

A4R  
8,633  
v. 7/17  
Copy 3



South Carolina House of Representatives

# Legislative Update

Robert J. Sheheen, Speaker of the House

Vol. 7

May 8, 1990

No. 17

S. C. STATE LIBRARY

MAY 17 1990

STATE DOCUMENTS

## CONTENTS

House Week in Review.....	2
Summary: Clean Indoor Air Act.....	4
Bills Introduced.....	6

Printed by the Legislative Council

OFFICE OF RESEARCH

Room 324, Blatt Building, P.O. Box 11867, Columbia, S.C. 29211, (803)734-3230

## House Week in Review

---

As it entered the final month of the 1990 legislative session, the House of Representatives spent a busy week passing a number of significant bills and ratifying a number of others.

### Enrolled for Ratification

Among the important bills enrolled for ratification last week was S.138, the Clean Indoor Air and Promotion of Public Health Act. This bill moved quickly through the House last week, receiving second reading approval on Wednesday and final approval on Thursday. A summary of this legislation is included in this week's Legislative Update.

Also enrolled for ratification last week was S.1137, the Adult Health Care Consent Act. Additionally, several notable bills were ratified. Among these were S.1268, the repeal and rewriting of the S.C. Mining Act; S.1202, which will regulate agent contracts and the relations between athletic agents and student athletes; and H.4483, dealing with the retirement pay and activities of judges.

### Conference Committee

A House-Senate conference committee was set for H.3169, the Hazardous Waste Limit bill. House appointees to the committee are Reps. Harry Hallman, Joe McElveen and Malloy McEachin. Senators on the committee are Sens. John Land, J. Verne Smith and Doug Hinds.

### Other House Action

The House also approved H.5072, the sine die resolution for the 1990 session, sponsored by Speaker Sheheen. The resolution stipulates that after the Thursday, June 7, 5 p.m. mandatory adjournment, the General Assembly would meet in local session June 8 through 15. The Legislature would next meet in regular session Monday, June 18 at 11:30 a.m.

Under the resolution, the only measures that could be considered during the final week would be gubernatorial vetoes; confirmation of appointments; appointment of conference and free conference committees; ratification of acts; local, uncontested matters; and previously scheduled legislative elections. Sine die adjournment would be set for 5 p.m. Thursday, June 21.

Also of significance was the second reading approval given S.391, revisions of the 1988 Beach Management Act. After amending the bill, the House voted 101-2 to give the legislation second reading approval.

The House also gave third reading approval to the following bills: H.4862, which would regulate tanning beds; and H.4924, establishing a statewide Alzheimer's Disease and related disorders registry.

The House tabled the motion to reconsider the vote whereby S.710, legislation to regulate Child Care Centers, was continued.

### Legislative Elections

Wednesday, the General Assembly met in joint session to elect members to the Health and Human Service Finance Commission and the Old Exchange Building Commission.

Elected to the Health and Human Service Finance Commission were:  
1st District            George Pinckney Knight  
3rd District            George Fred Tolly Jr.  
5th District            James Thomas McCray

Elected to the Old Exchange Building Commission was Dr. John S. Coussons.

Summary: Clean Indoor Air Act

---

Last week, S.138, the Clean Indoor Air and Promotion of Public Health Act bill was enrolled for ratification. The legislation was enrolled after the House gave it second and third reading last week. Here is a summary of this significant health legislation.

**S.138**

**Clean Indoor Air and Promotion of Public Health Act**

The purpose of this bill is to allow non-smokers to be free from exposure to tobacco smoke while in public indoor places.

Under this legislation, it would be unlawful to smoke or possess lighted smoking material in any form in

- Public schools, preschools and day care centers;
- Health care facilities, including acute care hospitals, psychiatric hospitals, alcohol and substance abuse hospitals, nursing homes, tuberculosis hospitals, kidney disease treatment centers, ambulatory surgical facilities, rehabilitation facilities, and residential treatment facilities for children and teenagers;
- Government buildings;
- Elevators;
- Public transportation vehicles; and
- Arenas and auditoriums of public theaters and art centers.

However, there are a number of exceptions. These include:

- Smoking would be permitted in enclosed teacher lounges and private officers in public schools, preschools and day care centers.
- In government buildings, smoking would be allowed in enclosed private offices and designated employee break areas. Smoking policies for the Statehouse and legislative office buildings would be determined by the office or body which has authority over that area of the building.
- Smoking would be permitted in taxicabs.

- In art centers or public theaters, smoking areas could be designated in foyers, lobbies or common areas. However, where smoking is permitted, managers would post signs designating smoking and non-smoking areas. In addition, the management would "make every effort" to keep the smoking area from impinging on the smoke-free areas.

