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South Carolina House of Representatives

# Legislative Update & Research Reports

**Robert J. Sheheen, Speaker of the House**

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## CONTENTS

House Week in Review.....	2
Bills Introduced.....	3

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House Week in Review

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The House of Representatives got off to a quick start the first week of the 1990 legislative session by introducing 187 bills and approving H.3739, the local option sales tax bill.

Of the 187 bills introduced, 86 had been prefiled during the Fall. Much of the opening day of the second session of the 108th General Assembly was spent referring these bills to the House standing committees.

Thursday was the highlight of the week when, by a vote of 82-41, the House adopted the free conference report on H.3739, the Local Sales and Use Tax bill.

The House Research Office has published a "white paper" on the local option sales tax bill, which has been distributed to all House members. If you would like extra copies of this special report, please call the House Research Office at 734-3230.

Thursday, the House also heard an address by Marian Wright Edelman, director of the Children's Defense Fund in Washington, and a native of Bennettsville.

Bills Introduced

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During the first week of the legislative session, 187 bills were introduced. Eighty-six were prefilled bills; 101 were introduced for the first time. Since the prefilled bills were summarized in the October and November Updates, here is a sampling of the bills introduced for the first time in the House last week. Not all the first time bills are featured here. The bills are organized by the standing committees to which they were referred.

**Agriculture and Natural Resources Committee**

Mining Operations and Environmental Impact Statements (H.4370, Rep. Taylor). This bill outlines the criteria the state must meet when it is delegated to conduct an environmental impact statement by the Environmental Protection Agency in connection with a proposed mining operation.

The entity applying for a license must conduct an impact study assessing the adverse impact of the mining operation on the county where it will be located on and all bordering counties. The statement specifically must show which harmful gases, liquids or chemicals will be used and what effect their use might have anywhere in the state, especially the counties in question.

Public hearings on the impact statement must be held in the county of operation and all bordering counties. The statement must be approved by the state before the license or permit to operate is issued.

If the state finds the environmental impact statement inadequate, it will conduct a study of its own, subject to same provisions as outlined above. The permit applicant must bear the cost of any or all of the impact statements. If any state agency or political subdivision submits an objection to the adequacy of any impact statement submitted, the statement must be disapproved, even if the agency or political subdivision is not charged with the permitting authority.

The circuit court would oversee any appeal of the approval or disapproval of an environmental impact statement under this legislation.

Landfill Prohibitions (H.4280, Rep. Sharpe). This legislation would make it illegal for a person to knowingly dispose of a lead-acid battery, tire or major household appliance in a sanitary landfill. Violation of this provision would be a misdemeanor punishable by a fine of not more than \$1,000. Under this bill, a major household appliance is defined as a clothes washer or dryer, a conventional oven, range or stove, a wood stove, an air conditioner, refrigerator or freezer.

Further, this bill would make it illegal to knowingly dispose of a lead-acid battery in a waste incinerator. This violation would also be a misdemeanor punishable by a fine of not more than \$1,000.

Under the bill, DHEC must conduct a study of the problems associated with the disposal of acid-free batteries and determine the appropriate options for disposal, including recycling. The report must be made to the General Assembly by June 30, 1990.

Impact Statement Required for Mining Operation (H.4290, Rep. Smith). This legislation amends the South Carolina Mining Act to require an environmental impact statement, approved by DHEC and the Land Resources Commission, before a mining permit may be issued. Under the bill, neighboring public or private child care centers, private roads, private property or individuals would be added to the list of entities which DHEC must examine to assure no substantial physical hazard would be imposed by the mining operation. Public hearings on the adequacy of the impact statement would be held in the county of operation and bordering counties. DHEC could conduct its own impact statement. The cost of any impact statement would be borne by the applicant, under the legislation.

The bill further requires that any modification or renewal of an existing mining permit must be accompanied by an environmental impact statement demonstrating no adverse impact to the same entities required for a new permit. The impact statement would have to undergo the same public hearings and approval by DHEC and the Land Resources Commission, and the cost of the statement would have to be paid by the mining operator. Appeals of a DHEC decision would be made in the Richland County Court of Common Pleas or in the county where the principal mining operation would be conducted.

The permit applicant or an aggrieved party may request a delay in a public hearing; however, the delay could not be longer than 30 days.

