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Legislative update

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Download date	2024-11-10 16:25:54
Link to Item	http://hdl.handle.net/10827/10357



South Carolina House of Representatives

Legislative Update

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

Vol. 29

June 5, 2012

No. 19

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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 Senate amendments to H.4967 and returned the bill to the Senate. The legislation provides for comprehensive **RETIREMENT SYSTEMS REVISIONS** as a means of securing long term financial health for South Carolina's employee pension plans. The legislation revises eligibility criteria for the South Carolina Retirement System (SCRS), which serves public school teachers and most state government employees, by requiring new employees, who become members of the system after June 30, 2012, to have at least thirty years of service in order to be eligible to retire at any age with full benefits. Current employees invested in the South Carolina Retirement System retain their twenty-eight year eligibility. The legislation increases the employee contribution rate by one percent for both the South Carolina Retirement System and the Police Officers Retirement System, corresponding to a one percent increase in the employer contribution rate recently approved by the Budget and Control Board. The employee contribution rate increase is to be phased in over the course of two years. The legislation eliminates the current provisions for awarding cost of living adjustments to SCRS retirees that tie COLAs to inflation, and, instead establishes benefit adjustment provisions that award an increase in retiree benefits, of up to 2%, in a year when criteria are met that show a satisfactory rate of return on pension system investments. New restrictions are placed on those who retire and return to work at a state government position. Such employees would have to wait sixty days, rather than the current fifteen days, before returning to employment. Beginning in 2013, such employees would be subject to a yearly earning limitation of ten thousand dollars. Once this cap is exceeded, retirement allowances would be discontinued for the remainder of the year. Anti-spiking measures are applied to those who become members of the system after June 30, 2012, to disallow eleventh hour raises and other steps taken at the end of service that can distort pension benefits. For new employees, the legislation revises the method of calculating average final compensation for determining pension benefits by requiring a computation that uses the employee's five highest years of compensation, rather than the current three highest years. For new employees, the legislation eliminates the addition of unused sick leave in the calculation of creditable service and provides that unused annual leave may not be added to the average final compensation. The legislation revises South Carolina Retirement System provisions so that overtime not mandated by the employer will no longer be considered earnable compensation, but these overtime revisions do not apply to the Police Officers Retirement System. The legislation discontinues the Teacher and Employee Retention Incentive (TERI) Program by closing the program to new employees, but allows current employees to continue to be eligible for TERI. The legislation revises the General Assembly Retirement System by increasing the employee contribution rate by one percent and discontinuing provisions that allow legislators to begin drawing retirement benefits while continuing to serve in the General Assembly. The legislation provides that interest will not accrue on inactive pension accounts. The legislation provides for revisions that make the purchase of service credit actuarially neutral. The legislation includes provisions for disability retirement benefits that make use of the eligibility criteria of federal Social Security disability benefits. The Senate did not concur in amendments to H.4967 and the House appointed a conference committee to address its differences with Senate on the legislation on such issues as retirement eligibility criteria, pension plan governance, the manner of awarding COLAs, and when the TERI program is to be discontinued.

The House returned S.149, the “**EQUAL ACCESS TO INTERSCHOLASTIC ACTIVITIES ACT**”, to the Senate with amendments. The Senate subsequently concurred in these amendments and enrolled the bill for ratification. The legislation affords home school students and Governor’s school students new opportunities for participating in interscholastic activities, including athletics, music, speech, and other extracurricular activities, at local public schools. The legislation provides that a school district may not deny an individual home school student or Governor’s school student the opportunity to participate in interscholastic activities at a public school so long as the student meets criteria for residing within the school’s attendance boundaries, satisfies all eligibility requirements except for pertinent enrollment and attendance requirements, and provides the proper written notification. A home school student or Governor’s school student is required to fulfill the same responsibilities and standards of behavior and performance, including related practice requirements, of other students participating in the interscholastic activities of the team or squad and is required to meet the same standards for acceptance on the team or squad. A Governor’s school may not be denied by a school district the opportunity to have a team representing the school participate in interscholastic activities if the team meets the same eligibility requirements of other teams. An individual Governor’s school student may not participate in an interscholastic activity of a public school district if the school that the student is enrolled in has a team or squad participating in that interscholastic activity. A school district may not contract with a private entity that supervises interscholastic activities which prohibits the participation of charter school students, Governor’s school students, or home school students in interscholastic activities. The legislation also provides that a public school student who is not allowed to participate in interscholastic activities because of a failure to maintain academic eligibility is ineligible to participate in interscholastic activities as a charter school student, Governor’s school student, or home school student for the following semester. To establish academic eligibility for subsequent school years, the student’s teacher shall certify by submitting an affidavit to the school district that the student meets the relevant policies of the school at which the student wishes to participate.