Violation of these provisions would be a misdemeanor carrying a fine between \$10 and \$25. The bill specifically states that no authorization is given to require any person to submit to tests to determine whether nicotine or other tobacco residue is present.

Bills Introduced

---

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

**Education and Public Works Committee**

College License Tags (S.1394, Sen. Lourie). This legislation would increase the fees for special college or university emblem license tags but allow the college or universities to submit a design they like to the State Highway Department. The change in these emblems could not be submitted more than once every five years. The fee for this special college emblem tag would increase from \$25 to \$35 under this legislation. The fees would be split between the highway department and the alumni association of the respective college or university.

The division would be based on the number of tags sold as follows:

- For 1,000 tags or less -- the highway department would get \$26 per tag, the association would get \$9 per tag;
- From between 1,000 and 2,000 tags -- the department would get \$21, the association would get \$14 per tag;
- For 2,000 tags or more -- the department would get \$15 and the association would get \$20 per tag.

The legislation also would authorize the highway department to issue a special "Keep South Carolina Beautiful" license tag carrying an annual fee of \$27. Of this, \$12 per tag would go to a special fund to be used by the department for beautifying the state's roads and highways.

Parental Responsibilities Act (S.1204, Sen. Gilbert). The purpose of this legislation is to better involve parents in the educating and parenting of their children in the hopes of making more children "productive citizens rather than socioeconomic liabilities to the state." This bill parallels H.4936 introduced last month by Rep. Glover.

The legislation directs the public school districts to involve parents of preschool-age children as early as possible in the education of their children and to make home-school relations a major component of school improvement efforts. The bill would require the districts to keep records of at-risk children and their behavior, providing counseling and referral to other state agencies as needed. "It is the responsibility of parents to keep appointments and work cooperatively to assist the child to avoid being cited for parenting and educational neglect. Assistance includes, but is not limited to, providing proper clothing and sufficient monies for the child to attend school."

The State Department of Education would provide in-service training for educators, administrators and school improvement councils for working with at-risk youth and their parents. The department further would issue regulations to more effectively use school guidance counselors, primarily focusing their duties on counseling students or working with teachers and parents "to bring about desired behavior changes in students."

Support services such as parenting skills for young parents would be required of AFDC recipients, and individual employment plans would be required to include parenting skills for all custodial parents under age 20.

The school improvement report for each school would be required to have data on "home school relations," which would include the percentage of elementary school parents who sign and return report cards, attend at least one teacher-parent conference, actively volunteer, who attend parent training and parenting workshops. It also must include the percentage of parents the school has contacted and met with in regards to compulsory attendance laws, the percentage of parents who follow through with appointments or referrals and other areas related to parent involvement.

Under this bill, teacher training requirements would include special programs on working with at-risk youth and their parents.

The bill outlines what steps must be taken by a school board to ensure attendance by all students. These include getting a summons from a magistrate to order the parents to attend conferences at the school on a child's lack of attendance if the parents fail to attend these conferences. If a child accumulates six unexcused consecutive absences or a total of eight unexcused absences, then a report must be filed with the solicitor. Copies of this report also would be sent to DSS and DYS, which could be asked to conduct an investigation. If a parent moves a child to another school district, the administration must transfer all reports pertaining to attendance to the new district. The school board could be held in contempt of court and subject to a \$500 fine if they do not follow these intervention plans.

Parents could be held in contempt for the truancy of their children, punishable by a \$250 fine or imprisonment for not more than 30 days. However, if the family court finds the parent has made a diligent effort to keep the child in school, the court can waive the fines and refer the parent and child for counseling, including substance abuse or family therapy. The court could order the child to attend school without further absences and inform the child that further absences could result in his being temporarily committed to DYS as a status offender. The bill outlines what strategies the court may use if the child is found to be a chronic status offender. The court may also use "electronic home detention" to carry out the provisions of the bill.

The bill states that if the court finds the parent has not made an effort to keep the child in school, the court may require the parent to attend a parental responsibility program approved by the Department of Education, DSS and DYS, in addition to the fines described above. The fine could be reduced upon successful completion of the program or community service. If the parent wilfully refuses to complete the court, he may be found in contempt of court and be placed on probation with the Department of Probation, Parole and Pardon Services for not more than a year.

#### **Judiciary Committee**

Adoption Confidentiality (S.732, Sen. Nell Smith). This legislation would delete one of the conditions under which the identities of an adopted child and his biological parents and siblings must be revealed to each other.

