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Legislative update

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South Carolina House of Representatives

Legislative Update

James H. "Jay" Lucas, Speaker of the House

Vol. 32

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NOTE: THESE SUMMARIES ARE PREPARED BY THE STAFF OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES AND ARE NOT THE EXPRESSION OF THE LEGISLATION'S SPONSOR(S) OR THE HOUSE OF REPRESENTATIVES. THEY ARE STRICTLY FOR THE INTERNAL USE AND BENEFIT OF MEMBERS OF THE HOUSE OF REPRESENTATIVES AND ARE NOT TO BE CONSTRUED BY A COURT OF LAW AS AN EXPRESSION OF LEGISLATIVE INTENT.

HOUSE WEEK IN REVIEW

The House of Representatives amended, approved, and sent the Senate **H.3145**, a bill **SHIELDING FROM LEGAL LIABILITY THOSE WHO TAKE ACTIONS TO PREVENT HOT CAR DEATHS** of children as well as the elderly and other vulnerable adults who are left unattended in locked motor vehicles. The legislation provides circumstances in which individuals are immune from civil liability for damage resulting from their forcible entry into a locked motor vehicle to remove a minor or vulnerable adult whom they reasonably believe is in imminent danger of suffering harm if not removed. Conditions for this legal immunity include contacting law enforcement or emergency medical services about the forcible entry into the vehicle and waiting nearby with the rescued individual until emergency responders arrive.

The House approved and sent to the Senate **H.3197**, a bill **REVISING CAMPAIGN FINANCE DISCLOSURE REQUIREMENTS TO MAKE THEM MORE EFFECTIVE DURING THE DAYS LEADING UP TO AN ELECTION**. The legislation addresses what is commonly referred to as the “black out” period that exists under current law during the twenty days before an election by requiring an additional report on campaign contributions and expenditures to be filed seventy-two hours before an election.

The House approved and sent the Senate **H.3193**, a bill **REVISING CAMPAIGN FINANCE REQUIREMENTS RELATING TO PRIMARY ELECTIONS**. The legislation revises the manner in which campaign contributions are attributed to a primary election and to a primary election runoff by providing that, if there is a primary runoff, a contribution made after the date of the primary and through the date of the primary runoff is attributed to the primary runoff.

The House amended, approved, and sent the Senate **H.3035**, the “**TAKE PALMETTO PRIDE IN WHERE YOU LIVE ACT**”. The legislation establishes the twelve-member Take Palmetto Pride in Where You Live Commission under the Department of Natural Resources to serve as the lead agency for statewide litter removal, litter reduction and prevention, and litter law enforcement through facilitating communication, cooperation and coordination of the efforts and resources of state agencies, local governments, the private profit and nonprofit sectors, business, and industry. Comprised of the directors and presidents of various departments, agencies, and associations, the members of the commission all serve in an ex officio capacity, and payment of any mileage, per diem, or subsistence is the responsibility of the department or organization the member represents. Charged with forming and maintaining a Strategic State Plan for Litter, the commission is to be staffed by the Department of Natural Resources and must meet at least twice a year.

The House approved and sent the Senate **H.3266**, the “**TRESPASSER RESPONSIBILITY ACT**”. This legislation codifies common law provisions relating to trespassers under which a possessor of land owes no duty to a trespasser except to refrain from causing a wilful or wanton injury. The legislation includes certain protections that relate only to child trespassers. The legislation does not affect any immunities from or defenses to civil liability established by another section of the South Carolina Code of Laws or available at common law to which a possessor of land may be entitled.

The House approved and sent the Senate **H.3200**, a bill providing **AUTHORITY FOR HIGHER EDUCATION PUBLIC EMPLOYEES TO SHARE IN ROYALTIES FROM INTELLECTUAL PROPERTY**. The legislation provides that certain restrictions on the use of official position or office for financial gain do not apply to a public employee of an institution of higher learning who participates in the development of intellectual property that benefits the institution and the State of South Carolina, provided that the institution of higher learning retains some royalty rights to the intellectual property.

