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South Carolina House of Representatives

Legislative Update

Robert J. Sheheen, Speaker of the House

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House Week in Review

The House of Representatives put in a full five days of work last week as it gave second reading approval Friday to the 1990-91 Appropriations Bill (H.4800).

With the state facing a tight money year, the House spent most of last week debating whether two revenue raising mechanisms should remain in the \$3.6 billion bill. These were the five cents per pack increase on cigarettes, which would have raised \$20.5 million, and a severance tax on gold mined in South Carolina, which would have brought in another \$3.7 million.

With the elimination of both these revenue-raising items by the end of the week, the House found the budget bill about \$30 million out of balance. These circumstances resulted in a long night for the House Ways and Means Committee Thursday as the committee worked up \$29.9 million in cuts to bring the bill into balance.

Among the larger reductions proposed by the committee and adopted by the House were a delay in the state employee 2 percent cost-of-living pay raise from July 1 to October 1, which would save the state \$6.8 million; a \$6.4 million reduction in public education, and a \$4.6 million savings by cutting state government travel and equipment 10 percent.

Although the House rejected the cigarette and gold severance taxes, the bill includes an increase in licensing fees for video poker machines, which will generated \$18 million, an increase in infectious waste fees bringing in \$1.4 million to state coffers, and the imposition of sales tax on Department of Corrections canteen sales (\$285,100).

The House still must give the budget bill a third reading before it's sent to the Senate. However, that action will not end the House's budget deliberations for this legislative session. Still to be considered is H.4802, the \$58.6 million Capital Reserve Fund Bill, and H.4801, the \$20.2 million Supplemental Bill.

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.

Agriculture and Natural Resources Committee

Dolphins and Whales (H.4836, Rep. Harvin). This bill would prohibit dolphins or whales from being captured from the waters of South Carolina. It also would prohibit these mammals from being placed on display. Violations would be a misdemeanor punishable by a fine of not more than \$1,000 or not more than 6 months in prison.

Fine Increase for Dumping Litter (S.951, Sen. Giese). Under this legislation, the fines for dumping litter on private or public property would increase. The fine for a first offense would stay at between \$100 and \$200, unless there are aggravating circumstances such as, but not limited, to the quantity of the litter. Then the court at its discretion could impose a fine of up to \$1,000. For second and subsequent offenses, the fine would be between \$200 and \$1,000, or imprisonment for not more than six months.

S.C. Aquatic Plant Management Program (S.1275, Sen. Land). This legislation would create the S.C. Aquatic Plant Management Program for the purpose of preventing, identifying, managing and monitoring aquatic plant problems in the public waters of the state. The state Water Resources Commission would be designated as the state agency to administer the program and to apply for the appropriate private and public grants and loans available to deal with this problem. A Aquatic Plant Trust Fund would be set up to receive and expend funds.

Further, the bill would establish a 10-member Aquatic Water Plant Management Council, made up primarily of agency representatives to coordinate the state's actions in managing aquatic plants. The Water Resources Commission, with advice of the newly created Council, would draw up a management plan, identifying the problems areas and developing strategy to deal with it. Public input would be sought for the plan.

Archery Stamp (H.4855, Rep. R. Brown). Sportmen who hunt with archery equipment will have to buy an archery stamp before they can pursue their prey if this legislation is enacted. This bill would establish an annual state archery stamp. The fee for the stamp would be \$5.50. The Department of Wildlife and Marine Resources would keep \$4.50 of the stamp proceeds and whatever proceeds generated by the sale of archery stamp prints and related items. The proceeds collected from the stamp would go to pay for the cost of printing and producing the stamp and for the procurement of wildlife habitat across the state. None of the stamp proceeds could be used for administrative costs.

Proceeds from the sale of archery stamp prints and other related items could be used for the necessary administrative and promotional expenses associated with the print. After these expenses are deducted, the money from prints and related items must be used for the procurement of wildlife habitat.

State Disposal Fees Linked to Actions of Other States (H.4857, Rep. Hallman). This legislation would tie the fees, penalties or restrictions required in South Carolina for the disposal of infectious, hazardous and solid wastes to the same conditions required by other states for disposal of the same waste. Under this bill, when the laws or regulations of other states require a larger fee or greater penalties or restrictions for the disposal of South Carolina waste there than South Carolina would require for the same disposal here, then South Carolina's fees, restrictions or penalties must match the higher requirement of the other state for disposal of waste.

Judiciary Committee

DUI in Other States (H.4819, Rep. J.C. Johnson). Under this legislation, DUI convictions in another state would be counted as prior convictions when determining sentences under the South Carolina DUI laws.

Domestic Violence (H.4823, Rep. J.C. Johnson). This bill would expand what prior offenses the court would consider when sentencing a person who violates criminal domestic violence provisions. Under the current law, prior convictions under the domestic violence statutes are considered when sentencing. This legislation would expand that to include any conviction for a violent act against any relative who falls under the definition of family or household member as provided in this statute.

Mental Health Counseling for Crime Victims (H.4831, Rep. Wilkins). Under the present law, the Victim's Compensation Fund can pay for the mental health counseling of crime victims, limiting the counseling services to 90 days beginning on the first day of counseling. Under this legislation, the mental health counseling services would be limited to the number of sessions during a 90 day period beginning with the first session or 15 sessions total, whichever is greater.

Lobbying of Legislators (H.4832, Rep. Fair). This legislation would apply to any individual who is a candidate or nominee for an office elected by the General Assembly, who must undergo legislative screening to run for the office. Under this bill, these candidates would be prohibited from directly or indirectly engaging in campaigning or lobbying among legislators anywhere in the Statehouse complex until after the screening process is completed. Campaigning and lobbying, under this legislation, is described as person-to-person campaigning or person-to-person lobbying, either directly or indirectly, or through another person acting on the candidate's behalf.