**Education and Public Works Committee**

License Plate Renewal (H.4276, Rep. Altman). This legislation would allow the state Highway Department to issue new license plates at the time the department deems appropriate instead of every five years as required by current law. License renewal could be made by sticker "or other suitable means prescribed by the department...upon the payment of the fee prescribed for registration and licensing, including fees for personalized or special license plates."

The legislation also requires any member of a state board or commission who has a special license plate to return that plate to the Highway Department upon the expiration of his or her term in office.

Fine Increased for Reinstatement of Suspended or Revoked License (H.4283, Rep. Sheheen). This legislation would increase the reinstatement fee for revoked or suspended licenses from \$10 to \$100 in addition to the proof of financial responsibility. The bill deletes provisions in the current law making the reinstatement fee mandatory whether or not the state Highway Department provides driver improvement education. Under this legislation, in areas where the department provides the drive improvement instruction, it would be mandatory and an additional condition of license reinstatement.

Repeal of Delinquent Registration (H.4294, Rep. Davenport). This bill would repeal that section of the code that requires the payment of a delinquency fee for failing to register and license a vehicle. The current code section has a graduated penalty schedule, in that delinquency of less than 30 days requires a \$5 fine; over 30 days, \$10, and over 90 days, a \$25 delinquency fee.

Children and Pick-up Trucks (H.4343, Rep. Mappus). Under this bill, no child 12-years-old or younger could ride in the open noncab or uncovered portion of a pickup truck. This provision would not apply if the bed of the truck was covered by a permanent attachment such as a camper. However, the prohibition would apply to truck beds covered only by tarps, awnings or other similar materials.

Violation of this provision would be a misdemeanor punishable by a fine of not more than \$200 or imprisonment for not more than 30 days.

Seating for the Elderly at the Highway Department (H.4346, Rep. Rudnick). The state Highway Department's registration and licensing offices would be required to furnish adequate seating for persons who, due to age or infirmity, cannot stand for long periods of time.

Citadel Eleemosynary Corporation (H.4379, Rep. Kirsh). The Citadel would be authorized to establish a eleemosynary corporation for the purpose of scholarships and other support to college, under this legislation. The bill allows the trustee board of the military college to transfer up to \$20 million of nonstate appropriated funds and property held in its name or the name of the college to the corporation for scholarship and college support purposes on the effective day of the act. Under this legislation, the records and proceedings of the Citadel nonprofit corporation are subject to disclosure in the manner provided by the Freedom of Information Act.

### Judiciary Committee

County Works Improvement Act (H.4254, Rep. Davenport). This bill would create the County Works Improvement Act. If enacted, it would authorize counties governing boards to establish special public work improvement districts in areas where improvements would be beneficial and would improve property values that likely would depreciate. The improvement plan could include pedestrian facilities, sidewalks, storm drains or water course improvements, and the construction, widening or paving of roads. The improvements would be paid, all or in part, by a special assessment of the property owners within the designated district. Written consent of a majority of the property owners within the proposed district, owning more than 66 percent of the assessed value of the property, would be required.

The bill spells out way the improvement districts would be established, and how property owner consent and objections would be handled, among other provisions. The bill states that all improvements would be property of the county.

Coordinating Council for Economic Development (H.4258, Rep. R. Brown). This legislation would remove the S.C. Coordinating Council for Economic Development from the sunset list of state agencies terminating on June 30, 1991. The bill also would allow the governor to appoint the chairman of the Coordinating Council from its membership. Currently, the chairman of the State Development Board serves as chairman.

Municipal-Owned Water and Sewer Agencies (H.4259, Rep. Corning). Municipal-owned water, sewage collection or sewage disposal agencies would be brought under the authority of the Public Service Commission, under this legislation.

Additional Circuit Judges (H.4261, Rep. Sheheen). This legislation would change state law to allow three judges to be elected from the 5th, 9th and 13th Judicial Circuits, instead of the current two judges. Two judges, instead of the current one, would be elected from the 14th and 15th circuits. The bill also would expand the number of at-large circuit judges from six to ten. The 5th Circuit comprises Kershaw and Richland counties; the 9th, Charleston and Berkeley counties, and the 13th, Greenville and Pickens counties. Counties in the 14th Circuit include Allendale, Hampton, Colleton, Jasper and Beaufort; counties in the 15th Circuit are Georgetown and Horry. Under this bill, a total of nine new judgeships would be added.