The House adopted and sent the Senate H.5332, a concurrent resolution **AUTHORIZING THE EXTENSION OF THIS YEAR’S LEGISLATIVE SESSION**. The legislation provides authority for the General Assembly to meet beyond its prescribed deadline for adjournment on June 7, 2012, to take up a limited list of matters including the state government budget, conference committee reports, and the Governor’s vetoes.

The House returned S.1409, a bill providing for **TAX CODE REVISIONS**, to the Senate with amendments. The bill provides revisions, clarifications, and updates for numerous tax code provisions. The legislation includes revisions to **ECONOMIC DEVELOPMENT INCENTIVES**. The legislation expands the availability of the tire manufacturer credits to include companies that invest at least \$400 million in capital investment and employ at least 1200 full time employees by 2022. The legislation authorizes the Department of Revenue to waive penalties for a late tax filing due to a reasonable cause, such as a data breakdown. The legislation authorizes a state **TAX CREDIT FOR THE INSTALLATION OF SOLAR ENERGY EQUIPMENT** in an amount equal to thirty-five percent of the amounts for specific types of installations. The legislation provides that the credit is authorized against state tax liability that includes income taxes, corporate license taxes, bank and building and loan taxes, and insurance premium taxes. The legislation provides that the **CONSTRUCTION AND RENOVATION OF K-12 SCHOOL**

FACILITIES ARE NOT SUBJECT TO DEVELOPMENT IMPACT FEES. The legislation revises the **APPEAL OF A PROPERTY TAX ASSESSMENT VALUE.** The legislation provides that the appeal must be based on the market values of real property as of December thirty-first of the tax year under appeal. The legislation revises property tax assessment notice provisions, so as to provide that in a year in which an assessable transfer of interest occurs due to a conveyance, if the assessor determines that fair market value is more than the purchase price, the assessor shall state with particularity, the basis for the increase in fair market value. The legislation provides that the taxpayer at least has thirty days of receipt of the tax notice to appeal, and requires the assessor to include a property tax refund assignment contract in certain cases. The legislation provides that the county assessor shall have the burden of proof in a property tax appeal. The legislation allows a taxpayer to appeal the value once every five years, with certain exceptions.

The House returned **S.1125**, a bill providing a **DISQUALIFICATION FROM RECEIVING UNEMPLOYMENT COMPENSATION FOR THOSE WHO ARE FIRED FOR MISCONDUCT**, to the Senate with amendments. This legislation provides that a person discharged from employment for misconduct is ineligible for the twenty weeks of jobless benefits available under the state's unemployment compensation provisions. Misconduct is limited to conduct demonstrating such wilfull and wanton disregard of an employer's interests as is found in deliberate violations or disregard of standards of behavior which the employer has the right to expect of his employee, or in the carelessness or negligence of such degree or recurrence as to manifest equal culpability, wrongful intent, or evil design, or to show an intentional and substantial disregard of the employer's interest or of the employee's duties and obligations to his employer. No finding of misconduct may be made for a discharge resulting from an extreme hardship, emergency, sickness, or other extraordinary circumstance. In cases where the employee has been discharged for unsatisfactory conduct, ordinary negligence in isolated instances, or good-faith errors in judgment or discretion, the Department of Employment and Workforce retains its authority to determine the length of the ineligibility period on a case-by-case basis according to the seriousness of the cause for discharge. These disqualification provisions do not apply to a discharge resulting from substandard job performance due to inefficiency, inability, or incapacity. An employer's account is not to be charged when the department determines that the individual making the claim for unemployment benefits has been discharged for misconduct. The legislation also provides that, upon the determination of fraudulent overpayments of unemployment benefits, an employer from whose account the overpayment was debited must be credited for the amount of the overpayment regardless of the outcome of the action for recoupment or recovery of the overpayment.

The House approved **S.1319** and enrolled the legislation for ratification. This bill authorizes a title insurer to issue **CLOSING OR SETTLEMENT INSURANCE** and provides for loss against which this insurance may indemnify an insured. A premium charged for this coverage must be approved by the Department of Insurance and must not be subject to any agreement requiring a division of fees or premiums collected on behalf of the title insurer.

The House concurred in Senate amendments to **H.3111**, a bill relating to **WORKERS' COMPENSATION INSURANCE.** The legislation authorizes the Workers' Compensation Commission to adopt criteria to establish a new schedule of workers' compensation insurance fees for attorneys, physicians, and hospitals or adjust an existing fee schedule

based in whole or in part on the requirements of a federally funded program, but if it adopts adjustments to an existing fee schedule, it must adopt these adjustments on an annual basis and the adjustments may not exceed the percentage change indicated by the federally funded program. A review process is established for the commission to decide whether to approve proposed adjustments that would increase or reduce these fees by more than ten percent annually.

