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Legislative update

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Link to Item	http://hdl.handle.net/10827/10311



South Carolina House of Representatives

Legislative Update

Robert W. Harrell, Jr., Speaker of the House

Vol. 27

June 1, 2010

No. 18

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HOUSE WEEK IN REVIEW

The House of Representatives concurred in Senate amendments to **H.4663**, a bill pertaining to **AUTOMATIC RESIDENTIAL FIRE SPRINKLER SYSTEM REQUIREMENTS** and other building code provisions affecting residential construction, and enrolled the bill for ratification. The legislation requires any provision of, or amendment to, any building code that would affect construction requirements for one-family or two-family dwellings to be promulgated as a regulation by the Building Codes Council and submitted to the General Assembly for legislative review in accordance with the Administrative Procedures Act. The legislation provides that a regulation mandating the installation of an automatic residential fire sprinkler system in one-family or two-family dwellings shall not become effective at any time prior to January 1, 2014. A study committee is established to develop new strategies to increase participation in the tax credit program for fire sprinkler installation, and to review and make recommendations for increasing the installation of interconnected hard-wired smoke alarms. The six-member committee is to be composed of three members appointed by the President Pro Tempore of the Senate and three members appointed by the Speaker of the House of Representatives. The study committee must be composed of a representative of the South Carolina Fire Sprinkler Association, a representative of the South Carolina Home Builders Association, a representative of the South Carolina Association of Counties, and a representative of the Municipal Association of South Carolina. The study committee shall make a report of its findings to the General Assembly no later than January 30, 2011.

The House appointed a conference committee to address differences with the Senate on **H.4657**, the **GENERAL APPROPRIATIONS BILL FOR FISCAL YEAR 2010-2011**.

The House returned **S.2**, legislation establishing **NEW LIMITS ON STATE APPROPRIATIONS**, to the Senate with amendments. The bill provides that, in addition to all other applicable constitutional and statutory limitations on general fund appropriations, total general fund appropriations for the fiscal year may not exceed the lesser of: (a) one hundred six percent of the adjusted base-year estimate made by the Board of Economic Advisors; or (b) the adjusted base-year estimate increased by a percentage equal to the state's growth in population and a percentage equal to any increase in the consumer price index. The adjusted base-year estimate is the recurring and nonrecurring general fund estimate made by the Board of Economic Advisors on February 15, 2011 for fiscal year 2011-2012. The Director of the Office of State Budget must certify compliance with these new limitations before the Governor may submit a proposed budget and before the annual general appropriations bill may be given third reading in the House of Representatives and Senate. Under the legislation, the General Assembly is authorized to declare a financial emergency and suspend these limitations on appropriations for any one fiscal year for a specific amount by a special vote (an affirmative recorded roll-call vote in each branch of the General Assembly by two-thirds of the members present and voting but not less than three-fifths of the total membership in each branch). The legislation creates the **SPENDING LIMIT RESERVE FUND** as a separate and distinct fund in the State Treasury that is to receive all general fund revenues accumulated in a fiscal year in excess of the appropriations limits provided in this legislation. Revenues credited to the Spending Limit Reserve Fund in a fiscal year may be appropriated by the General Assembly in its regular session in the year following

the close of the applicable fiscal year. The Spending Limit Reserve Fund must be used to replenish the State's General Reserve Fund should that fund fall below its required minimum balance. Such amounts do not replace or supplant other required replenishments, and, to the extent that concurrent replenishments of the General Reserve Fund exceed the amount necessary for its full funding, the General Reserve Fund is deemed to require an annual minimum balance equal to this increased amount not to exceed a total balance equal to four percent of general fund revenue in the latest completed fiscal year. After this priority is met, revenues that remain in the Spending Limit Reserve Fund may be utilized only for the following purposes: (1) temporary tax reductions; (2) infrastructure improvements including fixed transportation facilities such as highway, rail, water and air, and basic facilities, services, and installations needed for the functioning of government such as water, sewer, and public sector communications; (3) school buildings; (4) school buses; and (5) expenses incurred by the State as a result of natural or other disasters declared by the President of the United States. Funding for a capital project must be appropriated from the fund in one installment and all appropriations must be made by means of a joint resolution originating in the House of Representatives.

The House returned **S.901**, which relates to the **ABSENCE OF THE GOVERNOR**, to the Senate with amendments. The legislation provides that, whenever the Governor leaves the State, he is required to notify the Lieutenant Governor of his absence, whether or not the power of the Governor's Office is transferred to the Lieutenant Governor. The bill defines certain terms relating to powers of the Lieutenant Governor during the absence of the Governor; defined terms include: emergency, full authority and temporary absence. The bill clarifies when a Lieutenant Governor has the full authority to act in an emergency in the event of the temporary absence of the Governor from the State.

