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South Carolina House of Representatives

Legislative Update

Robert J. Sheheen, Speaker of the House

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STATE DOCUMENTS

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House Week in Review

A number of significant bills were approved last week, as the House of Representative put in some long hours of work on the calendar in anticipation of spending this week working on H.4800, the State Appropriations Bill.

Infectious Waste

One significant environmental bill passed by the House was H.4246, limiting the amount of infectious waste that may be burned by commercial waste incinerators. By a vote of 101-0, the House gave second reading approval to the bill on Wednesday. It received third reading on Thursday and was sent to the Senate.

Under this legislation, DHEC would annually estimate the amount of infectious waste it expects to be generated in South Carolina for the next calendar year. The first estimate would be made November 1, 1990 and then yearly thereafter. Commercial infectious waste incineration facilities would be prohibited from burning more than one-twelfth of the annual DHEC estimate during any one month. The legislation states that at no time may the amount of waste burned in a month be less than 750 tons.

This limit does not apply to infectious waste treated by hospitals or generation facilities if the waste is generated in-state and incinerated on a non-profit basis.

According to the bill, from July through December 1990, no more than 750 tons of infectious waste may be burned in any one month by a commercial incinerator.

Currently, the state has only one commercial infectious waste incinerator, Southland Exchange Joint Venture in Hampton County. Under its current permit, this incinerator can burn up to 100 tons of waste a day. If this legislation is enacted by the General Assembly, that amount would drop to 25 tons a day.

It is estimated that only about 5 percent of the waste burned at Southland is generated in South Carolina. DHEC has estimated that South Carolina generates about 18 tons of infectious waste a day.

Judicial Selection Changes

House members also approved H.4168, which would make some changes in the provisions governing the selection of judges. Under this legislation, the make-up of the 8-member Judicial Screening Committee would change slightly to include one member of the House and one from the Senate who are not licensed attorneys. Currently, all members of the committee are attorneys. If this legislation is enacted, this provision would not take effect until December 1, 1992.

The legislation also stipulates that if a judicial candidate withdraws or dies, or if the screening committee finds the candidate not qualified, then the election for that judgeship may not be held until additional candidates have a chance to file for the office and undergo the screening process. The bill gives the General Assembly the authority, by concurrent resolution, to reopen the filing period for a particular judgeship and reschedule the election.

The legislation further would prohibit any candidate from being nominated for a judgeship from the floor who has not been reviewed by the Judicial Screening Committee.

H.4168 was given second reading by voice vote on Wednesday and third reading on Thursday. The bill now goes to the Senate for consideration.

Ethics Legislation

The House also passed H.4338, legislation dealing with the processing of ethics law complaints. This bill was given second reading Wednesday and final approval Thursday before being sent to the Senate.

The bill would revise the way ethics complaints are handled by the State Ethics Commission, allowing the executive director to make a determination from the written complaint whether there are facts sufficient to allege a violation. Under the current procedure, the work load of the commission has increased substantially from 30 complaints in 1988 to 60 in 1989. The commission estimates it now takes 6 to 8 months to process a complaint.

In addition, the legislation would allow the existence of the complaint to be made public if the respondent waives confidentiality. The final disposition of the complaint also would become public record.

Currently, the law prohibits the commission from admitting the existence of a complaint or its final disposition, even though the circumstances of the complaint are often leaked to the media.

Under this bill, complaints against candidates for public office could not be accepted within 90 days of the election, and outstanding complaints against candidates must be disposed of 30 days prior to the election.

In other House action, third reading approval was given to H.4484, the AIDS Public Safety and Testing Disclosure Act.

Bills Introduced

Here is a sampling of bills introduced in the House during the past week. Not all the bills introduced are featured here. The bills are organized by the standing committees to which they were referred.

Education and Public Works Committee

Speed Bumps (H.4795, Rep. J.C. Johnson). The state code currently allows the installation of speed bumps by county or municipal governments in residential areas or school zones. This legislation would allow home owners, along particular blocks or identifiable stretches of highway, to petition their county or municipal governments for speed bumps in the same areas allowed under the current law. Further, if at least two-thirds of the owners sign the petition, they would be able install the speed bump at their own expense if the county or municipal government refuses. The legislation also would prohibit any legal actions for damages from being brought against the residents because of these devices being installed.