The House approved **S.1392**, a bill that brings state laws into compliance with the federal Dodd-Frank Wall Street Reform and Consumer Protection Act by providing for the **INCLUSION OF DERIVATIVE TRANSACTIONS UNDER BANK LENDING LIMITATIONS**, and enrolled the bill for ratification. The legislation includes derivative transactions under provisions relating to the maximum amount of loans by a bank to a borrower. A “derivative transaction” is defined as any transaction that is a contract, agreement, swap, warrant, note, or option that is based, in whole or in part, on the value of any interest in, or any quantitative measure or the occurrence of any event relating to one or more commodities, securities, currencies, interest, or other rates, indices, or assets.

The House concurred in Senate amendments to **H.4689** and enrolled the bill for ratification. The legislation provides **HEALTH AND SANITARY REQUIREMENTS FOR HOME-BASED FOOD PRODUCTION OPERATIONS**, in which individuals, operating out of their dwellings, prepares, process, package, store and distribute non-potentially hazardous foods, such as candy and baked goods, for sale directly to a person. A home based food production operation is not allowed to engage in wholesale activities and is only allowed to sell food items directly to a person for his or her own use and not for resale. The legislation establishes requirements that a home based food production operation must follow to maintain a clean and sanitary facility and provides that operators must take all reasonable steps to protect food items from contamination, such as keeping pets off the premises, prohibiting the involvement of those infected with communicable diseases, maintaining direct supervision over the operation, and prohibiting all domestic activities in the kitchen during the operation. All food items packaged at the operation for sale must be properly labeled, complying with all federal laws and regulations. The label must include the name and address of home based food operation; the name of the product being sold; the ingredients used to make the product in descending order of predominance by weight; and the conspicuous statement printed in all capital letters, “NOT FOR RESALE - PROCESSED AND PREPARED BY A HOME BASED FOOD PRODUCTION OPERATION THAT IS NOT SUBJECT TO SOUTH CAROLINA’S FOOD SAFETY REGULATIONS”. The requirements do not apply to an operation with net earnings of less than five hundred dollars annually. A home-based food production operation may apply for an exemption from inspection and label review by the South Carolina Department of Agriculture if its annual sales are less than fifteen thousand dollars.

The House approved **S.1429**, dealing with the **ALZHEIMER'S DISEASE AND RELATED DISORDERS RESOURCE COORDINATION CENTER**, and enrolled the bill for ratification. The legislation transfers the Alzheimer's Disease and Related Disorders Resource Coordination Center from the Governor's Office to the Lieutenant Governor's Office and provides that the Lieutenant Governor, rather than the Governor, appoints the members of its advisory council. The bill also eliminates the requirement of submitting an annual report to the Joint Legislative Committee on Aging, which no longer exists. Instead, the annual report must be published on the Lieutenant Governor's website and

submitted to the chairs of the Senate Medical Affairs Committee and the House Medical, Military, Public and Municipal Affairs Committee.

The House approved **S.1127** and enrolled the bill for ratification. This legislation makes various **REVISIONS TO CERTAIN BOARDS AND COMMISSIONS IN THE MEDICAL FIELD TO REFLECT THE ADDITION OF A SEVENTH CONGRESSIONAL DISTRICT.**

The House approved **S.1059**, a bill revising the **GOVERNING BOARD FOR THE DEPARTMENT OF NATURAL RESOURCES**, and enrolled the legislation for ratification. Accommodating the addition of the state's new seventh congressional district, the legislation revises the composition of the governing board of the Department of Natural Resources, phasing out the at-large member position. The legislation provides that the Governor's appointment of a chairman and the board's appointment of a director must be made with the advice and consent of the Senate. The legislation provides that the governing board has the authority to set the policies for the department, but specifies that the board has no duty or authority concerning the management of, control over, or administration of the department's day to day affairs.

The House approved **S.1331**, a bill revising **SOUTH CAROLINA RESEARCH AUTHORITY** provisions, and enrolled the bill for ratification. The legislation specifies that the South Carolina Research Authority is not authorized to commit the credit and taxing power of the state. The legislation requires written notice when the authority has certain relationships with a nonprofit entity that establishes a for-profit entity, and specifies that a failure to provide this notice may not be construed to indicate the authority may pledge the credit and taxing power of the state. The legislation revises the membership and terms of the board of trustees and executive committee of the authority, so as: to provide for the election of two additional trustees; to permit a university president who is an ex officio member of the board to designate the chief research officer of his university to participate and vote in no more than two meetings of the executive committee each year; to provide for members' terms, filling of vacancies, and removal of executive committee members; and, to allow the Chairmen of the House Ways and Means Committee and the Senate Finance Committee, rather than their designees, to serve on the board. The legislation authorizes the board of trustees of the authority to provide guarantees as security for certain obligations. The legislation revises provisions relating to costs associated with innovation centers established by the authority, so as: to make certain financing optional rather than mandatory; to expand the sources of funding available for financing these costs; and, to prohibit the use of a pledge of credit and taxing power of the state or a political subdivision of the state to finance these costs.