The House amended, approved, and sent the Senate **H.3118**, legislation relating to the **HUNTING AND TAKING OF WILD TURKEY**, including conservation measures that may be needed to address observed declines in the state's wild turkey population. This bill restructures the provisions for the hunting and taking of male wild turkeys so that they are, temporarily, the same across the state, providing for an expanded season for most of the state. The bill reduces the season bag limit from five to three for male wild turkeys which may be taken with archery equipment or any lawful firearm and ammunition, and provides for an additional turkey taken during open season with an archery only tag. The legislation establishes the Saturday preceding March 20 of each year as "South Carolina Youth Turkey Hunting Day" and provides for certain waivers during this special hunting day that apply to a youth hunter under the age of eighteen who is accompanied in the field by a licensed hunter who is at least twenty-one years old. After the third turkey season conducted under the legislation's statewide unified provisions, the Department of Natural Resources must conduct an analysis of the wild turkey resources in South Carolina and draft a report recommending any changes to the wild turkey season and bag limits. This report must be submitted to the General Assembly and DNR is required to produce an annual report on wild turkey resources which must be submitted to the chairman of the Senate Fish, Game and Forestry Committee, and the chairman of the House Agriculture and Natural Resources Committee. The legislation's provisions for the statewide unified turkey seasons and related revisions are to remain in effect until November 7, 2018, and at such time will revert back to the original law. DNR is authorized to promulgate emergency regulations considered necessary and expedient for the proper control of the harvesting of wild turkeys in the state's game zones. The legislation enhances penalties for violations and provides for required tags to be validated before a turkey is moved from the point of kill.

The House approved and sent the Senate **H.3323**, a bill that transfers authority for managing "**SOUTH CAROLINA NOXIOUS WEED ACT**" responsibilities from the Department of Agriculture to Clemson University's Division of Regulatory and Public Service Programs which already manages the state's crop pest program.

The House approved **S.364** and enrolled the legislation for ratification. This joint resolution provides that the deadline by which the State Board of Education must approve the **STATE READING PROFICIENCY PLAN**, required by the "South Carolina Read to Succeed Act" of 2014, is extended from February 1, 2015, to June 15, 2015.

HOUSE COMMITTEE ACTION

JUDICIARY

Legislative Update, February 10, 2015

The Judiciary Committee met Tuesday, February 3, 2015 and approved nine bills.

H. 3195, USE OF CAMPAIGN FUNDS, was approved and relates to the prohibition of lobbyist principals paying for events, so as to delete the specific authorization for American Legislative Exchange Council conventions and conferences from the exceptions of allowed functions paid for by a lobbyist's principal that public officials may attend. The bill provides clearer guidelines on how and when campaign funds may be expended (regarding the prohibition against using campaign funds for personal expenses). Among them: Fines and other charges regarding a criminal matter are personal expenses which may not be paid for using campaign funds; clarifies that payment or reimbursement for any lodging, food or beverage, or travel expenses, must be for travel for the purpose of campaigning for office or otherwise a part of the official responsibilities of an office holder (the phrase "invited in his official capacity" relates to the entire definition of "official responsibilities."); official responsibilities include political party events, official appearances or meetings which reimbursement is not offered by a governmental entity; communications equipment; and payments to staff. Petty cash funds are prohibited.

H. 3194, CAMPAIGN REFORM AND RECORDS, passed favorably. This legislation specifies various definitions for purposes of the Ethics, Government Accountability, and Campaign Reform Act and refers to the maintenance of records of contributions, so as to authorize the appropriate supervisory office to request in writing the disclosure of certain mandatory financial records for the purpose of verifying campaign disclosure forms within a specific time frame.

H. 3199, RETIRING CAMPAIGN DEBT, passed favorably. This legislation requires that contributions received pursuant to the Ethics Act provision allowing a candidate to accept contributions to retire campaign debt must be used for the sole purpose of retiring campaign debt.

H. 3202, "SOUTH CAROLINA WHISTLEBLOWER AND PUBLIC EMPLOYEE PROTECTION ACT", received a favorable report (with amendment). This bill enhances rewards for reports resulting in savings (removing the two thousand dollar cap); enhances protections regarding damages - among them compensation for loss of health and retirement benefits; amends the statute of limitations; and, alters the law on civil actions (allows for a jury civil action instead of only non-jury) against an employing public body for retaliation against an employee who reports a violation of state or federal law or regulation.