The House returned **S.1154**, "**THE OMNIBUS CRIME REDUCTION AND SENTENCING REFORM ACT OF 2010**," to the Senate with amendments. The Senate subsequently concurred in the amendments and enrolled the bill for ratification. The stated purpose of this comprehensive legislation is to reduce recidivism, provide fair and effective sentencing options, employ evidence-based practices for smarter use of correctional funding, and improve public safety. The stated intent of Part I of this legislation is to provide consistency in sentencing classifications, provide proportional punishments for the offenses committed, and reduce the risk of recidivism. Part I of the bill makes numerous and various revisions to criminal offenses. Many of the changes add levels to the various degrees of an offense, increase maximum penalties, or allow discretion to judges with regards to probation and parole for offenses. The stated intent of Part II of this legislation is to provide cost-effective prison release and community supervision mechanisms and cost-effective and incentive-based strategies for alternatives to incarceration in order to reduce recidivism and improve public safety. Part II of the bill focuses on evidence-based practices in order to use proven methods that can make smarter use of the Department of Probation, Parole and Pardon Services. Among numerous other things, the bill provides incentives to persons under supervision to comply with conditions. Part III provides oversight revisions to fiscal impact statements and also a committee to continue oversight of the implementations of the Sentencing Reform Commission recommendations.

The House returned **S.452**, the "**SOUTH CAROLINA WATER WITHDRAWAL, PERMITTING, USE, AND REPORTING ACT**", to the Senate with amendments. This bill makes comprehensive revisions regarding permitting to Surface Water Withdrawals

and Reporting Act. The bill provides for new definitions; and provides that all surface water withdrawals, with certain exceptions, must be permitted. A permit may not be issued to a new applicant unless the Department of Health and Environmental Control determine that the applicant's proposed use is reasonable to the regulations. The legislation provides for exemptions for emergencies, farm pond, mining, evaporation, hydropower, wildlife management, and special purpose districts. Registration continues for agricultural operations. Permitting is required for existing users, new users, and inter-basin transfers. The term of permit for a new user is 20 to 40 years and the term of permit for existing users is 30 to 40 years. The bill outlines that public water systems' term of permit is up to 50 years based on debt recovery. The bill addresses minimum flow based on mean annual daily flows. The bill provides for nonconsumptive surface water withdrawal and its permitting. Among many other things, the bill provides for an application procedure for surface water withdrawers that own and operate a licensed impoundment or new surface water withdrawers that withdraw water from a licensed impoundment.

The House concurred in Senate amendments to **S.1134**, the "**SOUTH CAROLINA EDUCATION BILL OF RIGHTS FOR CHILDREN IN FOSTER CARE ACT**", and enrolled the bill for ratification. This legislation requires school districts to ensure that the educational needs of children in foster care are met by having procedures in place to ensure prompt and seamless transitions between schools and districts. To help with a foster child's school transitions, school districts shall: (1) consider keeping the child in the same school if it is in the child's best interest; (2) facilitate immediate school enrollment, and within two school days request or send necessary school records; (3) excuse absences for court-ordered activities; allow opportunity to make up all assignments and required seat time if these absences exceed statutory limits; (4) accept for credit full or partial coursework satisfactorily completed; if the child changes schools, calculate grades and credits as of the date the child left school and not lower the child's grades as a result of these circumstances; (5) subject to federal law, permit an authorized Department of Social Services (DSS) representative access to the child's school records for purposes of educational case management and assistance with school transfer or placement of the child; and (6) make school placement decisions to ensure a foster child is placed immediately in the least restrictive educational program and has access to all academic resources, services and extracurricular activities available to other students. DSS shall: (1) immediately enroll the child in school, and maintain in the same school if possible; (2) provide a copy of the court order to the school district, and (3) provide an adult educational advocate for the child.

The House concurred in Senate amendments to **H.3735**, the "**ANN S. PERDUE INDEPENDENT AUTOPSY FAIRNESS ACT OF 2010**", and enrolled the bill for ratification. The legislation provides that if a patient dies in a hospital or a health care facility where invasive surgical procedures are performed, the person authorized to consent, has the right to have an autopsy performed. The hospital or health care facility must inform the person authorized to consent of this right in writing. The notification must inform the person that if there is a charge for the autopsy the cost is to be paid by a private source. This bill also requires a coroner or medical examiner to be notified if a person dies in a health care facility, excluding nursing homes, within 24 hours of entering the health care facility or within 24 hours after having undergone an invasive surgical procedure at the health care facility. If an autopsy is ordered by a coroner or medical examiner upon review of a death, the autopsy must not be performed at the health care

facility where the death occurred or by a physician who treated the patient or is employed by the health care facility in which the death occurred.

The House approved **S.1028**, relating to the **AUTHORIZATION FOR CREMATION**, and enrolled the bill for ratification. The bill adds that a person named in the decedent's Department of Defense Record of Emergency Data (DD Form 93) is permitted to authorize cremation if the decedent died while serving in the military and so long as there was no known contrary designation in the decedent's will.