The House approved **S.1247** and enrolled the bill for ratification. This legislation **AUTHORIZES THE PUBLIC SERVICE COMMISSION TO SERVE A FINAL ORDER OR DECISION ELECTRONICALLY.**

The House approved **S.1143** and enrolled the joint resolution for ratification. This legislation establishes the South Carolina Civil War Heritage Trails as the **OFFICIAL CIVIL WAR ERA HISTORIC DRIVING TRAILS OF SOUTH CAROLINA.** This legislation permits South Carolina Civil War Heritage Trails to consult with the South Carolina Civil War Sesquicentennial Advisory Board and the Department of Archives and History concerning the planning, development, establishment, maintenance, and marketing of the trails. The legislation encourages the Department of Transportation to

work with South Carolina Civil War Heritage Trails concerning the placement of signs adjacent to the state highway system, and it encourages the appropriate government agencies to cooperate with South Carolina Civil War Heritage Trails concerning educational and marketing materials.

The House approved **S.429**, a bill relating to **TRUST PAYMENTS UNDER THE UNIFORM PRINCIPAL AND INCOME ACT**, and enrolled the legislation for ratification. This bill makes revisions to the Uniform Principal and Income Act to provide for the process for determining the allocation of payments made from a separate fund to certain trusts. The legislation provides the source of funds that must pay for a tax on a trust's share of the taxable income.

The House approved **S.1033** and enrolled the bill for ratification. The legislation eliminates the **MIGRANT FARM WORKERS COMMISSION** since its functions are carried out by other state government agencies.

The House approved **S.1364**, a bill **ESTABLISHING SHEEPSHEAD SIZE AND CATCH LIMITS**, and enrolled the legislation for ratification. The legislation revises fishing limitations to provide that it is unlawful to take or possess more than ten sheepshead (*Archosargus probatocephalus*) in any one day, not to exceed thirty sheepshead in any one day on any boat. It is also unlawful to take or possess sheepshead of less than fourteen inches in total length.

The House approved **S.1029**, pertaining to the **GEOGRAPHIC BOUNDARIES OF CERTAIN BODIES OF WATER**, and enrolled the bill for ratification. The legislation gives numerical designation to each body of water and also makes other technical changes.

The House concurred in Senate amendments to **H.4033**, relating to **FUNDING DREDGING ACTIVITIES THROUGH THE CAPITAL PROJECT SALES TAX**, and enrolled the bill for ratification. This bill revises the Capital Project Sales Tax Act, to include dredging, dewatering, construction of spoil sites, disposal of spoil materials, and other matters directly related to the act of dredging among the authorized projects that are allowed to be funded by a county capital project sales tax.

The House approved **S.1134**, relating to **WILLIAMSBURG TECHNICAL COLLEGE CAPITAL IMPROVEMENT BOND AUTHORIZATIONS**, and enrolled the legislation for ratification. This bill revises the purpose for which capital improvement bond authorizations may be used at Williamsburg Technical College, allowing \$700,000 to be used for academic and institutional support buildings repair, maintenance and renovation, rather than for its original purpose, the construction of a new technology building.

The House returned **S.1269**, a bill establishing **PHARMACY AUDIT RIGHTS**, to the Senate with amendments. The legislation establishes the rights of a pharmacy when undergoing an audit of its records conducted by a managed care company, insurance company, third-party payer, or any entity that represents a responsible party. These rights address time limitations, auditing standards, access to records, limitations on recoupment of funds, and access to an appeals process. These provisions do not apply to an audit, review, or investigation conducted by or on the behalf of the Department of Health and Human Services in the performance of its duties in administering Medicaid

Program or that involves alleged insurance fraud or abuse, Medicare fraud or abuse, or other fraud or misrepresentation.

The House returned **S.1229** to the Senate with amendments. The legislation establishes an **EXEMPTION FROM INSURANCE ADJUSTER LICENSING PROVISIONS** covering those entering data into a portable electronics insurance automated claims adjudication system and other support staff for such automated systems, so long as no more than twenty-five such persons are under the supervision of a licensed adjuster or a licensed producer who is otherwise exempt licensure as an adjuster.

The House returned **S.1176**, a **TAX PROVISION CLEAN-UP BILL**, to the Senate with amendments. This bill updates and conforms language and makes technical corrections to numerous tax code provisions relating to assessors, auditors, treasurers, and tax collectors. The legislation revises the **APPEAL OF A PROPERTY TAX ASSESSMENT VALUE**. The legislation provides that the appeal must be based on the market values of real property as of December thirty-first of the tax year under appeal. The legislation revises property tax assessment notice provisions, so as to provide that in a year in which an assessable transfer of interest occurs due to a conveyance, if the assessor determines that fair market value is more than the purchase price, the assessor shall state with particularity, the basis for the increase in fair market value. The legislation provides that the taxpayer at least has thirty days of receipt of the tax notice to appeal, and requires the assessor to include a property tax refund assignment contract in certain cases. The legislation provides that the county assessor shall have the burden of proof in a property tax appeal. The legislation allows a taxpayer to appeal the value once every five years, with certain exceptions.