H. 3189, ELECTIONEERING COMMUNICATION, favorably reported with an amendment. This bill requires a person who is not a "committee" to nevertheless report an independent expenditure in an aggregate amount or value in excess of five hundred dollars during a calendar year or makes an electioneering communication (a broadcast, cable, or satellite communication or mass postal mailing or telephone bank) to file a report of such expenditure or communication with the State Ethics Commission. The amendment clarifies the time at which the filing is made: the 30 day filing requirements is within 30 days of the expenditure being made, but shorter if the expenditure is made within 30 days of the election. The amendment clarifies that the 48 hour deadline to report begins when the expenditure is made.

H. 3186 received a favorable report. This bill on **ETHICS AND GOVERNMENT ACCOUNTABILITY** amends the definition of "business with which he is associated" to include a business owned by a separate business entity of which the person or a member of his immediate family is formally associated based on certain limits. The bill also amends the contents of Statement of Economic Interests: requiring the revelation of the nature of the relationship with lobbyists to fliers and family members. In addition, it includes lobbyist's principals who employ or pay fliers or family members. The income reporting requirement must be by source and type of income, especially relationships with lobbyist principals, government sources and appropriations.

H. 3168, the "**SOUTH CAROLINA EMERGENCY MANAGEMENT LAW ENFORCEMENT ACT**", passed favorably and provides the procedures for the use of out-of-state officers who are deployed to South Carolina in accordance with the provisions of the Emergency Management Assistance Compact.

H. 3125, TRAFFICKING IN PERSONS, passed favorably. This legislation adds human trafficking offenses to the jurisdiction of the state grand jury, listing those required to post information regarding the National Human Trafficking Resource Center Hotline. It provides penalties for failing to comply with the posting requirements.

H. 3247, STUDY COMMITTEE ON EXPUNGEMENT OF CRIMINAL OFFENSES, was passed favorably. This bill continues the "Study Committee on Expungement of Criminal Offenses" until December 31, 2015.

LABOR, COMMERCE AND INDUSTRY

The full House Labor, Commerce and Industry Committee met on February 3 and reported out three bills.

The committee gave a report of favorable with amendments on **H.3145**, a bill **SHIELDING FROM LEGAL LIABILITY THOSE WHO TAKE ACTIONS TO PREVENT HOT CAR DEATHS** of children as well as the elderly and other vulnerable adults who are left unattended in locked motor vehicles. The legislation provides circumstances in which individuals are immune from civil liability for damage resulting from their forcible entry into a locked motor vehicle to remove a minor or vulnerable adult whom they reasonably believe is in imminent danger of suffering harm if not removed. Conditions for this legal immunity include contacting law enforcement or emergency medical services about the forcible entry into the vehicle and waiting nearby with the rescued individual until emergency responders arrive.

The committee gave a report of favorable with amendments on **H.3006**, a bill providing for a **FIVE-YEAR DURATION FOR STATE AGENCY REGULATIONS**. The legislation

provides that every regulation promulgated under the Administrative Procedures Act expires five years from the date on which it becomes effective.

The committee gave a report of favorable with amendments on **H.3179**, a bill relating to the **REGULATION AND OVERSIGHT OF CERTIFIED PUBLIC ACCOUNTANTS**. The legislation revises the composition of the South Carolina Board of Accountancy by expanding its membership from nine to eleven, providing for each congressional district to be represented by one certified public accountant board member, and by requiring that one of the two at-large members selected from the general public be a licensed attorney. The legislation revises certified public accountant licensure requirements by providing authorization for applicants to undergo state and federal criminal records checks and by requiring continuing education or additional experience, as applicable, for applicants who delay submitting an application for a substantial period of time after passing the certified public accounting examination or obtaining accounting experience. The legislation revises qualifications for registration of a certified public accounting firm, so as to provide that a simple majority, rather than a supermajority, of the firm ownership must be certified public accountants. The legislation further provides qualifications and continuing professional education requirements for noncertified public accountant owners of these firms. In conducting investigation of complaints and disciplinary proceedings, the Department of Labor, Licensing and Regulation may require state and federal criminal records checks. The legislation establishes deadlines for filings applications for obtaining and renewing licenses and registration.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

H.3538 *PASSIVE SOIL BASED ON SITE DISPOSAL SYSTEMS* Rep. Burns

This bill allows for nongravity based soil based on site disposal systems. It also removes certain requirements for a passive soil based on site disposal system and to get designations for the trench bottom of a disposal system.