Student-Possessed Weapons and Drugs (H.4803, Rep. J.C. Johnson). School officials would be directed to immediately report student misbehavior involving weapons or controlled substances to "the appropriate law enforcement agency" and the district office, under this legislation. This action would be in addition to any disciplinary measures that the school officials would impose.

Judiciary Committee

Cable Television Regulation (H.4779, Rep. Koon). Under this legislation, the state Public Service Commission would take over the duties and rate-making authority now held by county and municipal governments in regard to cable television operations. This transfer of authority would occur July 1, 1990, if this legislation is enacted. The commission would regulate the cable TV rates in the same manner as it regulates telephone rates. The laying or taking up of cable under public roads, land and water would remain with jurisdiction presently charged with this responsibility.

Handicapped Jurors (H.4782, Rep. Baxley). This legislation would prohibit a person who is blind, deaf, speech impaired or physically handicapped from being disqualified as a juror on the basis of his handicap alone. The legislation also spells out the criteria an interpreter for the deaf must follow when serving a deaf juror. This includes court instruction directing the interpreter not to participate in any of the decision making of the jury, other than to furnish a literal translation of the deliberations to the deaf person so he or she may participate as the chosen juror.

Statewide Referendum (H.4798, Rep. J.C. Johnson). This joint resolution proposes changing the State Constitution regarding how statewide referenda on constitutional changes are handled. Under this joint resolution, constitutional changes requiring a statewide vote would be put before the voters at the next general election which is not in a presidential election year. This stipulation could be changed if the General Assembly provided otherwise.

Asbestos Litigation (H.4805, Rep. Wilkins). This legislation relates to the statute of limitation governing action brought for the removal of asbestos against manufacturers and suppliers of materials containing asbestos. This legislation would apply to property damage only and not to personal injury.

Minimum Residential Rental Criteria (H.4806, Rep. Faber). This legislation would make it a misdemeanor for a rental agent or property owner to rent or lease a residence that does not meet the minimum requirements set out in the bill.

These requirements include that the dwelling have a separate entrance; does not have broken windows or glass doors; has no roofing or plumbing leaks; has adequate flooring with no holes; has secure working locks; and has properly working toilet, water and plumbing facilities. The dwelling also would have all exterior boards securely nailed. Fine for violation would be \$500 for each violation or 20 weekends community service with an association that serves low income people.

DYS and Contraband (S.1112, Sen. Rose). This legislation would prohibit juveniles in the custody of the Department of Youth Services from possessing certain contraband items defined in the legislation. The bill further would prohibit any person from furnishing or attempting to furnish the contraband articles.

In this legislation, contraband would be defined as any device that could be used as a weapon; drugs of any type for which the juvenile does not possess a legal prescription; poisons or other dangerous chemicals; any flammable liquid; any type of alcohol; keys, locks or any type of tool not officially issued by DYS, and any additional items defined as contraband by the DYS commissioner.

A list of contraband articles would be posted in a conspicuous place on the DYS grounds, under provisions of the bill.

Any adult violating these provisions would be guilty of a felony punishable by a fine between \$1,000 and \$10,000 and/or jailed from one to ten years.

Labor, Commerce and Industry Committee

Property Damage Coverage Increased (H.4786, Rep. Kohn). Under one of the provisions of last year's Automobile Insurance Reform Act, no insurance company was required to write private passenger insurance with higher limits of coverage than \$50,000 for property damage. This legislation would increase that limit to \$100,000 for property damage.

Earthquake Coverage (H.4804, Rep. Limehouse). Under this legislation, insurance companies would be required to offer homeowners earthquake coverage either in connection with new policies or with residential policies being renewed. The legislation includes the statement insurance companies must present to the homeowners when offering the earthquake insurance. Homeowners would have 30 days to decide whether to add the coverage to their residential insurance policies.

Architects and Contractors (S.491, Sen. McConnell). Under this legislation, no architect or engineer performing design work in connection with a contract awarded under the Consolidated Procurement Code could perform other work on the project, such as by working as the project's contractor or a subcontractor. This other work could not be performed directly or indirectly, as through a business in which the architect or engineer, or his firm, has more than a five percent interest.

Service Station Services (S.624, Sen. Patterson). This legislation would require service stations to post in a conspicuous place the self-service pump price for each kind of gasoline available.

