



South Carolina House of Representatives

# Legislative Update

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

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# HOUSE WEEK IN REVIEW

The House of Representatives concurred in Senate amendments to H.4717 and enrolled the bill for ratification. The legislation responds to the unprecedented damage of the October 2015 floods by creating the “**SOUTH CAROLINA FARM AID FUND**” to assist farmers in order to prevent the economic collapse of many of the state's farms which could cause a severe disruption in the state's economy and food supply chain. Established with a \$40 million appropriation from the 2014-2015 Contingency Reserve Fund, the South Carolina Farm Aid Fund is created for making financial awards to farmers who have experienced a verifiable loss of agricultural commodities of at least forty percent as a result of the catastrophic flooding of October 2015. Grant awards must be used for agricultural production expenses and losses due to the flood which demonstrate an intent to continue the agricultural operation, such as purchases of seed and fertilizer. Awards may not be used to purchase new equipment. Grant awards that are falsely obtained or misspent must be refunded. Criminal penalties are provided to address fraud. The legislation makes provisions for each grant to equal up to twenty percent of the person's verifiable loss of agricultural commodities, and establishes limitations so that grants may not exceed one hundred thousand dollars and may not, when combined with losses covered by insurance, exceed one hundred percent of the actual loss. The grant program is to be administered by the Department of Agriculture in consultation with the Department of Revenue and a Farm Aid Advisory Board composed of: the Commissioner of Agriculture, or his designee, who serves as chairman; the Director of the Department of Revenue, or his designee; the Vice President for Public Service and Agriculture of Clemson Public Service Activities, or his designee, the Vice President for Land Grant Services of South Carolina State Public Service Activities, or his designee; one member representing South Carolina Farm Bureau appointed by the Commissioner of Agriculture; one member representing a farm credit association appointed by the Commissioner of Agriculture; one member representing the crop insurance industry appointed by the Director of the Department of Revenue; and, one member who is an agricultural commodities producer appointed by the Director of the Department of Revenue. Sunset provisions are included so that the Farm Aid Fund and the Advisory Board are dissolved no later than June 30, 2017.

The House returned S.277, the “**STATE TELECOM EQUITY IN FUNDING ACT**”, to the Senate with amendments. Responding to innovations in such areas as wireless communications and Internet-based services that have transformed the telecommunications marketplace over the course of recent years, the legislation revises statutory requirements for telecommunications service providers to make contributions to the Universal Service Fund as well as to the program that provides specialized telecommunications services to those who are deaf or have other hearing or speech impairments. Act 488 of 1990 authorized the Public Service Commission to establish a statewide program to provide telephone access to individuals with hearing or speech impairments through a dual party relay system that allows those who are deaf, hearing, and speech impaired to communicate through an intermediary party, and authorized that the program be funded through monthly surcharges imposed on all of a local exchange telephone company's residential and business lines. This legislation revises the funding mechanism for the dual party relay program so that surcharges are collected not only on traditional land line telephones, but also on the full array of telecommunications services offered in the contemporary market, including commercial mobile radio service (CMRS),

prepaid wireless service, and Voice over Internet Protocol (VoIP) service. The legislation revises statutory provisions for the state's Universal Service Fund, which is used for initiatives to guarantee access to affordable telecommunications services in sparsely-populated rural areas and other places that may be underserved by the marketplace, to accommodate the collection of surcharges not only on traditional land lines, but also on wireless telecommunications services. The legislation revises provisions that govern the maximum size of the state's Universal Service Fund to establish a new, lower, cap on USF funds. A carrier of last resort authorized to receive funds from the USF is subject to random compliance audits and other investigations by the Public Service Commission Office of Regulatory Staff. The Office of Regulatory Staff is also charged with new responsibilities for making regular reports to the to the Public Utilities Review Committee on the status of the Universal Service Fund detailing funding needs and appropriate levels of USF distributions.

The House returned **S.1035**, the "**SOUTH CAROLINA TELEMEDICINE ACT**", to the Senate with amendments. The legislation revises statutes governing the practice of medicine to incorporate provisions for telemedicine which involves the use of such means as electronic communications and information technology to allow a physician to practice medicine in one location while the patient is in another location. The legislation establishes requirements that address such issues as record keeping and the proper conduct of an evaluation and diagnosis when the physician is at a distance from the patient rather than in a more traditional in-person medical care setting. The legislation makes provisions for how a physician-patient relationship is established through telemedicine.

The House returned **S.338**, a bill establishing **NOTIFICATION REQUIREMENTS FOR ESTABLISHING RESIDENTIAL FACILITIES FOR RECENTLY PAROLED PRISON INMATES**, to the Senate with amendments. The legislation requires any public, private, or nonprofit entity helping to rehabilitate and reintroduce paroled prison inmates into communities that also provide residential housing to these parolees to publish notice in a newspaper of general circulation all addresses for these residential housing facilities at least sixty days prior to opening them. They also must conduct a public hearing at least thirty days before the first residential facility opens in the community where all residents of the community must be given an opportunity to comment on the program and on the location of any or all of the proposed facilities. These requirements only apply to a county, incorporated municipality, or town where there are no zoning requirements.