The House concurred in Senate amendments to **H.3393**, relating to the **ADMINISTRATION OF INFLUENZA VACCINES BY PHARMACISTS WITHOUT A DOCTOR'S PRESCRIPTION**, and enrolled the bill for ratification. The legislation requires the Board of Medical Examiners to issue a written protocol for the administration of influenza vaccines to adults aged eighteen and over by pharmacists without an order of a practitioner no later than January 1, 2011. The written protocol must include provisions authorizing pharmacists to administer without an order of a practitioner those medications necessary in the treatment of adverse events. In order to assist and advise the Board of Medical Examiners in establishing this written protocol, the legislation establishes a Joint Pharmacist Administered Influenza Vaccines Committee to consist of seven members with experience regarding influenza vaccines. The committee is comprised of two physicians selected by the Board of Medical Examiners, two pharmacists selected by the Board of Pharmacy, and two advanced practice nurse practitioners selected by the Board of Nursing. One member of the Department of Health and Environmental Control designated by the Commissioner of the Department also shall serve on the committee.

The House approved **S.749**, establishing the **OFFICE OF RAILROADS** and the **OFFICE OF PUBLIC TRANSIT** within the Department of Transportation's Division of Intermodal and Freight Programs, and enrolled the bill for ratification. The bill provides that the SC Department of Commerce will continue to operate State Public Railway; however, the planning function will be under the SC Department of Transportation. The Office of Public Transit will be responsible for the statewide planning for passenger and freight rail system, including the development of a comprehensive state rail plan. The bill provides that the responsibility of the Office of Railroads will include, but will not be limited to, preserving railroad rights-of-way for future use and coordinating the preparation of a state railroad corridor preservation and revitalization plan, as well as having the opportunity to apply for and receive state, federal and other funds for freight rail service and infrastructure needs.

The House approved **S.1167**, the **REPEAL OF THE SUBVERSIVE ACTIVITIES REGISTRATION ACT**, and enrolled the bill for ratification. This bill repeals the statutes in the Code that require the registration of organizations that advocate, advise, teach, or practice attempting to control, seize, or overthrow the government of the United States, of South Carolina, or of any political subdivision thereof by force or violence or other unlawful means. The original legislation was added to the SC Code in the 1950s.

The House approved **S.962** and enrolled the bill for ratification. This bill provides that a person appointed by a coroner to the position of **DEPUTY CORONER** may, at the discretion of the coroner, attend the South Carolina Criminal Justice Academy to be trained and certified as a Class III officer. Further a law enforcement officer who is certified by the South Carolina Law Enforcement Training Council and appointed to

serve as a deputy coroner may, at the discretion of the coroner, retain law enforcement status as a Class III officer. The classification is limited to the deputy coroner's official duties as provided by law and does not authorize the officer to enforce the state's general criminal laws. The bill also revises the qualifications necessary to become a coroner. A candidate for the office of coroner is required to file an affidavit with the county executive committee of the person's political party indicating he meets the required qualifications for the office.

The House approved **S.1014** and enrolled the bill for ratification. This bill provides that before the Secretary of State may accept for filing articles of **DISSOLUTION OF AN EXISTING NONPROFIT ORGANIZATION** executed by a person authorized to take such action, the Secretary of State shall require this person to attach an affidavit to the filing when the person under oath subject to a penalty of perjury certifies that he holds the requisite authority to take such action. The bill further provides that the nonprofit organization shall submit to the Secretary of State copies of all documents provided to the Attorney General at the time of the filing of the articles of dissolution.

The House approved **S.144**, which **RATIFIES THE CONSTITUTIONAL AMENDMENT RELATING TO AGE OF CONSENT OF AN UNMARRIED WOMAN UNDER THE AGE OF FOURTEEN**, and enrolled the bill for ratification. This bill ratifies an amendment to the State Constitution relating to the provision providing that no unmarried woman under the age of fourteen years old may legally consent to sexual intercourse, so as to delete that provision.

The House approved **S.406** and enrolled the bill for ratification. This bill revises **CONTINUING EDUCATION REQUIREMENTS FOR ASSESSORS**, by reducing the number of hours of instruction each year for assessors with an active license or certification from nine hours to seven hours.

The House concurred in Senate amendments to **H.4174**, a bill relating to **PROPERTY CONVEYANCES THAT ARE NOT CONSIDERED ASSESSABLE TRANSFERS OF INTEREST FOR TAXATION PURPOSES**, and enrolled the bill for ratification. This bill revises provisions for determining when a parcel of real property must be appraised for taxation purposes, so as to provide that a conveyance to a trust does not constitute an assessable transfer of interest in the real property if the settlor or settlor's spouse conveys the property to a trust the beneficiaries of which are a child or children of the settlor or the settlor's spouse. The legislation provides that a conveyance by distribution under a will or by intestate succession does not constitute an assessable transfer of interest in the real property if the distributee is a child or children of a decedent and the decedent did not have a spouse at the decedent's date of death. The legislation provides that an assessable transfer of interest does not include transfers that are not subject to federal income tax, including, transfers of interests to spouses. The legislation also provides that an assessable transfer of interest does not include: a transfer of an undivided, fractional ownership interest in real estate in a single transaction or as a part of a series of related transactions, if the ownership interest or interests conveyed, or otherwise transferred, in the single transaction or series of related transactions within a twenty-five year period, is not more than fifty percent of the entire fee simple title to the real estate; a transfer to a single member limited liability company, not taxed separately as a corporation, by its single member or a transfer from a single member limited liability company, not taxed separately as a corporation, to its single member; a conveyance, assignment, release, or modification of an easement, including, a conservation