Medical, Military, Public and Municipal Affairs Committee

Rural Health Care Plan (H.4789, Rep. Blackwell). The purpose of this legislation is to establish a mechanism for a thorough review of regulatory requirements applicable to small and rural hospitals; to provide for the temporary implementation and evaluation of alternative standards; and to develop a rural health care plan that would create rural health networks, improve access to hospitals and other health services for rural residents; and enhance emergency and other transportation services.

This legislation directs the Joint Health Care Planning and Oversight Committee to undertake a thorough review and assessment of the regulatory requirements facing rural hospitals and develop a rural health care plan that accomplishes the aims of this legislation. The report must be undertaken by January 1, 1991. The Health Care Planning and Oversight Committee could contract with medical consultants as necessary to complete the study. The committee's chairman would appoint a technical advisory committee familiar with the rural health care crisis.

The Department of Health and Environmental Control would be authorized to approve pilot programs in rural areas which would use alternate methods of providing service, as long as the projects assure patient safety and the quality of care.

DHEC and the Health Care Planning and Oversight Committee would work together to ensure that amendments to the state plan are made that would allow rural health providers to participate in alternate methods and still receive federal Medicaid and Medicare money.

The joint committee and DHEC would report back to the General Assembly on their findings by January 1, 1994. The report would assess the impact of the alternative methods explored and whether those methods should be permanently adopted.

Disclosing Test Results of Sexually Transmitted Diseases (S.1165, Sen. Leatherman). This bill would allow the results of sexually transmitted diseases to be released to a solicitor or state law enforcement agency by court order. In order for the results to be disclosed, the court must weigh the need for disclosure against the privacy of the individual and the potential harm to the public interest if the disclosure deters future HIV testing or counseling, or blood or organ donation. The legislation would prohibit any information other than the subject of the testing to be disclosed. The court would provide the individual and DHEC an opportunity to participate in the court hearing on the testing release.

The testing results could not be released by a court solely on information provided by an anonymous tip. A person providing information to law enforcement must submit a signed affidavit establishing the facts. The person making the allegations would appear at the hearing and be subject to testifying and cross examination.

Court hearings on the matter would be closed, and a pseudonym used for the subject. If the order is issued, the court would specify who may have access to the information, the purposes that information may be used for, and prohibitions against further information being released.

Additionally, the bill would rewrite that section of the code dealing with people carrying the HIV virus. The bill would prohibit any person who knows he is infected with the HIV virus to knowingly engage in sexual intercourse of any kind without first notifying his partner; to knowingly commit an act of prostitution; to sell or donate blood or other bodily fluids; to forcibly engage in sexual intercourse without the consent of the partner, including the person's spouse; to knowingly share hypodermic needles or syringes without first informing the borrower of the HIV infection.

Ways and Means Committee

Teacher Salary Limits (H.4799, Rep.J.C. Johnson). Under this legislation, the minimum salary schedule for teachers would not contain any limit on teacher salary levels based on years of teaching experience, beginning with the 1990 fiscal year.

Without Reference

Underground Petroleum Environmental Response Bank Changes (H.4807. House Ways and Means Committee). This is the committee bill resulting from changes initially introduced this session in H.4339, which proposed changes in the SUPERB fund. Some of the provisions of the committee bill include:

- An initial registration fee of \$100 per tank and an annual renewal fee of \$100 per tank until December 31, 1998 when the fee would be reduced to \$25 per tank.
- An additional one-half cent a gallon environmental impact fee with the proceeds going to the SUPERB account. In addition, a one-fourth cent a gallon inspection fee would be established. The environmental impact fee would be collected by the State Department of Agriculture but transferred to DHEC. DHEC would be limited to administration fees of not more than \$450,000 a year.
- 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 bill would substantially decrease the amount of financial responsibility tank owners must carry. The bill states the owners 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. 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 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.

- The bill spells out what the SUPERB account is to be used for, including to pay the costs of site rehabilitation by owners or operators who qualify for reimbursement or direct billing. DHEC also may use the fund to clean up a site which does not qualify for reimbursement but the owner is unwilling or unable to undertake the rehabilitation. The bill directs DHEC to "diligently pursue" recovery of any sum from the owner or the federal government, unless the amount is too small or the likelihood of success too uncertain.