The House returned **S.916**, a bill **INCREASING AGES WHEN INDIVIDUALS ARE CONSIDERED CHILDREN AND JUVENILES IN CRIMINAL PROCEEDINGS**, to the Senate. These adjustments of ages provided in various statutes impact such issues as when a case may be transferred to Family Court and when the Department of Juvenile Justice exercises its responsibilities.

The House returned **S.788**, the "**MANAGED TIDAL IMPOUNDMENT PRESERVATION ACT**", to the Senate with amendments. The legislation exempts property that is deemed eligible under a general permit issued by the United States Army Corp of Engineers from state Department of Health and Environmental Control permitting requirements for routine, normal, or emergency maintenance or repair activities of tidal impoundment fields and adjacent nontidal fields. These coastal properties are commonly former rice fields that are now being used as duck hunting preserves.

The House approved **S.1272**, a joint resolution affording the Department of Education access to certain funding relating to the federal **INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)**, and enrolled the legislation for ratification.

The House approved **S.780** and enrolled the bill for ratification. The legislation revises provisions dealing with importing, possessing or selling imported fish, to clarify language in current law that the South Carolina Department of Natural Resources will continue to issue permits for the importation, breeding, and possession of **GRASS CARP** or grass carp hybrids. The legislation revises statutes to incorporate references to the more familiar designation of grass carp alongside the more technical and less recognizable name for the fish, white amur.

The House approved and sent the Senate **H.5299**, a bill establishing authority for **TRANSPORTING NECESSARY GOODS AND SERVICES TO DISASTER AREAS DURING CURFEWS**. The legislation revises the Governor's authority in times of emergency to make provisions for a certification process to authorize someone to enter a disaster area and operate during times when a curfew has been imposed in order to transport necessary commercial goods to the curfew area, assist in ensuring the availability of these needed goods, or to assist in restoring utility services.

The House amended and gave second reading approval to **H.3133**, a bill that establishes a protocol allowing **SOMEONE WHO HAS BEEN PLACED IN THE JUVENILE SEX OFFENDER REGISTRY TO PETITION THE FAMILY COURT TO REMOVE THE PERSON'S REQUIREMENT TO REGISTER AS A SEX OFFENDER** once the individual has reached twenty-one years of age and has been released from the custody of the Department of Juvenile Justice, South Carolina Department of Corrections, or South Carolina Probation, Parole, and Pardon Services.

The House approved and sent the Senate **H.5245**, which provides authorization for a manufacturer, brewer, importer, or retailer to offer consumers **COUPONS AND REBATES FOR THE PURCHASE OF BEER**, including retailer instant redeemable coupons, mail-in rebates, and coupons and rebates offered or redeemed through any electronic means.

The House voted to continue **H.4544**, a bill to establish requirements and conditions that must be met in order for **ERECTILE DYSFUNCTION DRUGS** to be prescribed, so that the legislation may not be considered this session.

The House voted to continue **H.3229**, a bill revising provisions for **TASTINGS AND RETAIL SALES OF ALCOHOLIC LIQUORS AT LICENSED PREMISES OF A MICRO-DISTILLERY OR MANUFACTURER**, so that the legislation may not be considered this session.

## HOUSE COMMITTEE ACTION

### JUDICIARY

The House Judiciary Committee met May 3, 2016 and reported out two bills:

The committee gave a favorable report, with amendments, on **S.229**, a bill that amends the **SOUTH CAROLINA POLLUTION CONTROL ACT**, SC Code Section 48-1-90. This section sets remedies against people or entities that cause or allow environmental pollution. The section amendments remove the right of an individual to file a private cause of action under the South Carolina Pollution Control Act. However, an individual, the Department of Health and Environmental Control or an agency, commission, department, or a political subdivision of the State, can file a petition with the department to assert that a person or entity has committed a violation of this section. This section is also amended to provide that any person to whom an emergency order is directed may apply to the Administrative Law Court for relief and must be provided a hearing within seventy-two hours. Department decisions would not subject to judicial review in civil proceedings.

This bill also amends the existing savings clause for this Section. The savings clause applies to cases filed before June 6, 2012 as well as to any federal project for which a final environment impact statement was issued before June 6, 2012, but no subsequent record of decision was issued before June 6, 2012.

Furthermore, the section is amended to provide that projects concerning hazardous waste managed by a trust for which South Carolina, or its department, serves as a trustee or beneficiary must remain under the full force of the Pollution Control Act as it existed prior to the passage of this bill. However, no private right of action under the Pollution Control Act can be brought against such a trust.

The committee adopted a favorable report on **H.3133**, a bill that would enable **REGISTERED JUVENILE SEX OFFENDERS** who reach 21 years old, or are released from the Department of Juvenile Justice, to petition the Family Court to be removed from the sex offender registry. If they prove they do not pose an ongoing serious, or aggressive, threat to the public, as verified by a licensed clinical psychologist or licensed psychiatrist, the Family Court can order them to be removed from the registry.