EDUCATION AND PUBLIC WORKS

H. 3486 *MOWING* Rep. Burns

This bill provides that along interstate highways 85, 185, and 385 in Greenville county, the Department of Transportation may mow beyond thirty feet from the pavement roadside vegetation adjacent to the highway.

H. 3512 *TRADITIONAL WINTER CELEBRATIONS* Rep. Sandifer

This bill provides a school district may educate students about the holidays of traditional winter celebrations in a certain manner, and to provide that a school district may display certain symbols associated with these holidays on school property unless the display includes a message that encourages adherence to a particular religious belief.

H. 3520 INSTRUCTION ABOUT VETERANS DAY Rep. Atwater

This bill provides that public schools require at least one hour of instruction on November Eleventh on the history and meaning of Veterans Day.

H. 3534 SOUTH CAROLINA HIGHER EDUCATION EXCELLENCE ENHANCEMENT PROGRAM Rep. Cobb-Hunter

This bill relates to the definition of "eligible institution" as it pertains to the South Carolina Higher Education Excellence Enhancement Program, so as to include an institution that offers at least one nonsectarian program at the baccalaureate level, and to include an institution accredited by an organization that is recognized by the United States Department Of Education and also receives Title III funding.

H. 3537 OPENING DATE FOR THE ANNUAL SCHOOL CALENDAR Rep. King

This bill adds the authority to establish the opening date for the annual school calendar as it relates to the authority of each local school district Board of Trustees to establish annual school calendars for schools under its jurisdiction.

H. 3539 "JAMES B. EDWARDS CIVICS EDUCATION INITIATIVE" Rep. J. E. Smith

This bill enacts the "James B. Edwards Civics Education Initiative" to require all students of public or charter schools or persons pursuing a general educational development certificate in this state to take the United States citizenship civics test produced by the United States Citizenship And Immigration Services, to direct school districts to award a certificate of achievement to all students who receive a grade of 60 or better on the test, and to direct the respective schools to report results to the South Carolina Education Oversight Committee for inclusion in the report card for each school.

S. 154 INTERSCHOLASTIC ACTIVITIES Sen. Shealy

This bill provides that the State Board of Education may grant a waiver of the requirements relating to eligibility to participate in interscholastic activities if a student's ineligibility to participate in interscholastic activities is due to a long-term absence as a result of a medical condition, but the student has been medically cleared to participate or for any other reasonable circumstance as determined by the state board of education.

JUDICIARY

H. 3487 WINE Rep. Herbkersman

This bill provides that the term "wholesaler" does not include a person who produces wine in the state from fruits, berries, or other agricultural products grown within the state by or for the manufacturer.

H. 3510 PUBLIC UNMANNED AIRCRAFT Rep. Hamilton

This bill prohibits the operation of a public unmanned aircraft system and the disclosure of personal information acquired through the operation of a public unmanned aircraft system, to provide penalties for violations, and to provide exceptions.

H. 3514 RELEASE OF DATA Rep. Bannister

This bill provides for the release of certain records to South Carolina Children's Advocacy Medical Response System child abuse health care providers without parental consent. This relates to the right of mandated reporters of child abuse and neglect to obtain certain photographs and x-rays taken without parental consent.

H. 3519 RAFFLES Rep. Merrill

This bill provides that the general assembly may authorize raffles to be operated and conducted by religious, charitable, or nonprofit organizations for religious, charitable, or eleemosynary purposes.