easement, a utility easement, or an easement for ingress, egress, or regress; a transfer or renunciation by deed, release, or agreement of a claim of interest in real property for the purpose of quieting and confirming title to real property in the name of one or more of the existing owners of the real property or for the purpose of confirming or establishing the location of an uncertain or disputed boundary line; and, the execution or recording of a deed to real property for the purpose of creating or terminating a joint tenancy with rights of survivorship, provided the grantors and grantees are the same. The legislation provides that the limit on real property value increases for taxation purposes must be calculated on the land and improvements as a whole. The legislation provides that failure to provide required notice or failure to provide accurate information of a transaction subjects the property to a civil penalty of not less than one hundred nor more than one thousand dollars as determined by the assessor. This penalty is enforceable and collectible as property tax and is in addition to any other penalties that may apply. Failure to provide this notice is a separate offense for each year after the notice was required

The House concurred in Senate amendments to **H.3706**, and enrolled the bill for ratification. This bill revises restrictions on the use of campaign funds for personal expenses by **AUTHORIZING THE USE OF A DEBIT CARD AND ONLINE TRANSFERS FOR CAMPAIGN ACCOUNT EXPENDITURES** of more than twenty-five dollars.

The House concurred in Senate amendments to **H.3790**, the “**SOUTH CAROLINA MORTGAGE LENDING ACT**,” and enrolled the bill for ratification. The legislation brings the state into compliance with new federal requirements for mortgage lenders imposed under the Secure and Fair Enforcement for Mortgage Licensing (S.A.F.E.) Act of 2008. Should a state fail to enact statutes that comply with the requirements of the federal legislation by July 1, 2009, the United States Department of Housing and Urban Development (H.U.D.) is authorized to impose regulations. The legislation establishes new requirements for mortgage lenders and loan originators relating to: licensure, background checks, continuing education, record keeping, maintenance of surety bonds, reporting and filing, limitations on advertising and other business activities, penalties for violations, and participation in the Nationwide Mortgage Licensing System and Registry.

The House approved **S.1224**, a bill making revisions to **INSURANCE PROVISIONS**, and enrolled the bill for ratification. This bill enacts Michelle’s Law requiring health insurance issuers to permit a dependent child on a medically necessary leave of absence from a postsecondary educational institution to continue dependent coverage. The legislation revises the definition of “creditable coverage” for group health insurance coverage and special enrollment in group health insurance coverage, both under the Health Insurance Portability and Accountability Act of 1996, so as to add coverage of an individual under the State Children’s Health Insurance Program and to enact federal requirements set forth in the Children’s Health Insurance Program Reauthorization Act of 2009 to provide for special enrollment of an employee or an employee’s dependent in the case of termination of Medicaid coverage or coverage under a state children’s health insurance program or the individual becoming eligible for assistance in the purchase of employment-based coverage. The legislation revises the definition of “creditable coverage” for the South Carolina Health Insurance Pool, so as to add coverage of an individual under the State Children’s Health Insurance Program. The legislation revises capitalization requirements for captive insurance companies, so as to provide that the Director of Insurance may consider the net amount of risk retained for an individual risk

when arriving at a finding relating to additional capital or net assets requirements. The legislation revises requirements for captive insurance companies. The legislation enacts federal requirements set forth in the Genetic Information Nondiscrimination Act of 2008 to prohibit discrimination on the basis of genetic information and provide for the requirements relating to the collection of genetic information.

The House concurred in Senate amendments to **H.4508** and enrolled the bill for ratification. The legislation authorizes and provides requirements for a **CHIROPRACTIC PRECEPTORSHIP OR RESIDENCY TRAINING PROGRAM** that allows a chiropractic intern or resident to practice under the direct supervision of a licensed chiropractor.

The House returned **S.1070**, the "**SOUTH CAROLINA ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION ACT**", to the Senate with amendments. This legislation provides a procedure for determining jurisdiction over adult guardianships, conservatorships, and other protective proceedings.

The House approved **S.1171**, pertaining to **DRIVER'S LICENSES**, and enrolled the bill for ratification. The bill makes the required changes in South Carolina law to bring the State into compliance with the minimum requirements of the federal regulations. Licensed CDL drivers from Canada, Mexico, and the Commonwealth of Puerto Rico can drive in South Carolina (which is already Federal law). The bill modifies the definition of "conviction" and includes that "home jurisdiction" means the jurisdiction which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle. In addition, the bill modifies the definition of hazardous material. It also revises the description of a class vehicle and provides for graduated fines for violations of out of service orders as it relates to driving a commercial vehicle.

The House returned **S.288**, a bill requiring **MARKINGS ON DRIVER'S LICENSES INDICATING VIOLENT CRIME CONVICTIONS**, to the Senate with amendments. When a person is convicted of or pleads guilty or no contest to certain violent crimes, the person must surrender his license or special identification card to the Department of Motor Vehicles by mail or in person. If the person fails to do so, the driver's license or special identification card is considered cancelled. Under this bill, a person convicted of these crimes must have a special code affixed to the reverse side of his driver's license or special identification card that identifies the person as having been convicted of a violent crime. The bill provides a fee to be charged for affixing the code, and it provides a process for removing the code in the event of reversal of the conviction, a pardon is obtained, or after a certain period of time has elapsed. The presence of a special identifying code on a person's driver's license or special identification card may not be used as a grounds to extend the detention of a person by law enforcement officer or grounds for a search of the person or his vehicle.