Return of Property to the Innocent (H.4834, Rep. J.C. Johnson). Under this legislation, if an item seized in connection with a drug offense by law enforcement is returned to an innocent owner, then an item of equal value owned by the person charged with the offense, which resulted in the seizure, must be forfeited.

Malicious Injury to Property (H.4844, Rep. T.C. Alexander). Under the current law, when a minor does malicious injury to property, his parents are liable for the damage up to \$1,000. This bill would raise that liability limit to \$5,000.

Safe Schools Act of 1990 (H.4852, Rep. Wilkins). The bill would address a number of crime problems now facing South Carolina schools. The bill addresses increasing penalties for carrying weapons and trafficking drugs on school property, the criminal records of juveniles, and the circumstances under which they can be tried as adults.

Under this bill, the penalty for carrying a weapon on school property would increase from a \$100 to a \$1,000 fine. The jail time also would increase from 30 days to one year. In addition, anyone manufacturing or selling drugs within a half mile of a school would face both a fine and jail time, instead of either a fine or jail time. The bill also makes it a separate criminal offense to purchase drugs within a half mile radius of a school, punishable by a \$1,000 fine and/or one year in jail.

Further, the bill would allow a juvenile, 15 or older, to be tried as an adult for bringing a weapon on school property or for distributing drugs within a half-mile proximity of a school following a full investigation and court hearing.

Under this legislation, the Department of Youth Services would have to provide a public or private school with the criminal record of the juvenile, who has been convicted of a violent crime. Upon the juvenile's release from the department, DYS would provide his criminal record to the principal of the school the juvenile is eligible to attend. Each school district would develop a confidentiality policy regarding the handling of the juvenile's record. The policy would determine who would have access to the information and where the record would be kept. At the minimum, the policy would require the record be kept in the juvenile's confidential disciplinary files and to be destroyed when the youth graduates or reaches 21-years-old.

The legislation also would require the State Department of Education to develop, in conjunction with SLED, a standard school crime reporting form. All incidents reported on the forms would be compiled by the Education Department and published annually as a report to the General Assembly.

Determining Capacity to Stand Trial (S.936, Sen. Bryan). This legislation would determine how the mental examinations should be handled to determine if a person is capable of standing trial. Under this legislation, the court would order the person to be examined by two examiners from the Department of Mental Health if the person is suspected of having a mental illness. Two examiners from the Department of Mental Retardation would be used if the charged person is suspected of being mentally retarded. Examiners from both departments would be used if the person is suspected of being both mentally ill and mentally retarded.

If the Mental Health examiners find the person not to be mentally ill, but suspect him of being mentally retarded, they will not render an opinion on the person's mental capacity, but recommend the court have the person evaluated by the Department of Mental Retardation. The reverse would be true in the cases of mental retardation which, after the examination, are suspected to be mental illness.

If a dual diagnosis (both mentally retarded and mentally ill) is determined in the preliminary examination, the two departments would report back to the court and recommend that examiners from the two departments be designated to further evaluate the person and render a final report regarding his mental capacity.

Student Jurors (S.1095, Sen. Shealy). Under this legislation, students who are called for jury duty would be able to request that the jury service be postponed to a date that does not conflict with the school term. Under this bill, students are defined as a person enrolled in high school or an institution of higher learning, including a TEC college.

Labor, Commerce and Industry Committee

Health Insurance Fiscal Impact Statement (S.1331, Senate Banking and Insurance Committee). Under this legislation, any bill or resolution coming before the General Assembly mandating or offering a health coverage by an insurance company, health service contractor or HMO, must have a fiscal impact statement attached to it. This impact statement would be developed by the Division of Research and Statistical Services and signed by the Chief Insurance Commissioner or his designee.

The impact statement would address:

- To what extent the coverage would increase or decrease the cost of treatment or services;
- To what extent it would increase or decrease the use of treatment or services;
- To what extent would the mandated treatment or service substitute for more expensive treatment or service;
- To what extent the coverage would increase or decrease the administrative expenses of the insurance companies and the premium and administrative expenses of policyholders; and
- To what would the impact of the coverage be on the total cost of health care.

Ways and Means Committee

County Auditors (H.4818, Rep. Wright). This legislation would allow county auditors, with the approval of their county governing bodies, to contract with an independent agent to discover and locate personal property that has eluded taxation. Payment for the agent would be from the delinquent taxes collected as a result of his investigatory work.

Organ Transplant (H.4824, Rep. J.C. Johnson). Under this bill, a person or his dependent who has received an organ transplant and is required to take immunosuppressant drugs for the rest of his life would be entitled to a state income tax deduction of \$1,000.

Advisory Commission on the Elimination of Wasteful State Spending (H.4853, Rep. Corbett). This joint resolution would create an 18-member Advisory Commission on Elimination of Wasteful State Government Spending. This commission would make a study of ways to eliminate wasteful spending, including duplication of services and feasibility of consolidating state agencies. This report would be due one year after the effective date of the act. Staff for the commission would be provided by the State Reorganization Commission. The commission would expire with the filing of the report to the General Assembly.

Members of the commission would consist of one member from each congressional district, six members at-large representing the private sector, and six members representing the taxpayers' interests. Appointment would be by the governor with the advice and consent of each house of the General Assembly. The bill stipulates that no elected official or member of a state board, commission or committee may serve on the commission.