The House returned **S.1088** to the Senate with amendments. This comprehensive legislation makes **REVISIONS TO THE MEMBERSHIP OF BOARDS AND COMMISSIONS TO REFLECT THE ADDITION OF A SEVENTH CONGRESSIONAL DISTRICT**. Generally, the legislation either adds an additional seat or converts an existing at-large seat into representation for the seventh congressional district.

The House returned **S.1137**, the “**ARCHITECTS’ AND ENGINEERS’ VOLUNTEER ACT**”, to the Senate with amendments. The legislation provides immunity from legal liability for licensed architects and licensed engineers who provide volunteer services during declared emergencies.

The House returned **S.788**, a bill **REVISING THE FARM ANIMAL, CROP OPERATIONS, AND RESEARCH FACILITIES PROTECTION ACT**, to the Senate with amendments. This legislation amends the Farm Animal and Research Facilities Protection Act to include provisions relating to crop operations. “Crop operation” includes a vehicle, building, structure, or premises where a crop is raised, maintained, tested, handled, housed, exhibited, or offered for sale and includes a research facility where research on or testing of crops is conducted. Among other things, the legislation prohibits disrupting and damaging crop operations. However, the legislation does not prohibit appropriate actions taken by government officials or persons holding certain legal interests in the crop operation or property. With regards to animal facilities, the legislation includes provisions so as to not prohibit actions of a licensed veterinarian practicing veterinary medicine according to customary standards of care or persons holding legal interest in an animal facility.

The House returned **S.1087**, a bill revising **FREE FISHING DAYS**, to the Senate with amendments. The legislation designates the Fourth of July and National Memorial Day as days when a resident is not required to possess a license or permit for freshwater recreational fishing. These provisions do not apply to individuals fishing for a commercial purpose or when a commercial fishing license is required to use certain nongame fishing devices. The legislation eliminates the authority of the Department of Natural Resources to designate up to two “free fishing days”, but directs the department to designate two days a year as ‘free hunting days’ during which state residents may hunt without procuring the necessary licenses and permits.

The House returned **S.1231**, which provides for the **CLASSIFICATION OF COBIA AS A SALTWATER GAME FISH**, to the Senate with amendments. The bill classifies Cobia *Rachycentron canadum* as a saltwater game fish. The bill adds that it is unlawful to sell, purchase, trade, or barter or attempt to sell, purchase, trade, or barter cobia taken from state waters. In addition, the legislation opens the Waccamaw River and Black River for more opportunities for commercial Shad fishing.

The House did not concur in Senate amendments to **H.4763**, a bill revising **PRENEED FUNERAL CONTRACT** provisions. Following the Senate’s insistence upon their amendments, the House appointed a conference committee to address the legislative bodies’ differences on the legislation.

The House appointed a conference committee to address its differences with the Senate on **H.3710**, a bill providing authority for the **ISSUANCE OF TEMPORARY PROFESSIONAL AND OCCUPATIONAL LICENSES TO SPOUSES OF ACTIVE DUTY MILITARY PERSONNEL**.

The House amended Senate amendments to **H.5051** and returned the bill to the Senate. The legislation revises provisions specifying the mission or focus for each type of institution of higher learning or other post-secondary school in the state so as to add **AUTHORIZATION FOR A FOUR YEAR COLLEGE OR UNIVERSITY TO OFFER A DOCTORAL DEGREE IN MARINE SCIENCE** that is approved by the Commission on Higher Education.

The House approved and sent the Senate **H.5285**, a joint resolution authorizing a **REFUND OF FILING FEES FOR INDIVIDUALS PROHIBITED FROM APPEARING ON THE JUNE 2012 PRIMARY BALLOT**. The legislation provides that individuals who are prohibited by the recent South Carolina Supreme Court ruling from appearing on the June 2012 primary ballot as the result of their failure to file a statement of economic interests are entitled to a full refund of their filing fee.

The House returned **S.1167** to the Senate with amendments. The legislation provides for a **TAX INCREMENT FINANCING LAW REVISION** by establishing conditions under which a municipality may modify a redevelopment plan through ordinance. The legislation revises provisions of the Capital Project Sales Tax Act that impose a limitation on total sales taxes levied in a county. The legislation also enacts the “**MUNICIPAL CAPITAL PROJECTS SALES TAX ACT**” to provide for the imposition of a sales and use tax not to exceed one percent by referendum in a municipality for a specific period of time and for specific projects, and to provide for the method of imposition, payment and collection of this tax.

