 6) have no criminal record for the past five years.

After 1988, newly elected sheriffs would have to attend training at the Criminal Justice Academy, which would be done during their first year in office. Additionally, sheriffs would have to put in a minimum of twenty hours of training at the Academy each year. Sheriffs who failed to do so could be removed from office.

Tort Reform Update: "Jury Awards Under Control"

Background

One of the issues that was heralded by the press and others as being a major topic for this session of the General Assembly was "tort reform"—adjusting the portion of the legal system which deals with liability, fault and blame for negligence, and payment of damages for the resulting injuries and damages.

According to supporters of tort reform, the present system was encouraging excessive filing of suits, and high awards by juries were reflected in increased insurance costs—or even in instances where insurance was unavailable for high risk operations or professions.

On the other hand, there were those who argued that the tort reform process protected the rights and interests of the individual who was harmed or damaged—harm that often resulted in severe physical injury, or even death. After all, these folks argued, the jury system is the keystone of our judicial system, and it should be left to the jury to decide responsibility and compensation.

South Carolina action on tort reform

Earlier the House considered legislation to change the civil action (tort claims) system in South Carolina. H.2610 passed the House in March of this session.

Specifically, the legislation would: 1) Reduce the time for filing a tort case from six years to three years; 2) Reduce the time for filing a case for alleged damages to a minor; 3) Allow consideration of fault by the claimant in a case—although this does not necessarily bar recovery by the claimant; 4) Permit the fault of defendants to be determined on a proportionate basis—that is, who is responsible for how much of any damages; 5) Set up the "South Carolina Contribution Among Tortfeasors Act" as part of the Code, to determine the pro rata shares of defendants; and 6) Provide liability for "frivolous" lawsuits—the claimant could be assessed for all attorney fees and court costs.

One amendment was agreed to during the course of debate. The Department of Insurance was directed to review all types of insurance covered by the bill within one year it goes into effect, and order rate reductions as seem appropriate.

New study by Bar Foundation

One of the reasons often advanced for tort reform is that juries give too many awards, and too many of those are too high. High awards for unreasonable claims translate into high insurance premiums for all of us, goes this line of thought. Recent news from the American Bar Foundation, however, disputes this claim.

The latest issue of *The Transcript*, a publication of the South Carolina Bar Association, carries a story headlined "Study Says Civil Jury Awards Under Control." This article summarizes another article, published in *Judges' Journal*, which is a house organ of the American Bar Association.

In a study conducted by Stephen Daniels and Joanne Martin, the jury verdicts issued in civil cases in 43 counties in 10 states were reviewed. The cases covered the years from 1981 through 1985.

Martin and Daniels looked at the success rates of persons filing damage suits. A successful case was one which brought the plaintiff \$1.00 or more in damage awards by the jury. In addition to looking at the success rate, the researchers considered the amounts awarded, both generally and by category of case.

Not so high after all

According to D & M, "plaintiff success rates tend to fall within a well-defined range and awards are generally modest." According to their finding, in over half the counties the median award was less than \$25,000, and in 29 counties the median award was only \$50,000. In only four of the 43 counties was the median damage award more than \$100,000. Of course, these were only the successful cases for plaintiffs; in unsuccessful suits, no award is given.

High awards came in certain, specific areas, such as product liability, medical malpractice. These "typically involve awards for serious personal injury, long-term or permanent disability, or even death."

In general, then, the authors of the study say that their findings do not support claims that the number and size of jury awards have reached unprecedented levels. High awards may be found in some places and in some cases, they admit, but as they write in the *Judges' Journal*: "The situation is like a weather map that shows conditions to be generally fair to partly cloudy with just a few areas of inclement weather."

(Note: Articles published in *Judges' Journal* reflect the views of the authors, and do not necessarily reflect policies or opinions of the American Bar Association. Summaries of articles published in the *Legislative Update* are intended to provide information to House members, and are not meant to favor any side of any issue before the General Assembly.)

Mining in South Carolina

"It's dark as a dungeon, damp as the dew"

First the Mack Truck plant and now a possible gold mine—is that Fairfield County something, or what? Actually, most counties in South Carolina have some form of mining or mineral extraction activity going on in them. Only a few are currently without such operations: McCormick, Barnwell, Allendale, Hampton and Clarendon.