H. 3521 PROHIBITION OF FOREIGN LAW Reps. Limehouse

This bill prevents a court or other enforcement authority from enforcing foreign law including, but not limited to, sharia law in this state from a forum outside of the United States or its territories under certain circumstances.

H. 3522 INFANT SAFE HAVENS Rep. Norrell

This bill requires infant safe havens to post a notice that states that the location is a safe haven and to require the Department Of Social Services to prepare the notice for use by safe havens.

H. 3535 MENTAL ILLNESSES AND THE DEATH PENALTY Rep. Alexander

This bill adds as a mitigating circumstance, for purposes of the death penalty, that the defendant had a severe mental disability at the time of the commission of the crime, and to define the parameters of this mitigating circumstance, prohibit the death penalty for a person who had a severe mental disability at the time of the commission of the crime, and to provide a procedure for a pretrial hearing and jury consideration relating to a defendant with a severe mental disability

S. 11 PUBLIC NOTICE Senator L. Martin

This bill requires that a public body must provide an agenda for all regularly scheduled meetings and that items shall not be added to that agenda later than twenty-four hours before the meeting, except by a two-thirds vote of the body.

S. 177 DOMESTIC AND FOREIGN RECORDS Senator L. Martin

This bill provides a procedure for the certification of domestic and foreign records of regularly conducted activity, or business records, in accordance with federal rule 902(11) and (12).

LABOR, COMMERCE AND INDUSTRY

S.342 ENTERPRISE RISK REPORTING REQUIREMENTS FOR INSURANCE

HOLDING COMPANIES Sen. Hayes

This bill makes revisions regarding the finances and control of insurance holding company arrangements. Notably, the legislation establishes new requirements for those who ultimately control an insurance holding company to file an annual enterprise risk report identifying the material risks within the insurance holding company system that could pose enterprise risk to the insurer.

H.3509 *CONTRACTS TO BUY POWER BETWEEN A JOINT POWER AND ENERGY AGENCY AND ITS CONSTITUENT MUNICIPALITIES*

Rep. Allison

This bill revises provisions relating to contracts to buy power between a joint power and energy agency and its constituent municipalities, so as to provide for the renewal or extension of contracts to buy power for additional periods not to exceed fifty-years from the date of the renewal or extension.

H.3525 *REGULATION OF TRANSPORTATION NETWORK COMPANIES*

Rep. Sandifer

This bill specifically exempts transportation network companies from the provisions under which motor vehicle carriers are regulated by the Public Service Commission, and instead provides for such companies to be regulated by the Office of Regulatory Staff under the provisions of a new Transportation Network Company Act.

H.3526 *REGULATIONS OF A SPECIAL PURPOSE DISTRICT WITH AN UNELECTED GOVERNING BOARD*

Rep. Loftis

This bill provides that a special purpose district whose governing board is unelected shall submit all proposals to adopt, amend, or repeal regulations to the governing board's appointing authority for approval before the special purpose district may take official action on the regulations. If the governing board's appointing authority is the Governor, upon the recommendation of a county legislative delegation, the county legislative delegation is deemed the appointing authority for purposes of these provisions.

H.3536 *"SOUTH CAROLINA WAGE ASSIGNMENT ACT"*

Rep. Sandifer

This bill enacts the "South Carolina Wage Assignment Act" in order to: establish specific procedures for the assignment of wages earned or to be earned by an employee to secure a debt; provide defenses to a demand for a wage assignment; provide penalties violations; and, prohibit an employer, with certain exemptions, from discharging or suspending an employee because his earnings have been subjected to wage demands.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.3488 *AUTHORIZATION OF CERTAIN REFILLS BY PRACTITIONERS AND PHARMACISTS OF TOPICAL OPHTHALMIC PRODUCTS*

Rep. Long

In order to prevent unintended interruptions in drug therapy for topical ophthalmic products, a pharmacist is authorized, without obtaining subsequent authorization from the practitioner or obtaining a new prescription from the practitioner, to permit refills at

seventy percent of the predicted days of use. In addition, a practitioner, other than a pharmacist, is permitted to authorize refills earlier than seventy percent of the predicted days of use for patients who have continual difficulty with inadvertent wastage. This provision applies to refills purchased through retail pharmacies and mail order sources.”