The House returned **S.348**, **PROVISIONS RELATING TO CHILDCARE PROVIDERS AND TESTING OF CERTAIN CONVICTED OFFENDERS FOR HEPATITIS B, SEXUALLY TRANSMITTED DISEASES, AND HUMAN IMMUNODEFICIENCY VIRUS**, to the Senate with amendments. The bill requires operators and employees of a family childcare home to annually complete two hours of training approved by DSS. The bill, as amended, makes changes to an existing section of the Code and states that when a person has been charged with a criminal offense and the victim was exposed to bodily fluids during the commission of the crime, the solicitor must test the offender for Hepatitis B and HIV within 48 hours from the time that the offender is charged.

The House returned **S.319** to the Senate with amendments. This legislation enacts the **‘INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN’**, authorizing the Governor to execute the compact with other compact states. The legislation outlines that the State Superintendent of Education is the compact commissioner of this state. Among many things, this legislation establishes the Council on Educational Opportunity for Military Children. The eleven-member council will consist of the governor or his designee; one member appointed by the Governor to represent military installations in the state; two members of the House of Representatives; two members of the Senate; two members appointed by the State Superintendent of Education; the State Board of Education chair and chair-elect; and the Superintendent of Education or his designee. The legislation also provides for the council's terms, quorum, and leadership, filling of vacancies, and powers and duties; as well as for the terms of the compact. The Council shall submit electronically to the Governor and the General Assembly an executive summary of the interim activity and work of the council no later than the first day of the regular session of the General Assembly following the first full year of the council's creation. This legislation becomes effective July 1, 2010, contingent upon an appropriation by the General Assembly specified for this purpose. The legislation also includes provisions for maintaining eligibility for military personnel in-state tuition rates at state institutions of higher learning in situations involving student transfers.

The House returned **S.1025**, a bill relating to **DRIVER TRAINING COURSE CREDITS ON AUTOMOBILE INSURANCE PREMIUMS**, to the Senate with amendments. This bill revises provisions governing credits allowing for the reduction of premium rates charged for liability coverage and collision coverage under private passenger automobile insurance policies that are awarded upon the successful completion of approved driver training courses. The legislation reduces the number of course hours that must be successfully completed in order to be eligible for the credits and establishes provisions allowing for a refresher course to be taken every three years.

The House returned **S.594**, relating to **PUBLIC INSTITUTIONS OF HIGHER EDUCATION**, to the Senate with amendments. The legislation authorizes a public institution of higher learning to offer educational fee waivers to no more than eight percent, rather than the current maximum of four percent, of the undergraduate student body. Any fee waivers above four percent must be used for in-state students. State-supported institutions of higher learning are required to make annual reports to the Commission on Higher Education regarding these waivers. The legislation also provides authority for a four-year and graduate level public institutions of higher learning in this State, not including technical colleges, with approval of the Budget and Control Board to enter into one or more ground lease agreements with a private entity whereby the private entity provides all services necessary for the creation and operation of institution infrastructure including financing, designing, constructing, managing, operating, maintaining, and related services.

The House returned **S.107**, **CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE REVISIONS (STUDENT/SCHOOL EMPLOYEE SEXUAL CONTACT PROHIBITONS)**, to the Senate with amendments. This legislation provides if a person affiliated with a public or private secondary school in an official capacity engages in sexual battery with a student enrolled in the school who is sixteen or seventeen years of age, and aggravated coercion or aggravated force is not used to accomplish the sexual battery, the person

affiliated with the public or private secondary school in an official capacity is guilty of a felony and, upon conviction, must be imprisoned for not more than five years. If a person affiliated with a public or private secondary school in an official capacity engages in sexual battery with a student enrolled in the school who is eighteen years of age or older, and aggravated coercion or aggravated force is not used to accomplish the sexual battery, the person affiliated with the public or private secondary school in an official capacity is guilty of a misdemeanor and, upon conviction, must be fined not more than \$500 dollars or imprisoned for 30 days, or both. If a person affiliated with a public or private secondary school in an official capacity has direct supervisory authority over a student enrolled in the school who is eighteen years of age or older, and the person affiliated with the public or private secondary school in an official capacity engages in sexual battery with the student, and aggravated coercion or aggravated force is not used to accomplish the sexual battery, the person affiliated with the public or private secondary school in an official capacity is guilty of a felony and, upon conviction, must be imprisoned for not more than five years. An exception is provided for a person affiliated with a public or private secondary school who is lawfully married to the student enrolled in the school at the time of the act. The committee report adds language that indicates that a member of the General Assembly can be elected as an Administrative Law Judge one year after member ceases to hold his position in the General Assembly.