The most productive mineral products are various stones, primarily granite, limestone and marl. In 1985 sale of these brought in some \$73 million dollars to South Carolina. (See chart, below.) Next came clays, worth some \$37.6 million, then sand and gravel, which earned \$32 million.

Various other minerals, ranging from Fuller's earth (used in cat litter boxes) to gold, were mined at a value of \$16.7 million in 1985.

Value of Minerals
Mined in South Carolina - 1985

<u>Mineral</u>	<u>Value</u>
Clays	\$ 37,695,224
Sand and gravel	31,986,353
Stone (crushed)	72,519,734
Stone (dimension)	541,019
Various *	16,735,191
TOTAL	159,477,521

* Various category includes Fuller's earth, peat, mineral specimens, vermiculite, manganiferous ore, mica, and gold (!).

"Danger is doubled, pleasures are few"

Currently, only Lancaster County has gold mining operations in process. According to some authorities, there is a potential "gold streak" which runs across the upper part of the state, through Fairfield and possible parts of Newberry and Greenwood counties. While many are looking forward to the prospect of a gold mine, others are cautious about the chemicals which might be used in the processing—especially cyanide.

Most other mining operations present less potential hazards. The main points usually raised are first, insuring that operations are not environmentally destructive, and second, that the land used for closed or abandoned mines is returned as much as possible to its original, natural state.

"Where the rain never falls, and the sun never shines"

What minerals are mined in South Carolina, and where are they found? The most varied county is Cherokee, which has limestone (used both for agriculture and cement products), granite, shale, sericite and clay. Other counties with several minerals include Lancaster, Kershaw, Richland, Lexington and Berkeley.

The most commonly extracted material is sand, hardly romantic but still profitable. Perhaps the most uncommon (aside from gold) is vermiculite, a form of mica used in brick manufacture. It is found only in Spartanburg and Laurens counties.

The table below shows which minerals are mined in what counties in our state.

Minerals Mined in South Carolina

<u>Mineral</u>	<u>County</u>
Gold	Lancaster
Clay	Cherokee, York, Lancaster, Marion, Horry, Dorchester, Sumter, Marlboro, Newberry, Saluda, Edgefield
Coquina	Horry
Fuller's earth	Sumter
Gravel	Aiken, Marlboro, Sumter
Granite	Cherokee, Chesterfield, Fairfield, Greenville, Greenwood, Kershaw, Laurens, Lexington, Oconee, Pickens, Richland, Spartanburg, York
Kaolin	Kershaw, Lexington, Richland
Limestone	Berkeley, Cherokee, Dorchester, Georgetown, Orangeburg
Peat	Colleton

Minerals Mined in South Carolina

<u>Mineral</u>	<u>County</u>
Sand	Abbeville, Aiken, Bamberg, Berkeley, Charleston, Cherokee, Chester, Chesterfield, Colleton, Darlington, Dillon, Dorchester, Florence, Fairfield, Georgetown, Greenville, Greenwood, Horry, Jasper, Kershaw, Lancaster, Lee, Lexington, Marlboro, Orangeburg, Pickens, Richland, Spartanburg, Sumter, Union, Williamsburg, York
Sand/clay	Beaufort, Berkeley, Charleston, Colleton, Darlington, Dorchester, Fairfield, Florence, Georgetown, Horry, Lexington, Orangeburg, Richland, Sumter
Sericite	Cherokee, Kershaw, Lancaster
Shale	Cherokee, Kershaw, Lancaster, Lexington
Vermiculite	Spartanburg, Laurens

Figures from *South Carolina Statistical Abstract, 1986*, published by the SC Division of Research and Statistical Services of the state Budget and Control Board.

"It's dark as a dungeon, way down in the mine"

With the possibility of gold being mined in Fairfield, and with the introduction of H.3163 concerning mining permits, more attention is being paid to this aspect of South Carolina's economy. While it hardly ranks up there with agriculture or tourism, mining still contributes a considerable share to the wealth of the state. Of course, many are mindful that the balance be maintained between economics and environmental quality.

Still, there's something that gets people a little crazed when they hear the word *gold*. (Anybody seen my pick and shovel?)