The House returned **S.1375** to the Senate with amendments. This legislation establishes a procedure that allows local governing bodies to provide **AUTHORIZATION FOR BICYCLISTS AND PEDESTRIANS TO USE THE ROADWAY AND SHOULDERS OF THE MAIN FACILITY OF A NON-INTERSTATE FREEWAY** when there is no other reasonably safe or viable alternative route and the use of the freeway route is at least ten percent less than the shortest conventional alternate route.

The House returned **S.1417** to the Senate with amendments. This legislation allows the Department of Motor Vehicles to issue **'PLAY TENNIS' SPECIAL LICENSE PLATES** which shall have imprinted on them an emblem, seal, symbol, or wording relating to the South Carolina Tennis Patrons Foundation. The legislation authorizes the Department of Motor Vehicles to issue **DEALER LICENSE PLATES FOR THE UNITED SERVICE ORGANIZATION SOUTH CAROLINA AND THE AMERICAN RED CROSS**. The legislation authorizes the Department of Motor Vehicles to issue a **UNITED STATES NAVY CHIEF PETTY OFFICER SPECIAL LICENCE PLATE**. The legislation authorizes the Department of Motor Vehicles to issue **UNITED STATES MARINE CORPS SPECIAL LICENSE PLATES**. The legislation provides for the international symbol of access wheelchair logo to be included on the **WORLD WAR II SPECIAL LICENSE PLATE** for individuals who qualify to be issued this license plate and a handicapped parking placard. The legislation authorizes the Department of Motor Vehicles to issue **"TREE MY DOG" SPECIAL LICENSE PLATES** with proceeds benefitting the South Carolina State Coon Hunters Association Youth Fund.

The House returned **S.1299**, a bill revising the **MEMBERSHIP OF THE SOUTH CAROLINA COMMISSIONERS OF PILOTAGE FOR THE UPPER COASTAL AREA**, to the Senate with amendments. This legislation increases the number of members on the commission from six to eight by providing for two additional members appointed by the Governor upon the recommendation of the Georgetown County Legislative Delegation. The legislation provides that these recommendations from the legislative delegation need no longer come from lists of nominations submitted from the Chamber of Commerce and the Propeller Club of the Port of Georgetown.

The House amended and gave second reading approval to **S.1419**, a bill revising provisions relating to insurance brokers and **SURPLUS LINES INSURANCE**. The legislation provides that the revenue collected from the broker's premium tax rate must be credited to a special earmarked fund and provides the manner in which the fund may be used and disbursed. The legislation authorizes the director of the Department of Insurance to conduct examinations of broker records and allows the department to promulgate necessary regulations. The legislation provides the manner in which the Nonadmitted and Reinsurance Reform Act of 2010 may be implemented. For the purposes of carrying out the Nonadmitted and Reinsurance Reform Act of 2010, the director of the Department of Insurance or his designee may enter to in an agreement with a single state to facilitate the collection, allocation, and disbursement of premium taxes attributable to the placement of surplus lines insurance, provide for uniform methods of allocation and reporting among surplus lines insurance risk classifications, and share information among states relating to surplus lines insurance premium taxes. The legislation provides authority to participate in a clearing house established through a multistate agreement approved by the General Assembly for the purpose of collecting and disbursing to reciprocal states any funds collected that relate to properties, risks, or exposures located or to be performed outside of this State. To the extent that other states where portions of the properties, risks, or exposures reside have failed to enter

into an agreement or reciprocal allocation procedure with this State, the net premium tax collected shall be retained by this State. The legislation revises provisions relating to municipal license fees and taxes, so as to disallow a municipality from charging an additional license fee or tax based upon a percentage of premiums for purposes of surplus lines insurance.

HOUSE COMMITTEE ACTION

JUDICIARY

The Judiciary Committee met on Tuesday, May 29, and reported out several bills.

The Judiciary Committee gave a favorable with amendment recommendation to **S.1321**. This legislation makes **REVISIONS TO THE “OMNIBUS CRIME REDUCTION AND SENTENCING REFORM ACT OF 2010”**. Various revisions include the following: restructures the degrees of arson; clarifies that possession of firearms by persons who have committed violent crimes is prohibited whether a judge made a specific finding on the record or not; clarifies that possession of firearms by persons on parole or probation is prohibited; clarifies that magistrates may punish breaches of the peace by a fine or term of imprisonment or both; revises the Youthful Offender Act with regards to expungement of records as well as burglary in the second degree; allows the Department of Probation, Parole and Pardon Services' (PPP) written notice of petition for civil contempt, scheduled hearings or proceeding, or any other event or modification associated with administrative monitoring to be effective 10 days after mailed; allows PPP to award compliance credit for substantial fulfillment of supervision conditions; makes drug statutes consistent; provides that trafficking in controlled substances is a prior offense; reduces the penalty for driving under suspension third offense; and provides that the annual one week driver's license suspension amnesty period does not include offenses like driving under the influence or driving with an unlawful alcohol concentration or felony driving under the influence.