## LABOR, COMMERCE AND INDUSTRY

The House Labor, Commerce and Industry Committee met on Thursday, May 5, and reported out several bills.

The committee gave a report of favorable with amendments on **S.652**, a bill that provides authority for financial institutions that do business in South Carolina to conduct **SAVINGS PROMOTION CONTESTS** for members and customers which encourage people to save money by adding a feature to personal savings accounts that include a chance to win prizes.

The committee gave a favorable report on **S.693**, a bill that revises the **INSURERS' REHABILITATION AND LIQUIDATION ACT** to make provisions that are specific to federal home loan banks and insurer-members of those banks in delinquency proceedings.

The committee gave a favorable report on **S.978**, a bill addressing **RISK RETENTION GROUPS**. The legislation revises provisions for risk-based capital plans, so as to increase the multiplier for a company action level event for a life and health insurer from 2.5 to 3.0. The legislation revises provisions relating to the chartering of a risk retention group, so as to define terms, to provide that a majority of a risk retention groups' directors must be independent directors, to establish the maximum term of any material service provider contract, to require the board of directors to adopt a written policy, to require the board of directors to adopt and disclose its governance standards, to require the board to adopt and disclose a code of business conduct and ethics, to require a risk retention group to comply with applicable regulations, to establish procedures for noncompliance, and to set established dates for compliance. The legislation revises provisions relating to out-of-state risk retention groups, so as to allow an out-of-state risk retention group to submit revisions to its plan of operation within thirty days of approval by the State Insurance Commission or within thirty days if no approval is required. The legislation extends certain provisions to a risk retention group licensed as a captive insurance company.

The committee gave a favorable report on **S.653**, relating to **LIFE INSURANCE POLICY LUMP SUM PAYMENTS**. The legislation revises provisions for the payment of individual and group life insurance policy benefit proceeds in a lump sum, by revising the requirements for claims submissions and providing that interest must be paid at a rate equal to the prime rate plus one percent, but may not exceed the state's legal rate of interest.

## **BILLS INTRODUCED IN THE HOUSE THIS WEEK**

### **AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS**

#### **S.680 "PROVISIONS FOR COST OF ANIMAL CARE ACT" Sen. Rankin**

The bill enacts the "Provisions for Cost of Animal Care Act". The bill provides that the custodian of an animal taken into custody due to civil or criminal violations by its owner may petition the court for expenses related to providing care to the animal.

### **EDUCATION AND PUBLIC WORKS**

#### **H.5310 ENROLLMENT PREFERENCES Rep. Rivers**

This bill relates to enrollment preferences in charter schools, providing that students who seek to matriculate from one charter school to another (pursuant to a sponsor-approved articulation agreement between the charter schools) must be given first enrollment priority by charter schools that are parties to the articulation agreement when located in the school district in which the student resides.

## JUDICIARY

### **S.916 JUVENILE CRIMES JURISDICTION/ DEFINITIONS Senator Malloy**

Changes the definition of "child" or "juvenile" to mean a person less than eighteen years of age. Note that this definition *does not include* a person seventeen years of age or older who is charged with a violent crime; however, any juvenile who is charged with a class A, B, C, or D felony-- or a felony which provides for a maximum term of imprisonment of fifteen years or more. They must be provided the right to have their case remanded to Family Court. Also amends SC Code Section 63-19-1210, covering jurisdiction in criminal cases involving a child, to provide that if the child was under the age of eighteen years at the time of committing an alleged offense, the Circuit Court shall transfer the case to Family Court. If a child below eighteen years of age is charged with an offense which, if committed by an adult, would be a violent crime, the Circuit Court may retain jurisdiction of it. If a child under the age of eighteen is charged with certain other listed offenses, the court is permitted to bind over that child to a court which would have trial jurisdiction of the offenses, when committed by adults. Allows court-imposed probation to continue to age 20, but mandates that Family Court jurisdiction cannot extend past age 22 for any Family Court intervention.

### **H.5318 CHILD SUPPORT COLLECTIONS AND ASSET SEIZURES**

#### **Rep. Ballentine**

Requires employers to participate in the New Hire Reporting Program in support of child support collection efforts. Requires certain entities to provide information for assisting child support collections to SCDSS, Child Support Services Division. These entities include utilities, entities which administer public assistance programs, and financial institutions. Financial institutions, other persons, and organizations would have to encumber the assets of any person owing child support, under certain circumstances. They would also be penalized for failing to encumber these assets they are holding. Amends Sections 63-17-3010, 63-17-3810, and section 63-17-3935, all relating to the uniform interstate family support act, to make technical corrections and changes to ensure compliance with changes in federal law.

## LABOR, COMMERCE AND INDUSTRY

### **S.685 ENGINEERS AND SURVEYORS Sen. Leatherman**

This bill revised provisions governing the licensure and regulation of engineers and surveyors.

### **H.5317 THIRD PARTY HEALTH INSURANCE PAYMENTS Rep. Stringer**

This bill provides authorization for the payment of insurance premiums and other cost sharing by third parties on behalf of individuals insured by qualified health plans.

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