In addition, the bill would prohibit any retired judge or justice of the state Supreme Court, Court of Appeals, Circuit Court or Family Court from presiding over any official proceeding of the Circuit or Family Court, except when the chief justice of the Supreme Court determines an emergency. Additionally, no active Family Court judge may preside over an official proceeding of the Circuit Court, under this bill.

Sentencing Guidelines Extension (H.4262, Rep. Wilkins). The Sentencing Guidelines Commission would be allowed additional time before making recommendations to the General Assembly if this bill is enacted. The legislation changes the deadline for the commission to make advisory sentencing guidelines for the General Session Courts for all offenses with terms carrying one year or greater. The current law states the recommendations must be made one year from the effective date of the act. This bill would make the deadline January 31, 1991. That January date would also be the deadline for recommendations on a classification system based on the maximum terms of imprisonment for all state criminal offenses. The current deadline is December 1, 1990.

Club Anti-Discrimination Law (H.4277, Rep. Fant). This bill would make it unlawful for any club, whether public or private, to deny service, admission or membership to a person because of race or color. The bill would deny club violating these provisions privileges granted by state agencies, including liquor licenses, charters, business licenses, food service permits or tax-exempt status. These sanctions also would be extended to any individual or organization that aided or abetted the club in question.

Notary Public Training (H.4279, Rep. Sharpe). No notary public may be commissioned after 1990 unless he or she has completed an approved training course for notaries, under this bill. The bill authorizes the Secretary of State and the State TEC Board to develop a training program for notaries to be offered at a nominal fee.

Sexual Harassment by a Public Official (H.4295, Rep. Davenport). This bill would provide for the offense of sexual harassment by a public official. The bill defines the terms and sets penalties. A convicted official would be removed from office, found guilty of a misdemeanor, and face a fine of \$1,000 and 90 days in jail.

Processing of Ethics Complaints (H.4338, Rep. Waites). This bill outlines the procedure the State Ethics Commission must follow when a complaint is made alleging a violation of the state ethics laws. The bill calls for the commission to send a copy of the complaint immediately to the person against whom the complaint is made. If the commission director determines sufficient facts to indicate a violation, a preliminary investigation must be initiated promptly. If probable cause is found, the commission could issue an advisory opinion to the respondent and require compliance, or convene a formal hearing. The bill states all records of the preliminary hearing would be confidential.

The respondent would be allowed to make copies of all evidence and would be allowed all due process rights, including legal counsel and the right to call witnesses. The Attorney General's Office would prosecute the matter for the complainant. All hearings would be in executive session, under this legislation.

At the conclusion of the hearing, the commission would issue, if appropriate, a recommendation of disciplinary or administrative action, or refer the matter to the Attorney General's Office for action in an alleged criminal violation is found.

Community Residential Care Facilities (H.4357, Rep. Ferguson). Any community residential care facility, which directly or indirectly receives public funds, must comply with state and federal anti-discrimination laws, if this bill is enacted.

Voter Registration by Mail (H.4362, Rep. Rudnick). This legislation would prohibit any application to register to vote by mail from including questions regarding the applicant's race or religion.

News Ads for County Prisons (H.4382, Rep. Rudnick). Thirty days before a county governing body starts construction, enlargement or renovation of a prison facility, this bill would require the county to give public notice of the project in a newspaper ad of at least a quarter of a page in size.



Absentee Ballots (H.4384, Rep. Clyborne). This legislation would specify the way absentee ballots would be examined on election day. It changes the law to require absentee ballots to be submitted in return-addressed envelopes marked "Ballot herein." Among other provisions in this bill, it also sets a 2 p.m. time on election day when election officials would begin the process of examining absentee ballots. Notification of the way absentee ballots would be examined would be required to be publicized with other election information. The examination process described in the bill would apply to all return-address envelopes received by the county registration board before the polls closed.

#### **Labor, Commerce and Industry Committee**

Spare Tires (H.4286, Rep. McTeer). Every motor vehicle sold in the state would be required to have a full size spare tire, if this legislation is enacted.

