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South Carolina House of Representatives

Legislative Update

Robert J. Sheheen, Speaker of the House

Vol. 9

January 28, 1992

No. 2

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House Week in Review

Reapportionment dominated the House of Representatives last week. After debating House, Senate and congressional reapportionment for most of the legislative week, two redistricting bills were ratified Thursday. These were S.1003, the State Senate reapportionment plan, and H.3834, the House redistricting plan. Both acts now go to the governor for his signature or veto.

Under special order to take up S.1003 and H.3836, the congressional redistricting plan, the House spent three days considering the issue. On Tuesday, after a long afternoon of amendments, House members voted 65-48 to give S.1003 second reading approval. The bill received third reading on Wednesday and was sent back to the Senate. Under the adopted House Judiciary Committee amendment, the House eliminated the congressional redistricting plan, originally in S.1003, leaving only the Senate plan.

The special order also directed the House to take up H.3836, the proposed congressional redistricting plan. House members spent most of Wednesday debating how to divide the state into six congressional districts. Late in the afternoon, the House agreed 66-46 to give the congressional reapportionment bill second reading approval. The bill received a third reading on Thursday and was sent to the Senate.

On Thursday, the Senate sent back with some amendments H.3834, the House reapportionment plan. This prompted a round of debate and amendments in connection with the House redistricting plan, passed by the House last session. The House amended the Senate amendments and sent the legislation back to the upper chamber for consideration. By late Thursday afternoon, both H.3834 and S.1003, the two state legislative reapportionment plans, were ratified as acts and sent to Governor Campbell.

Although reapportionment was the issue of the week, the House took time Wednesday to meet with the Senate in joint assembly to elect a Family Court judge and three members to the Employment Security Commission. That evening, the General Assembly again gathered to listen to the governor's annual State of the State address.

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Elected to the Family Court for the 13th Judicial Circuit, Seat 3 was Amy Sutherland of Greenville. Three candidates were also elected by acclamation to the Employment Security Commission for four year terms. They are State Rep. Sam Foster and two incumbent commissioners, C. Lem Harper, Jr. and J. William McLeod.

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Bills Introduced

The following bills were introduced in the House of Representatives last week. Not all the bills given first reading in the House are featured here. The bill summaries are arranged according to the standing committee to which the legislation was referred.

Agriculture, Natural Resources and Environmental Affairs

Animal Kennels (H.4226, Rep. Koon). Animal owners, signing a contract with a boarding kennel to pick up a pet by a certain date, will have ten days after the stated pick-up date to get the animal. After ten days, this legislation would allow the kennel to transfer the animal to the nearest animal shelter if this action is stipulated in the boarding contract.

Animal Cruelty (H.4257, Rep. Cromer). Under this legislation, the penalty for cruelty to animals would be increased. First offense for inflicting unnecessary pain or suffering on an animal would be a misdemeanor punishable by 60 days in jail or a fine between \$100 and \$400. The current penalty is 30 days imprisonment or a \$50 to \$200 fine. A second conviction would result in a 90 day sentence and/or a \$800 fine; third and subsequent offenses would result in 2 years in jail or up to a \$2,000.

Under this bill, torturing or cruelly killing an animal would be punishable by a \$5,000 fine and from 6 months to 2 years in jail. This proposed penalty is up substantially from the current sentence of 60 days in jail and/or a \$500 fine.

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Education and Public Works

Taxing Authority (H.4228, Rep. Fair). If enacted, this legislation would allow the voters of Greenville County to decide by referendum whether to give their county school board the authority to levy school taxes for the operation of the district's schools. The proposed referendum would be held during the general election, and if approved by the county voters, the taxing authority would be granted as of January 1, 1993.

Historically Significant Property (H.4245, Rep. Jean Harris). Under this legislation, state agencies would undertake measures to provide for the maintenance of state-owned historic properties to the professional standards prescribed by the state Department of Archives and History. The department would undertake an inventory of all state-owned property to determine what areas or structures are of historical significance. Properties listed on ~~the National Register of Historic Places~~, or those determined to be eligible for the National Register, would be on the list automatically. The department would have two years to complete the survey of state-owned historic property.

Once a property has been designated as historically significant, the state agency, in consulting with the Department of History and Archives, would have to develop and implement long range plans for the management, preservation or rehabilitation of the property. No permanent improvement project on the property could be undertaken by the state agency without prior consultation with the Department of History and Archives.

If the department thinks the project would have an adverse effect on the property, then the department and agency would explore alternative methods. If no agreement could be reached between the two, then the State Properties Committee would be asked to comment on the project. If the agency does not want to accept the recommendations of the State Properties Committee, it may ask for a final review by the State Review Board, an advisory panel whose members represent the fields of architecture, archaeology, archaeological history and history. The decision of the State Review Board would be final.

The provisions of this legislation would apply to any state agency, foundation, department or institution that owns or leases historic properties, those agencies that acquire property or transfer it to private ownership, and those agencies involved in ground disturbing activities.