Currently, the statutes allow the identities of adopted children, 21-years-old or older, and their biological parents and siblings to be disclosed to one another if all the parties involved have submitted affidavits stating they are willing to have their identities revealed to each other. However, under current statutes, one condition of the disclosure is that the adoptive parents do not object in writing to the disclose within 30 days of receiving notice that an application has been made to disclose the identities. This legislation would remove that condition.

Juvenile Confinement (S.1485, Senate Corrections and Penology Committee). This legislation would allow DYS to temporarily provide for juvenile detention services until regional facilities are developed to serve this purpose. The legislation further defines the laws as to how juveniles must be treated when they are taken into custody.

Responsibility for the prompt notification of a child's parents or guardians would rest with the law enforcement officer taking the child into custody. DYS would have to respond within 24 hours to a child in custody who has not been turned over to a parent, guardian, foster or group home or other non-secure facility.

The bill states that no child could be placed in a secure confinement or ordered detained in a secure confinement in an adult jail or other place of detention for adults for more than six hours. During this six hour period, the juvenile must be confined to an area separated by sight and sound from adults. The bill defines secure confinement as an area having bars or other restraints designed to hold one or more people. The definition does not include a room or multi-purpose area not secured by locks within a law enforcement center, or a processing area, as long as the juvenile is not secured physically. However, this prohibition does not apply to juveniles who have been turned over to General Sessions court to be tried as adults.

Under this bill, juveniles eligible to be placed in a secure juvenile detention area are:

- Those charged with a violent crime;
- Those charged with a crime that if committed by an adult would be a felony and the child is already on probation or being detained in connection with another delinquency proceeding, or has a record of violent behavior, or failure to appear in court, or has been tried for other felonies; or it is feared the juvenile may flee or the crime involved the use of a firearm.
- Those who are fugitives from another jurisdiction;
- Or those who request in writing to be placed in detention for protection purposes.

However, despite these provisions, detention would not be mandatory for a juvenile meeting these criteria if the child can be supervised adequately at home or in a less secure setting or program.

Detention hearings would have to take place within 24 hours after the juvenile is taken into custody, instead of the current 48 hours. Children must have legal representation at these hearings, even if it is court appointed. If further detention is ordered by the Family Court, it must be in a juvenile detention facility. However, the child may not be detained in secure confinement for more than 90 days.

As noted above, the legislation adds to the DYS' duties the providing of juvenile detention services for juveniles who have committed a criminal offense and who are found to need detention placement outside the home pending a disposition hearing. This would mean providing secure juvenile detention centers for the benefit of the counties. The center must be built to meet or exceed national standards and could not be over 30 beds.

For the first two years it could be used as a prejudicatory juvenile detention center, but would cease to be in that role unless the General Assembly renews that mission. In the meanwhile, DYS would contact the counties about building their own juvenile detention centers, or contracting with DYS or another county for a regional detention center. Counties that contract with DYS would have to pay a per diem per child committed into the care of the department. This money would go toward the operation of the detention facility.

Lobbying Regulations (S.1524, Senate Judiciary Committee). This is the Senate's version of lobbying reform legislation.

Under this legislation, lobbyist would mean any person employed, appointed or retained by a private organization or state agency to influence by direct communication any act or decision by the General Assembly, the governor, lieutenant governor or any statewide constitutional officer. This definition would not pertain to:

- people expressing a personal opinion about a legislative or administrative matter;
- someone who limits their lobbying efforts to appearances before committee meetings, public hearings or other meetings of a quasi-judicial nature provided that this person makes no expenditure for or behalf an elected official;
- any elected or appointed person or someone employed by the federal, state or local government who appears solely in matter pertaining to his official capacity, unless the person's job duties are largely lobbying;
- anyone performing professional activities by drafting legislation or advising clients as to the effect of proposed or pending legislation;
- the news media;
- church officials;
- person running for office soliciting votes from the General Assembly.

The legislation would require every lobbyist to register with the Secretary of State within 30 days of his employment as a lobbyist. A fee of \$50 would be required at the time of registration. The Secretary of State would provide updated lists of lobbyists to the General Assembly. Lobbyists who resign must immediately notify the Secretary of State of this development, and file the requires reports. Any changes of employment for a lobbyist must be filed with the Secretary of State within 30 days. Each lobbyist would have to maintain records of his lobbying activities for three years, including his total expenditures and from whom he accepted income.

Thirty days after the end of the filing period, the lobbyist would file the identification of each person he lobbied for, each person he employed to lobby for him, the legislation the lobbyist sought to influence, the identification of each person who paid him to lobby and the amount of the income. He also must include the totals for the year of all expenditures incurred in the performance of lobbying for the benefit of a public official or public employee. These totals would be segregated according to financial category, such as food and refreshments, entertainment, living accommodations, travel, offices expenses and the names of public official on whom was spent more than \$100 in one day or \$250 over three days. However, political contributions would not have to be listed if they are reported on other forms.