Flood, Earthquake and Hail Insurance (H.4356, Rep. Harvin). Every insurance company would be required to offer to homeowners coverage against the perils of flood, earthquake and hail when writing homeowner's insurance. Flood insurance specifically would include damage caused by tidal surges due to hurricanes, other storms or wind. The homeowner must indicate in writing whether he or she wants or rejects the coverage. These provisions would apply to all current homeowner's policies at renewal time.

Auto Insurance Information (H.4335, Rep. M.O. Alexander). This bill would require all drivers to carry verification of their automobile insurance coverage including amounts. If involved in an accident, the driver must furnish the investigating officer information regarding his insurance. A driver who fails to carry the insurance verification would be guilty of a misdemeanor punishable by a fine of not more than \$200 or by not more than 30 days in jail.

The bill further would require the investigating officer to furnish all parties involved in the accident with the insurance information of the other drivers. All Highway Department information on the accident supplied to the police, coroners, garages or other agencies must include the insurance information of the drivers.

Worker's Compensation Commission Elections (H.4381, Rep. Rudnick). If enacted, this legislation would allow the General Assembly to elect the seven members of the Worker's Compensation Commission. Currently, they are appointed by the governor with the advice and consent of the Senate.

**Medical, Military, Public and Municipal Affairs Committee**

Foreign Medical Students (H.4265, Rep. Blackwell). Under this bill, graduates of foreign medical schools may apply for licensing as a physician if the graduate is otherwise qualified and successfully completes a program of supervised training in a hospital accredited by the Joint Committee on Hospital Accreditation. The legislation states that the State Board of Medical Examiners would set the requirements for the training program.

Protection and Advocacy Inspection (H.4271, Rep. P. Harris). This legislation would require that no license for a community residential care facility for developmentally disabled or handicapped people can be issued until the facility has been inspected by a team from the South Carolina Protection and Advocacy System for the Handicapped.

No Abortion After 24 Weeks (H.4282, Rep. Sharpe). This legislation, if enacted, would delete current language in the code regarding abortions and trimesters. Replacing this language would be the provision making it unlawful for an abortion to be performed when the gestation age of the fetus is determined to be 24 weeks or more. The legislation requires a physician to determine the gestation age of the fetus. In determining the fetal age, the doctor would perform the examinations or tests to determine the gestation age, weight, and lung maturity. The findings and the determination of viability of the fetus would be entered on the woman's medical record.

Drug Elimination Commission and Stiffer Penalties (H.4298, Rep. Davenport). This lengthy bill would establish a 12-member state Drug Elimination Commission and would substantially stiffen the penalties faced by those convicted of drug violations, beginning with the first offense. This bill would prohibit judges from lessening sentences for drug convictions and would prohibit plea bargaining.

In addition to penalties for drug violations in the state code, a person convicted of a first offense drug violation would be required to undergo 12 months of drug counseling, which would be paid for by the convicted; 11 points on his driving record; following completion of his jail term, a nine month confinement to his residence, except to work; suspension of his professional license for three months if applicable; removal from state employment for 12 months following his jail term and the nine month house arrest; forfeiture of a state contract or a contract with a political subdivision of the state, if applicable; and garnishment of 10 percent of the wages earned while under house arrest.

Second offense would be required to undergo 18 months of drug counseling; a year's suspension of his driver's license; 24 months of residence confinement, except to work; suspension of a professional license for three years; termination of employment with the state or a political subdivision; forfeiture of a state contract or a contract with a political subdivision of the state; no additional state contracts for five years; confiscation of all property, whether real, personal or mixed; and garnishment of 15 percent of his wages earned during house arrest.

Courts would be required to give all those convicted of drug violations the highest penalties set forth in the statutes. No exception would be made to the provisions of this bill due to the convicted's age. Plea bargaining would be allowed in connection with fines, only to obtain the names of drug violators. Those charged could not be release on bond or personal recognizance. If sentenced to 25 years or more on drug charges, the bill would require the first ten years to be served in solitary confinement.

Those who violate drug laws on or adjacent to schools or attempt to induce minors to violate the drug laws would face double jail terms and fines, if convicted. These provisions would also apply to inmates, with a half of the term served in solitary confinement; and to those who use a weapon in commission of the crime, or threaten harm to a law enforcement officer. Those convicted of drug violations who threaten death to a judicial officer or law enforcement officer would be sentenced to life without parole.