S.300, which pertains to the **DEPARTMENT OF JUVENILE JUSTICE**, received a favorable with amendment report. This legislation authorizes the Department of Juvenile Justice to allow any child adjudicated delinquent for a status offense, a misdemeanor offense, or violation of probation or contempt for any offense who is temporarily committed to the department's custody for a residential evaluation, to reside in that child's home or in his home community while undergoing a community evaluation, unless the committing judge finds and concludes in the order for evaluation, that a community evaluation of the child must not be conducted because the child presents an unreasonable flight or public safety risk to his home community. This legislation further authorizes the department to grant probationers and parolees under the department's supervision up to a ten-day reduction of the probationary or parole term for each month they are compliant with the terms and conditions of their probation or parole.

S.168 received a favorable recommendation. This legislation revises **PENALTIES FOR CUTTING, REMOVING, OR TRANSPORTING TIMBER PRODUCTS WITHOUT THE CONSENT OF THE LANDOWNER**. If the value of the forest products is \$1,000 or less, a person who violates these provisions is guilty of a misdemeanor and, upon conviction for a first offense under this legislation, must be fined not more than \$1,500 or

imprisoned for not more than 30 days, or both; and for a second or subsequent offense under this legislation, must be fined not less than \$2,000 and not more than \$5,000 or imprisoned for not more than 60 days, or both. If the value of the forest products is more than \$1,000 but less than \$5,000 a person who violates these provisions for a first offense, is guilty of a misdemeanor and, upon conviction under this legislation, must be fined not less than \$5,000 and not more than \$10,000 or imprisoned for not more than five years, or both and for a second or subsequent offense, is guilty of a felony and, upon conviction under this legislation, must be fined not less than \$10,000 and not more than \$20,000 or imprisoned for not more than ten years. If the value of the forest products is \$5,000 or more, a person who violates these provision for a first offense, is guilty of a misdemeanor and, upon conviction under this legislation, must be fined not less than \$10,000 and not more than \$20,000 or imprisoned for not more than ten years, or both and for a second or subsequent offense, is guilty of a felony and, upon conviction under this legislation, must be fined not less than \$10,000 and not more than \$20,000 or imprisoned for not more than ten years.

[S.1329](#), which relates to the **APPOINTMENT OF MEMBERS OF THE BOARD OF PROBATION, PAROLE AND PARDON SERVICES**, received a favorable report. This legislation revises how members of the Board of Probation, Parole and Pardon Services are appointed. Currently, there are seven members of the Board of Probation, Parole and Pardon Services: Six are elected from current congressional districts, and one is elected on an at-large basis. As there is a new seventh congressional district, this legislation provides that all seven members of the board must be selected from a congressional district. The legislation further provides that at least one appointee shall possess the qualifications that the at-large appointee formerly met.

The Judiciary Committee gave a favorable with amendment recommendation to [S.1099](#). This legislation provides that **MEMBERS OF THE BOARD OF JUVENILE PAROLE AND THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES** shall receive compensation in an amount provided by the General Assembly in the annual appropriations act.

The full committee gave a favorable with amendment report to [S.1055](#). Among other things, this legislation revises the **COMPOSITION OF THE JUDICIAL COUNCIL** so as to include the Chief Judge of the Court of Appeals, one person recommended by the Charleston School of Law, the President of the South Carolina Bar or his designee, and one magistrate and one municipal judge.

[S.263](#) received a favorable with amendment recommendation from the Judiciary Committee. This legislation provides that when the death of a person ensues within three years as a proximate result of injury by the driving of a vehicle in reckless disregard of the safety of others, the person operating the vehicle is guilty of **RECKLESS VEHICULAR HOMICIDE**; previously this was referred to as reckless homicide. Also, this legislation allows a judge to grant a route restricted license; previously a judge could grant a provisional license. The legislation further provides that when a person is suspected of causing a motor vehicle incident resulting in the death of another person by the investigating law enforcement officer on the scene of the incident, the driver must submit to field sobriety tests if he is physically able to do so.