The House returned **S.217**, relating to the **CONFINEMENT OF INMATES**, to the Senate with amendments. The bill makes technical changes to Title 24, of the South Carolina Code of Laws, relating to the detention of persons in local detention facilities. The bill deletes archaic provisions that do not reflect current practice and also codifies language that does reflect current practice. Major substantive changes to the bill include the following:

- A municipal or county jail administrator must consent, rather than the sheriff alone, when deciding where to house a prisoner.
- Local detention facilities are added to the list of facilities where conjugal visits are not allowed.
- Local detention center directors are given the same authority as a prison director within the Department of Corrections to suppress riots and investigate misconduct.
- Any person received by the jail who appears to be in a stupor must be examined by medical personnel before being admitted into the jail.
- A sheriff is authorized to devolve their powers over a jail to a county governing body who may then employ a jail administrator, and a county governing body may devolve the power back to the sheriff.
- Local detention facilities are allowed to charge to house an inmate.

The legislation enacts the “**LOCAL DETENTION FACILITY MUTUAL AID AND ASSISTANCE ACT**”. This allows local detention facilities that are contiguous to each other to enter into agreements for the safe detention of inmates in the case where one facility is unable to safely house their inmates.

The House returned **S.981**, relating to **GRANDPARENT VISITATION**, to the Senate with amendments. This legislation provides that the family court has the jurisdiction to order visitation for the grandparent of a minor child where either or both parents of the minor child is or are deceased, or are divorced, or are living separate and apart in different habitats, if the court finds that the child's parents or guardians are depriving the

grandparent of the opportunity to visit with the child and: (a) the court finds by clear and convincing evidence that the child's parents or guardians are unfit; or (b) the court finds by clear and convincing evidence that there are compelling circumstances to overcome the presumption that the parental decision is in the child's best interest. The judge presiding over this matter may award attorney's fees and costs to the prevailing party.

The House returned **S.329** to the Senate with amendments. The legislation provides **PROTECTIONS FOR EXECUTION TEAMS**. This bill prohibits a person from disclosing the identity of a current or former member of an execution team or from disclosing a record that would identify a person as being a current or former member of an execution team. An exception is provided to allow disclosure upon a court order under seal for the proper adjudication of pending litigation. Any person whose identity is disclosed shall have a civil cause of action against the person who is in violation of this section and may recover actual damages and, upon a showing of a wilful violation, punitive damages. The bill further provides that no licensing agency, board, commission, or association may file, attempt to file, initiate a proceeding, or take any action to revoke, suspend, or deny a license to any person solely because that person participated in the execution of a sentence of death on a person convicted of a capital crime as authorized by law or the director.

The House returned **S.337** to the Senate with amendments. The legislation provides for the streamlining of the South Carolina Department of Health and Environmental Control's **CERTIFICATE OF NEED (CON) PROGRAM** under which health care facilities, prior to construction of a new facilities or most significant capital or new equipment expenditures for an existing facility, must apply for a CON from DHEC in order to prevent unnecessary duplication of health care facilities and services and assist with the goal of promoting cost containment. The legislation makes comprehensive changes to Certificate of Need provisions, including making the application and contested case processes more efficient and less costly for the applicant and other affected parties. The legislation also provides that the first \$750,000 DHEC collects from existing CON fees will be remitted to the general fund. Fees in excess of this amount will be retained by DHEC exclusively to defray the cost of administering the program. This provision is revenue neutral. The bill also establishes a new \$100 initial filing fee to be retained by DHEC. This fee may be revised by regulation in the future. The bill authorizes DHEC to charge a licensing inspection fee. The bill stipulates that all CONs are valid for one year and allows each extension granted be good for nine months. The bill addresses licensing changes. The legislation takes effect June 1, 2010; provided, that the provisions of this act do not apply to any matter presently pending before a court of this state.

The House returned **S.879**, relating to **REAL PROPERTY PROVISIONS**, to the Senate with amendments. The legislation establishes requirements governing transfer fee covenants. This bill revises provisions for determining when a parcel of real property must be appraised for taxation purposes, so as to provide that certain transfers of property from a parent to a child are not to be considered assessable transfers of interest if the identical parcel of real property deeded back to the parent within one year. The legislation provides that no new structure must be listed or assessed for property tax until it is completed and fit for the use for which it is intended, as evidenced by the issuance of a certificate of occupancy or the structure is actually occupied if no certificate is issued.

The House returned **S.850**, relating to **INCOME TAX RETURNS**, to the Senate with amendments. This bill expands the list of funds to which a taxpayer may make voluntary contributions on an income tax return to include contributions to the South Carolina Forestry Commission for use in the State Forest System. The legislation also eliminates a provision specifying that payment by immediately available funds and filing of the return are considered simultaneous acts with respect to penalties and interest for failure to file and failure to pay, and that penalties and interest must be calculated based on the later of the return postmark date or payment date.

The House returned **S.1120**, a bill relating to **DEBT COLLECTION FOR HEALTH CARE SERVICES PROVIDED TO CRIME VICTIMS**, to the Senate with amendments. When a person files a claim for compensation as a victim of a crime, this bill provides that a health care provider that has received written notice of a pending claim is prohibited from all debt collection activities relating to medical and psychological treatment received by the person in connection with the claim until an award is made on the claim or the claim is determined to be non-compensable and is denied, or ninety days have passed after the health care provider first received notice of a pending claim. The statute of limitations for collection of the debt is suspended during the period in which the applicable health care provider is required to refrain from debt collection activities.