H.3508 “MEDICAL ASPECTS OF ADVANCED PRACTICE REGISTERED NURSING ACT” Rep. G. M. Smith

This bill enacts the “Medical Aspects of Advanced Practice Registered Nursing Act” outlining that advanced practice registered nurses (APRN) must practice according to written practice agreements. Among many things, the bill outlines that a “written practice agreement” means a written document, which may be maintained in an electronic form that is developed collaboratively by the physician or medical staff and the APRN to set out the medical aspects of care, including the prescribing of medications that may be performed by the APRN.

WAYS AND MEANS

**S.35 PROPOSED STATE CONSTITUTIONAL AMENDMENT ON POST-EMPLOYMENT BENEFITS TRUST FUND INVESTMENTS
Sen. Bryant**

This joint resolution proposes to amend the South Carolina Constitution to allow a trust fund established for the funding of post-employment benefits for state employees and public school teachers to be invested and reinvested in equity securities subject to the same limitations that apply to investments of the funds of the various state-operated retirement systems. The legislation also proposes an amendment authorizing similar investments for local governments.

S.153 PROPERTY TAX EXEMPTION EXTENDED TO THE VEHICLE OF A DISABLED VETERAN’S SURVIVING SPOUSE Sen. Shealy

This bill revises the motor vehicle property tax exemption allowed for a disabled veteran, to provide that the tax exemption is allowed to the surviving spouse of the person on one private passenger vehicle owned or leased by the spouse for their lifetime or until the remarriage of the surviving spouse.

S.225 SUSPENSION OF STATE HEALTH PLAN PHARMACY REIMBURSEMENT RATE PROVISIONS Sen. Cromer

This joint resolution suspends Proviso 105.15 of Part 1B of the 2014-2015 Appropriations Act, relating to reimbursement rates paid to pharmacies participating in the State Health Plan by Catamaran, the contracted pharmacy benefit manager for the plan.

H.3490 “BUSINESS LICENSE TAX REFORM ACT” Rep. Quinn

This bill enacts the “Business License Tax Reform Act” to establish new criteria limiting the authority of counties and municipalities to impose business license taxes. The legislation revises provisions relating to the imposition of a business license tax, so as to require: that the tax not exceed one hundred dollars; that the tax be applied uniformly; that a person is only subject to one business license tax; that the Department of Revenue collect the tax; the tax is due on July first of each year; and, that the tax must be payable online. Any local governing body that imposes the tax must issue a report to

the General Assembly detailing the amount it collected and the manner in which the funds were expended.

H.3507 INCOME TAX CREDIT FOR SCHOOL TO WORK PROGRAMS

Rep. Williams

This bill authorizes an income tax credit for a taxpayer who operates a school to work program which links students and schools with the workplace. The credit is available after the student has been in the program for one year and is equal to one-half of the amount the taxpayer could claim under job-creation tax credit provisions if each participating student were considered to be a qualifying new full-time employee.

H.3511 INCOME TAX DEDUCTION FOR HEALTH CARE PROFESSIONALS PROVIDING SERVICES AT FREE CLINICS

Rep. Sandifer

This bill authorizes an income tax deduction for specified health care professionals providing professional services at free clinics. The legislation establishes an hourly rate at which the deduction is earned subject to an overall limit of one thousand dollars for each health care professional in a taxable year.

H.3513 FIVE PERCENT SALARY INCREASE FOR LOWEST-PAID SCHOOL DISTRICT EMPLOYEES

Rep. Williams

This joint resolution provides that, beginning in Fiscal Year 2015-2016, every employee of a school district in this State with an annual salary of less than twenty-five thousand dollars, or its hourly equivalent, must receive a permanent five percent increase in annual salary.

H.3523 "LIVABLE HOMES TAX CREDIT ACT"

Rep. Funderburk

This bill enacts the "Livable Homes Tax Credit Act" to provide for an individual income tax credit to someone who purchases a new residence, or retrofits an existing residence, with a design that improves accessibility and provides universal visitability. The legislation establishes a cumulative total which the credit may not exceed.

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