[S.45](#) received a favorable with amendment report from the Judiciary Committee. This legislation provides that in determining whether someone should be released on **BAIL**

the court should consider, if it is available, certain information. The legislation allows certain information to be presented at the hearing by the arresting law enforcement agency rather than the particular arresting officer. If a person has been previously released on bail pending trial and during the released the person is charged with a violent offense, and a court finds, by a preponderance of the evidence, that no condition or combination or combination of conditions will reasonably assure the person's appearance as required or the safety of another person in the community, this legislation requires that the court deny the person's release pending trial. The legislation further provides that circuit courts, at their discretion, may review and reconsider bond for general session offenses set by summary court judges. Also, circuit courts shall consider motions regarding reconsideration of bond for general session offenses set by summary court judges. After a circuit court judge has heard and ruled upon a defendant's motion to reconsider a bond set by a summary court judge, further defense motions to reconsider may be heard by the circuit court based on the length of time the defendant has been held for trial. Motions by the State to revoke or modify a bond must be made in writing, state with particularity the grounds for revocation or modification, and set forth the relief or order sought. If the State's motion to revoke or modify bond includes a prima facie showing of imminent danger to the community, or imminent danger to the defendant, or flight by the defendant, the chief judge or presiding judge shall conduct or order a bond hearing to be conducted by the circuit court judge or a designee. The legislation provides that any person charged with the offense of burglary in the first degree may have his bond hearing for that charge in summary court unless the solicitor objects. The legislation further provides that certain previously enacted provision that allow sureties to be relieved of an appearance bond under certain designated circumstances are retroactive and apply to all existing and future appearance bonds.

S.859, relating to **RESIDENTIAL TREATMENT FACILITIES FOR CHILDREN AND ADOLESCENTS**, received a favorable with amendment recommendation from the full committee. For purposes of the State Certification of Need and Health Licensure Act, this legislation defines children and adolescents in need of mental health treatment as those under the age of twenty-one; current law refers defines these individuals as those under the age of eighteen. The legislation requires the facility to ensure that any resident required by law to register as a sex offender maintains an up to date registration. If a child or adolescent in a residential treatment facility for children and adolescents leaves the facility premises without permission, the facility shall immediately report the incident to local law enforcement and inform them if the child may pose a threat to the safety of the public. The facility also shall immediately report the incident to the parent or legal guardian. The facility shall maintain an incident report on the matter. These reports must be submitted to the Department of Health and Environmental Control within ten days after the incident, maintained in accordance with the regulation, and are subject to inspection by the department at any time, upon request. The department shall develop criteria for residential treatment of children and adolescents. Based upon the needs of the residents, the department shall develop supervision, safety, security, and recordkeeping requirements in regulation as the department considers necessary to carry out its responsibilities. A residential treatment facility for children and adolescents must comply with these requirements in order to be licensed and to obtain license renewal.

S.1354, relating to **CEASE AND DESIST ORDERS ISSUED BY THE SECURITIES COMMISSIONER**, received a favorable with amendment report. Relating to securities

violations, this legislation requires all cease and desist orders issued by the Securities Commissioner to be public documents subject to the Freedom of Information Act and to be published on the Attorney General's website searchable by the name of the parties involved. Also, a copy of a final order must be forwarded to the Department of Revenue and the Secretary of State's Office.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

EDUCATION AND PUBLIC WORKS

S.1001 "EQUAL ACCESS TO INTERSCHOLASTIC ACTIVITIES FOR MILITARY CHILDREN ACT" Sen. L. Martin

This legislation provides that a child of a member of the Armed Forces who attends school in a school district who lives with a resident of the district other than a parent of the child pursuant to a power of attorney, court order, or written military family care plan is entitled to participate in any interscholastic activity offered by the school regardless of whether the child ever resided in the district with a parent of the child. A school district may not contract with any entity that supervises interscholastic activities if the private entity would prohibit such a child from participating in the activity supervised by the entity. These provisions must be construed as providing protections in addition to and not in conflict with and do not supersede any protections provided to an applicable child by the Interstate Compact on Education Opportunity for Military Children.

S.1397 ANNUAL APPROPRIATIONS TO PUBLIC COLLEGES AND UNIVERSITIES Sen. Gregory

This joint resolution provides that beginning in the 2014-2015 fiscal year, the General Assembly intends to distribute its annual appropriations to public colleges and universities based upon an accountability-based model. The legislation further provides that the Commission on Higher Education shall support the General Assembly's efforts to establish accountability-based funding by submitting a report to the Governor and the Chairmen of the House Education and Public Works Committee, Senate Education Committee, House Ways and Means Committee, and the Senate Finance Committee no later than November 1, 2012. The legislation further provides that the presidents of the senior public colleges and universities shall convene by sector at least monthly between the effective date of this resolution and the date on which the report is submitted, to participate in the development of the commission's report. They may also reconvene at their own initiative at any time prior to the expiration date of this joint resolution, to discuss and further advance efforts to establish accountability-based funding. Colleges under the jurisdiction of the State Board for Technical and Comprehensive Education are exempt from the provisions of this resolution.

WAYS AND MEANS

H.5342 CAPITAL PROJECT SALES TAX COUNTY COMMISSIONS

Rep. Lucas

This bill revises requirements for the commissions created to consider proposals to be funded through the capital project sales tax within the county area and to formulate the referendum questions to appear on the ballot, so as to provide that members of the commission appointed by the county governing body must be residents of the unincorporated areas of the county, and members of the commission appointed by the governing body of a municipality must be residents of that municipality.

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