The House returned **S.104**, pertaining to **AGRITOURISM ACTIVITY LIABILITY**, to the Senate with amendments. Under certain circumstances, this bill limits the liability that an agritourism professional may incur due to an injury or death suffered by a participant in an agritourism activity resulting from an inherent risk of an agritourism activity. Among other things, the legislation defines the terms 'agritourism activity' and 'inherent risks of an agritourism activity'. An agritourism professional must post a warning notice at the agritourism facility, and warning notices must be included in contracts the agritourism professional enters into with participants. The agritourism professional's liability is not limited if the proper warning notices are not provided to participants.

The House returned **S.717**, legislation authorizing a **SALES TAX EXEMPTION FOR A RESEARCH FACILITY TESTING IMPACTS OF NATURAL HAZARDS ON BUILDINGS**, to the Senate with amendments. This bill provides a sales tax exemption for machinery, equipment, building and other raw materials, and electricity used by a facility owned by a tax exempt organization investing at least twenty million dollars over three years in a facility that is used principally for researching and testing the impact of natural hazards such as wind, fire, earthquake, and hail on building materials used in residential, commercial, and agricultural buildings.

The House returned **S.1392**, dealing with the issuance of various **SPECIAL LICENSE PLATES**, to the Senate with amendments. This legislation provides for the issuance of the following license plates: 'Distinguished Service Medal' Special License Plate; 'Second Amendment' Special License Plate; 'Historic' automobile special motor vehicle license plate for use on a private passenger motor vehicle or a motorcycle that is 25 years or older; 'Distinguished Service Cross' Special License Plate; 'Department of the Navy' Special License Plate; 'Parents and Spouses of Active Duty Overseas Veterans' Special License Plates; 'State Flag' Special License Plates; 'South Carolina Highway Patrol-Retired' Special License Plates; 'Eagle Scouts of America' Special License Plates; 'I Support Libraries' Special License Plates; 'South Carolina Educator' Special License Plates; 'Raccoon Hunters' Special License Plates; 'Beach Music' Special License Plates; Citadel Alumni Association 'Big Red' Special License Plates;

'Largemouth Bass' Special License Plates; High School Special License Plates; and 'South Carolina Wildlife Federation' Special License Plates. The legislation allows a coroner to be issued two special license plates. The legislation allows frames for license plates. With regards to the existing Veteran's special license plate, this bill allows qualified persons to have the wheelchair symbol placed on this plate as well as allows qualified individuals to have the word 'disabled' placed on this plate. The bill allows for the issuance of a third Purple Heart License Plate upon payment of the regular registration fee and a special fee. The bill raises the fee requirements for special license plate to non-profit from 400 to 600 applications or \$4,000 to \$7,500. The bill also allows SC DMV to set \$10 special license plate fee if the sponsoring entity does not set fee.

The House returned **S.1298**, addressing **EMERGENCY RELIEF FROM CERTAIN FEDERAL MOTOR CARRIER SAFETY REGULATIONS**, to the Senate with amendments. The legislation provides that when an emergency is declared in North Carolina or Georgia that triggers relief from regulations, an emergency must be declared in this State by the Governor, and that the declaration of emergency must not be terminated prior to the termination of the declaration of emergency in these states. The legislation also includes provisions regarding the operation of a golf carts.

The House returned **S.484** to the Senate with amendments. This bill establishes the conditions under which a de minimis operations license may be issued to a nonresident professional employer organization or professional employer organization group for limited operation within this State and provides for other revisions relating to the licensure and regulation of **PROFESSIONAL EMPLOYER ORGANIZATIONS**.

The House approved and sent to the Senate **H.4839**. This bill specifies that the **PROPERTY TAX EXEMPTION FOR RECIPIENTS OF THE MEDAL OF HONOR** and prisoners of war in certain conflicts applies to Medal of Honor recipients regardless of when the Medal of Honor was awarded or the conflict involved.

The House returned **S.1027**, the "**RENEGADE HUNTER ACT**", to the Senate with amendments. The legislation establishes prohibits against using dogs to hunt on property without the permission of the landowner and provides penalties for violations.

The House approved **S.1330**. This joint resolution provides that, in 2011 and 2012, the **ANNUAL FEE FOR THE AUTOMOBILE MANUFACTURER STANDARD LICENSE PLATE** for vehicles in such manufacturer's employee benefit program and for the testing, distribution, evaluation, and promotion of its vehicles is \$699. Twenty dollars of each fee is credited to the general fund of the state and the balance to local governments. The entire fee amount is to be credited to the general fund of the state for nonresident participants in the employee benefit program.

The House approved and sent to the Senate **H.4829**. This bill revises provisions relating to **DECEPTIVE OR MISLEADING ADVERTISEMENT OF A LIVE MUSICAL PERFORMANCE**, so as to define a sound recording, establish an exemption for those properly registered in the United States Patent and Trademark Office, provide for a temporary or permanent injunction for unauthorized performances, and establish a fine of at least five thousand dollars and not more than fifteen thousand dollars for each violation.