Teacher Loan Cancellation (S.1067, Sen. Setzler). Under this legislation, South Carolina Teacher Loans could be canceled at a rate of 33.3 percent for each year of teaching if the teacher, who borrowed the money, teaches in both a critical needs area and a geographic needs area. Currently, teacher loans are canceled at a rate of 20 percent per year for teaching in a geographic and/or critical needs area.

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Judiciary

Negligent Driving Violation (H.4222, Rep. Felder). This bill would create the traffic violation of negligent driving. Negligent driving would be considered an alternative or lesser charge for all moving traffic violations, except DUI or those involving driving with a suspended, revoked or canceled license. The violation would carry no points but would carry a fine between \$100 and \$200 or 30 days in jail. This violation would be defined as operating a motor vehicle on a public way in a negligent or careless manner without due cause, so as to endanger people or property.

Intravenous Injection (H.4240, Rep. Harrison). This bill would substitute a lethal injection for electrocution in death penalty cases. The lethal injection would be given by the intravenous administration of an ultrashort acting barbiturate in combination with a chemical-paralytic agency until death is pronounced.

Special Purpose Districts (H.4246, Rep. Jimmy Bailey). This legislation would give a county legislative delegation the authority by majority vote to initiate a referendum regarding method of election and the budgetary powers of special purpose districts. In the referendum, the voters would choose between either electing the special purpose district representatives and giving the district fiscal autonomy, or voting to allow the county governing board to appoint the SPD members and oversee the district's budget.

If the voters decide to elect special purpose district board members, the SPD board elections must be held during the next general election. The election would be non-partisan. The district could decide whether the members, which would serve four year terms, would run at large or from single member districts. The provisions of this legislation would apply only to those SPDs existing before March 7, 1973. It would not apply to elected districts with fiscal autonomy.

Obscenely Violent Video Tapes (H.4267, Rep. Fair). Obscenely violent video tapes and video tape jackets could be displayed only in a separate area of a video rental business if this legislation is enacted. Obscene is defined in the bill as depicting violence in such a way to be patently offensive to an average person applying contemporary community standards with respect to what is suitable for people under 17-years-old. Videos falling under this category could not be rented or sold to children 17 or younger. Violation of these provisions would be a misdemeanor punishable by a fine of no more than \$250.

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In addition, this bill would prohibit the sale or rental of videos not rated by the Motion Picture Association of America, or if the video is not rated, then the video cassette and the video jacket must have a large label on it stating that it is not rated.

Labor, Commerce and Industry Committee

Cutting Through Parking Lots (H.4235, Rep. Manly). Driving through a gas station and restaurant parking lot at an intersections to avoid a traffic light, stop sign or yield sign would be a misdemeanor under this legislation. The penalty for the violation would be a fine of up to \$300 and/or 60 days imprisonment.

Mammogram Health Insurance Coverage (H.4236, Rep. Keyserling). This legislation would require all insurance companies to include coverage for mammograms and pap smears in all health insurance or accident and health insurance policies, whether the policies are written for group or individual coverage. This requirement would become effective after December 31, 1992.

Clean Record Drivers (H.4250, Rep. Rudnick). Under this bill, a driver, who has a clean driving record and no assessment of points, would receive a one-time \$100 increase in recoupment fees the first time he violates the state's motor vehicle laws. The bill also states that no surcharge or increase in recoupment fee be assessed against a driver after the date the points are required to be removed from the driver's record, regardless of whether it is a first time offense.

Buy American Cars (H.4251, Rep. Rudnick). This legislation would prohibit any governmental body from purchasing a motor vehicle manufactured by a company, which has 50 percent of its manufacturing facilities located outside of the United States.

Health Insurance Similar to Canada's (H.4252, Rep. Rudnick). This legislation would create a task force to study the feasibility of setting up an health insurance program similar to Canada's. The 10-member task force would consist of two members of the Senate, two members of the House, two gubernatorial appointees, the chief insurance commissioner and one representative each from the Health and Human Services Finance Commission, the S.C. Medical Association, and the health insurance industry, appointed by the insurance commissioner. The task force would have to report back to the General Assembly by July 1, 1993.

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Three Year Auto Insurance Reduction (H.4264, Rep. Kempe). Under this bill, the chief insurance commissioner could direct a three year reduction in the auto insurance rates for any person who successfully completes a motor vehicle accident prevention course. The course would have to be approved by the chief insurance commissioner. This reduction would not apply to any person who is attending an accident prevention course under court order.

Removing the Mandate to Write (S.385, Sen. Macaulay). This legislation would lift the mandate that automobile insurers write physical damage insurance coverage for any driver who walks in their doors. The mandate to write would be lifted as of September 30, 1992, if this legislation passes. The bill also states that after that date, no insurer could cede private passenger automobile physical damage coverage to the Reinsurance Facility.