A drug prison would be established in each congressional district, under this bill, with the inmate population divided by age.

Emergency Burning Ban (H.4353, Rep. Rama). Special purpose districts or public service district would be authorized to issue emergency bans on the burning of trash or debris within the district for a set time if conditions warrant. Violations would be a misdemeanor.

#### **Ways and Means Committee**

Child Under Five Tax Credit (H.4270, Rep. Corning). Parents with children under age 5 who are not eligible for the federal child care tax credit could be eligible for a state tax credit, if this bill is enacted. This bill proposes that any person with dependents 5-years-old or younger would be eligible for a tax credit of \$250 a dependent with a maximum credit of \$1,000. The bill stipulates the child for whom the credit is taken must not have entered the first grade by December 31 of the taxable year.

Taxpayers who file a joint return are eligible for the credit, as are single parents who have custody of the child. The bill states that taxpayers who are eligible for the state and federal child care tax credit would not be eligible for this tax credit as well.

Extension for Assessment Appeals Due to Hurricane (H.4274, Rep. Corning). This legislation would allow property owners some extra time for appealing assessed value of real property if the property's assessed value has changed due to Hurricane Hugo damage. This extension would apply to the 1990 tax year only. This extension, if enacted, would allow an extension from March 1, 1990 to the 30th day after the date of the tax notice on the property. Appeals filed during this extension could be based only on changes of assessed value due to damage caused by the hurricane.

Michigan Decision Claims (H.4281, Rep. Winstead). This bill proposes a schedule by which federal military and civil service retirees would be paid state tax refunds due to last year's Davis v. Michigan decision. The bill states legitimate and timely refund claims must be paid to the retirees regardless of any pending litigation. The bill states, however, if the court finds against the retirees, the State Tax Commission could assess the retirees for the refunds paid.

The payment schedule proposes paying 1985 refund claims no later than June 30, 1990; 1986 refund claims, not later than June 30, 1991; 1987 claims, not later than June 30, 1992, and 1988 claims, not later than June 30, 1993.

Changes to the State Underground Petroleum Environmental Response Bank Act (H.4339, Rep. McLellan). This bill proposes lowering the initial registration fee for underground petroleum tanks from \$100 to \$60 a tank. However, an additional one-half cent a gallon environmental impact fee would be added, with the proceeds going to the State Underground Petroleum Environmental Response Bank (Superb) account. This one-half cent a gallon fee would be in addition to the imposition of a one-fourth cent a gallon inspection fee. The environmental impact fees would be collected by the state Agriculture Department but transferred to the state Department of Health and Environmental Control. The registration fee would be paid by tank owners until December 31, 1998.

Under this bill, the one-half cent environmental impact fee would be suspended any time the Superb account exceeds \$15 million. The fee suspension would continue until the account drops below \$5 million.

The legislation also proposed a substantial decrease in the amount of financial responsibility tank owners must carry. The bill states the owner must maintain financial liability in the lesser amount required by the federal government or in the amount of \$25,000 for corrective action or clean up of spills, \$25,000 for third party property damage, and \$25,000 for third party bodily injury per occurrence with an annual aggregate of \$25,000. The current financial responsibility requires the owner to carry coverage of \$100,000 for clean up or corrective action, \$300,000 for third party property damage an occurrence with a \$300,000 annual aggregate.

The bill further states that the financial responsibility required by the bill, along with the Superb account, may be used by tank owners to demonstrate their compliance with federal financial responsibility requirements.

Property Sales by Nonresidents (H.4344, Rep. Elliott). This bill would eliminate the proviso in last year's Appropriation Act which requires that a percentage of the proceeds of a property sale must be withheld for State Income Tax purposes if the property owner is a nonresident. The 1989 proviso stipulated that 7 percent of sale proceeds going to nonresident individuals and 5 percent of the sale proceeds going to nonresident corporations must be withheld.

Legislative Discretionary Account (H.4345, Rep. Rudnick). Under this legislation, a Legislative Discretionary Account would be established within the State Highway Fund. Expenditures from the \$4,250,000 annual fund would be made by the Highway Department on the warrant of individual legislators for legal purposes for which highway funds may be used. The bill would prohibit any member of the General Assembly from using more than \$25,000 a year from the account.