The legislation stipulates that no lobbyist may contribute more than \$1,000 in any one election, including the primary and general elections.

The report must also include a statement of any money promised or loaned to any legislator, the governor, lieutenant governor, constitutional officer or their employees, and a statement detailing any direct business association with these same people. However, reportable direct business association would not include ownership interests in the same corporation or partnership unless the ownership of each exceed five percent of the total shares. Nor would interest in a partnership or corporation represented by a lobbyist be reportable unless the elected officials owns more than five percent. Nor would any commercial transaction between a lobbyist and an elected officials be reportable if the transaction is for the fair market value.

In addition, each state agency also would have to file an annual report on the lobbying activities of their lobbyists along the same parameters as described above. This would not be required of any agency whose only activity is appearing before legislative committees.

The Senate bill stipulates that the Secretary of State would require the filing of information as outlined in the bill, soliciting the the help of the Attorney General to enforce the provisions of the bill.. The Secretary of State would be able to impose a civil fine on anyone filing a late report or who fails to file a report. The Secretary of State would also develop the reporting system required by the legislation.

The Attorney General, with the assistance of SLED, would investigate any complaints made of noncompliance. The Attorney General would have to promptly notify the lobbyist of any complaint and give the lobbyist an opportunity to respond prior to further investigation. If the probable cause exists, the Attorney General could render an advisory opinion, issue subpoenas, or forward the results of the investigation to the solicitor.

The bill prohibits the compensation of any lobbyist to be dependent on the passage or failure of any governmental action or proposed legislation.

Violation of this legislation would be a misdemeanor carrying a \$2,000 fine and/or jail time for three years. In addition, the lobbyist would be barred from lobbying for three years.

**(An outline of the House-passed Lobbying bill, H.4613, can be found in the February 27 Legislative Update, No. 7, page 8.)**

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

Expungement of Records (S.1482, Sen. Gilbert). Under this legislation, a pardon would also act as an order of expungement of all official records relating to an individual's arrest, indictment, conviction and sentencing. In order for the record to be expunged, the individual would have to present his pardon records to the appropriate record keepers.

The legislation also stipulates that a "partial pardon" would mean that an individual is pardoned of all criminal legal consequences of his crime but without the expungement order.

The bill also contains penalties for public officials who fail to expunge records as directed by the legislation.

#### **Without Reference**

Child Custody (S.1511, Sen. Nell Smith). This legislation would amend the law to allow a child to be placed in the custody of a family member or relative, with the parents consent, after the parents have been arrested. However, the bill states that placement with the immediate family would not be required if it would threaten the health or welfare of the child or if it would cause an excessive delay beyond six hours. The bill directs local law enforcement, along with the Department of Social Services, to exercise reasonable efforts to prevent the child from being placed in unnecessary foster care.

**Ways and Means Committee**

S.C. Solid Waste Policy and Management Act (S.1182, Sen. Moore).

This legislation is the result of two years of work by the Legislative Task Force on Solid Waste. Highlights of this 109-page bill include:

- Provisions of this act do not apply to hazardous waste, infectious waste, or to radioactive waste, which are all regulated by other state laws.
- Sets a state goal to reduce, on a statewide per capita basis, the amount of solid waste being received by municipal solid waste landfills by 30 percent, calculated by weight of the fiscal year 1992 solid waste level, not later than six years after the enactment date.
- Sets a state goal to recycle, on a statewide basis, at least 25 percent, calculated by weight of the total solid waste stream generated in the state, not later than six years after enactment.
- It would become a policy of the state that each county or region make every effort to meet, on an individual basis, the state solid waste recycling and reduction goals and that each county or region, and the municipalities within them, which meet these goals be financially rewarded by the state.
- Eighteen months after the bill is enacted, DHEC would submit to the Governor and General Assembly a comprehensive state solid waste management plan. Thereafter, the department would submit annual reports describing the progress made implementing state and local solid waste plans. A 21-member Statewide Solid Waste Advisory Council would review the plan. This council would be established six months after enactment of the bill.
- Creation of a 15-members Recycling Market Development Council within the State Development Board. This board would assist in identifying and developing markets for recycled materials. Make-up of the council is described in the bill. Fifteen months after the bill is enacted, the council would have to submit a comprehensive recycling report, to be submitted annually thereafter.
- Fifteen months after DHEC submits a statewide solid waste management plan, counties or groups of counties (regions) in cooperation with municipalities within would submit local solid waste management plans. Among other provisions, the plans must include source separation and recycling programs. However, a county or region could be exempted from the source separation and recycling requirement if it is economically infeasible or impracticable, or that the program is unnecessary to meet waste recycling goals. The plans, after DHEC review, must be implemented no more than one year after the bill is enacted.