Medical, Military, Public and Municipal Affairs

State Health Services Cost Review Commission Act (H.4244, Rep. Houck). This legislation would create the State Health Services Cost Review Commission, which would initiate uniformity and cost containment measures into the state's health care services system. The commission would have the central, comprehensive responsibility for the development and administration of health services cost containment. The commission would consist of a consumer representative from each congressional district, selected by the districts' legislation delegations; one representative each from the S.C. Hospital Association and the S.C. Medical Association, appointed by the governor on the recommendation of the associations; and one consumer member appointed at large by the governor. The Hospital Association member must rotate between representatives from urban and rural hospitals. Ex officio members would include the chief insurance commissioner and the administrator of the Department of Consumer Affairs. Each member of the commission would serve one six-year term.

The commission would review and approve health service rates and charges for facilities and for services provided by doctors and health care providers in a facility. The purpose of the review would be to ensure that the cost of all health services performed in a facility are reasonable; that the aggregate rates of the facility are reasonable related to the aggregate costs of the facility; and that the rates are set equitably among all purchasers without undue discrimination or influence.

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In approving rates -- whether for facilities or providers -- the commission may not reduce charges below the lowest, usual, customary and reasonable charge existing for the past 24 months. Nor could the commission raise rates above the inflation rate of the Consumer Price Index for the past 12 months. In determining rates, the commission could take into account objective standards of efficiency and effectiveness.

Under these provisions, the commission would allow a non-profit facility to charge rates that would permit it to provide effective and efficient service on a solvent basis. Proprietary profit-making facilities could charge rates that would permit effective and efficient service and include enough allowance that, based on the fair value of the property and investment, would provide a fair return to the facility's owner. Doctors and providers could charge rates that would permit efficient and effective service and allow for a fair return.

The legislation gives the commission the leeway to promote and approve alternate methods of rate determination and payment "that are of an experimental nature." In addition, it prohibits the commission from holding executive sessions to review and approve rates.

Providers or facilities ~~charging rates not approved~~ by the commission could have their licenses suspended or revoked. The legislation specifies the manner in which rate requests would be handled. And it gives the commission the authority to hold public hearings, conduct investigations, require the filing of information, and subpoena witnesses or evidence.

Facilities would be required to notify the commission before executing a financial transaction or contract that would pledge more than 50 percent of the assets of the facility as collateral or that which would sell more than 50 percent of the operating assets of the facility. The commission could provide incentives for facilities to merge or consolidate.

The commission itself would be funded by user fees. It would issue annual reports to the General Assembly. After December 31, 1997, the Joint Legislative Health Care Planning and Oversight Committee would review and evaluate the commission and the impact of the rate setting procedures of this legislation. The Health Care Planning and Oversight Committee would report back to the governor and General Assembly by the end of 1998.

Donated Food (H.4248, Rep. Wright). This legislation would exempt from liability donated agriculture products that the owner permits to be removed from his land after commercial harvesting.

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Ways and Means

Local Option Referendum (H.4214, Rep. Baxley). Under this bill, the first referendum a county holds on the question of implementing the local option sales tax would be called the "initial referendum" and would be held in a general election year. If the initial referendum is held and rejected, subsequent referenda could be held once every 48 months. The current law allows subsequent referenda to be held after 12 months.

Revision of the Board of Economic Advisors (H.4215, Rep. Sheheen). The composition of the Board of Economic Advisors would be revised under this legislation. Under the proposal, the membership of the board would be:

- One member appointed by the governor possessing specific working knowledge and experience in economics, revenue forecasting and the state budget process. This member would serve as chairman;
- The chairman of the State Tax Commission (unchanged from current board);
- The director of the Budget and Control Board's Budget Division (currently the director of the Research and Statistical Services Division);
- A member appointed by the House Ways and Means chairman who possesses knowledge of the state budget process, revenue forecasting and economics. (This appointment would eliminate the chief economist of the Division of Research and Statistical Services from the board);
- A member appointed by the Senate Finance Committee chairman with the same expertise and described above.

Instead of being staffed by the State Budget and Control Board's executive director's office and its Division of Research and Statistic Services, the Board of Economic Advisors would have its own three member staff. This staff would be assisted by professionals from the staffs of the governor, House Ways and Means Committee and Senate Finance Committee, the State Tax Commission, and the budget division staff of the State Budget and Control. The legislation specifies that the BEA staff must meet monthly with the other budget professionals to solicit their input.

Any governmental entity identifying or requesting a change in the official revenue and expenditure forecast would first notify the BEA chairman who would then notify the governor prior to any independent adjustments. The House Ways and Means and Senate Finance committees must be the next notified after the governor, and both committees must be informed simultaneously. The bill stipulates that the BEA meet quarterly, or at the call of the governor, General Assembly or chairman, or at the request of any board member who believes a meeting is necessary due to existing financial circumstances.

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The bill also would require the board to monitor the flow of revenue for the current fiscal year in comparison to the revenue estimates. If the collections fall more than 1.5 percent below projections for the quarter, the BEA must prepare a synopsis which details the factors that contributed to the shortfall, the fiscal impact of the shortfall on the current and subsequent fiscal years, and whether collections will make up for the deficit. A similar report would be required if any of the following tax categories fall 1.5 percent below the projections: sales tax, individual income tax, corporate income tax, earnings on investments and insurance premium taxes.

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