The House concurred in Senate amendments to **H.4572** and enrolled the legislation for ratification. This bill allows the holder of a retail permit authorizing the sale of beer for off-premises consumption whose primary product is beer or wine to have a limited number of **BEER TASTINGS** each year under certain circumstances. The legislation also authorizes a beer wholesaler to store temporarily at a beer retailer's, with the consent of the retailer, equipment primarily utilized by the wholesaler in delivery and stocking of beer including, but not limited to, pallets, carts, and hand trucks.

The House concurred in Senate amendments to **S.1294**, dealing with **COYOTE HUNTING AND TRAPPING**, and enrolled the bill for ratification. The legislation provides that it is lawful to trap furbearing animals for commercial purposes from January first (rather than December first) of each year to March first of each the succeeding year. The legislation provides it is lawful to trap coyotes from December first of each year to March first of the succeeding year. It is unlawful to trap coyotes at any other time unless authorized by the Department of Natural Resources. The legislation provides that it is lawful to take coyotes by other lawful means at any time during the year.

The House concurred in Senate amendments to **H.4250**, which creates the **TECHNICAL COLLEGE OF THE LOWCOUNTRY ENTERPRISE CAMPUS AUTHORITY**, and enrolled the legislation for ratification.

The approved **S.1303** and enrolled the bill for ratification. The legislation sets the **AVERAGE WEEKLY WAGE FOR AN INMATE** who works in a federally approved Prison Industries Enhancement Certification Program.

The House returned **S.1051** to the Senate with amendments. The legislation revises provisions relating to the **POLICY OF RETREAT FROM THE SHORELINE**.

The House appointed a conference committee to address the differences with the Senate over **S.382**, pertaining to **JOINT TENANCY WITH RIGHT OF SURVIVORSHIP**.

The House did not concur in Senate amendments to **H.3975**, a bill providing an **EXEMPTION FOR MILITARY MEMBERS FROM THE HUNTER'S EDUCATION COURSE REQUIREMENT**.

The House did not concur in Senate amendments to **H.4215**, relating to the **REQUIRED NOTICE WHEN APPEALING A DECISION OF A MAGISTRATE**.

The House continued **S.1066**. This bill provides a tax credit for amounts contributed to the **SOUTH CAROLINA EXISTING MANUFACTURERS' RETENTION AND GROWTH FUND**.

The House rejected **H.3492**. This bill increases from five thousand dollars to fifteen thousand dollars the amount that a person may undertake in the construction, repair, or improvement of a residential building without being considered a **RESIDENTIAL HOME BUILDER** subject to licensure and regulations by the South Carolina Residential Builders Commission.

The House rejected **H.4909**. This bill provides that, in order for a student to participate on a school sponsored athletic team, the student must undergo a preparticipation

physical, during which time a test to determine if the student has sickle cell anemia or carries the **SICKLE CELL ANEMIA** trait must be administered. The doctor who administers the test must clear the student for participation on the team before the student is eligible to participate.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full committee did not meet this week.

EDUCATION AND PUBLIC WORKS

The full committee did not meet this week.

JUDICIARY

The full committee did not meet this week.

LABOR, COMMERCE AND INDUSTRY

The full House Labor, Commerce and Industry Committee met on May 26 and reported out two bills.

The committee gave a report of favorable with amendments on **S.484**. This bill establishes the conditions under which a de minimis operations license may be issued to a nonresident professional employer organization or professional employer organization group for limited operation within this State and provides for other revisions relating to the licensure and regulation of **PROFESSIONAL EMPLOYER ORGANIZATIONS**.

The committee gave a report of favorable with amendments on **S.1148**, which provides for the **LICENSURE AND REGULATION OF LANDSCAPE ARCHITECTS** by a Board of Landscape Architectural Examiners with administrative functions to be performed by the Department of Labor, Licensing and Regulation. The legislation provides for the **LICENSURE AND REGULATION OF PROFESSIONAL SOIL CLASSIFIERS** by the Department of Labor, Licensing and Regulation utilizing an advisory council of five qualified professional soil classifiers.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full committee did not meet this week.

WAYS AND MEANS

The full committee did not meet this week.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

JUDICIARY

H. 5041 UNICAMERAL GENERAL ASSEMBLY Rep. Thompson

The bill provides for a Constitutional amendment to establish a unicameral legislature (with the powers and duties and functions of the House as the single branch of the General Assembly and to abolish the Senate).

H. 5042 RESTRICTIONS ON BALLOON RELEASES Rep. Gambrell

This bill prohibits the release of twenty or more balloons within certain timeframes, with exceptions and penalties.

Legislative Update, June1, 2010

The *Legislative Update* is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (<http://www.scstatehouse.gov>) and click on "*Publications*," then click on "*Legislative Update*." This will list all of the *Legislative Updates* by date. Click on the date you need. Also available on the website is a bill summary index, where bills referenced in one or more issues of the *Legislative Update* are listed in numeric order. Links to the specific text of the *Legislative Update* issue are provided in the bill summary index.

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