Under these provisions, the local plans must meet the statewide goal, but local governments may set higher goals. DHEC could modify the statewide goals for a local government to account for industrial growth or other good cause.

- Municipalities could continue to operate waste facilities and provide services under this bill. A \$5 per ton fee would be imposed on all solid waste disposed of in a municipal disposal facility, which would be divided between the Solid Waste Management Trust Fund and the county to be used for solid waste management activities. A fee of \$10 per ton would be imposed on the landfilling of out-of-state solid waste.
- Establishment of the Office of Solid Waste Reduction and Recycling. This office would receive and disperse funds from the Solid Waste Management Trust Fund, educate the public, manage the Solid Waste Management Grant Program and promote recycling and waste reduction.
- A Solid Waste Management Grant Program would be established from monies from the trust fund to assist local governments and private entities in meeting their solid waste responsibilities. For the first five years, the grants must be used to help local governments carry out their responsibilities under the bill. After six years, 25 percent of the grants going to local governments must be as rewards for having met or exceeded goals.
- All branches of state government, all state agencies, and higher education institutions must establish source separation and recycling programs within 12 months of DHEC submitting the statewide plan. This recycling program must reflect the state's 25 percent goal. General Services and the Highway Department must study and implement ways of using recycled materials when feasible.
- This bill would prohibit:
  - beverage containers with detachable metal rings or tabs -- six months after enactment;
  - products packed in a container or packing material manufactured with CFC's -- one year after enactment;
  - plastic bags for retail consumer purchases unless the bags are recyclable -- one year after enactment;
  - beverage container plastic ring carriers unless they are recyclable -- one year after enactment.
  - Polystyrene foam for products used in conjunction with food unless the products are recyclable -- one year after enactment.
- Eighteen months after enactment, plastic bottle would also be prohibited unless it is marked with the resin type used to manufacture the bottle. After five years, DHEC would determine what percentage of the plastic bottles are being recycled.

- Recommendations and proposed penalties would be submitted by DHEC if the recycling is less than 25 percent. After seven years, this recycling rate must be at 35 percent.
- Used oil must be disposed at a collection facility or a recycling facility. The Highway Department would establish a used oil collection center in each region, unless it certifies a private collection facility is in operation. Permits for operating the facility, or transporting certain amounts of used oil are outlined in the bill, as are penalties for improper disposal. Ninety days after enactment, a fee of 8 cents per gallon would be levied on motor oil and similar lubricants invoiced to South Carolina distributors. The distributors would remit the fees in conjunction with taxes paid.
  - The bill establishes standards which must be met in disposing of waste or scrap tires. The bill would prohibit anyone from knowingly disposing of scrap tires in a landfill. Disposal at collection centers would be required. A \$2 fee per new tire would be imposed. The fee, in part, would be returned to the counties for the management of waste tires and part would go to the Trust Fund for waste tire management activities and to educate the public. Counties could impose additional fees on scrap tires generated outside the state. Each county must participate in a scrap tire clean up effort.
  - Lead acid batteries would be disposed only at certain entities specified in the bill. A \$2 fee per lead acid battery sold would be imposed. In part, the fee would go to counties for the collection and disposal of lead acid batteries and to the Trust Fund. All state agencies would be required to procure recycled lead acid batteries whenever practicable.
  - The disposal of yard trash and land clearing debris would be regulated by DHEC, under this bill. Fifteen months after enactment, no one could knowingly send yard cuttings to a municipal landfill, and no landfill could accept this kind of yard trash unless it has a composting facility. Fines would be established. State agencies would procure composted materials when possible.
  - No white goods (appliances, etc.) could be disposed in landfills. A \$2 fee would be imposed on each white good sold, with part remitted to the counties and part to the Trust Fund. Three years after enactment, no white goods could knowingly be disposed in a landfill.
  - Five years after enactment, DHEC would determine whether 35 percent of newsprint sold in the state is being recycled. If the percentage is less than 35 percent, the department would propose recommendations and penalties to encourage more recycling.

- The legislation outlines new permitting procedures and requirements.
- Fines would be increased for littering in large amounts or for commercial purposes. Littering on private or public property or waters would be a 2 point violation on a person's driver's license.
- Tax credits would be established for corporations for qualified recycling equipment.