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Legislative update

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South Carolina House of Representatives

Legislative Update

Robert J. Sheheen, Speaker of the House

Vol. 9

February 4, 1992

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House Week in Review

As expected, the House of Representatives received Governor Campbell's veto of H.3834, the House reapportionment plan, last week. After some discussion, the House agreed to adjourn debate on the veto until Wednesday, Feb. 5, after voting 40-75 against tabling a motion to adjourn debate.

Two Senate bills -- S.883, the Offender Management System bill, and S.189, a bill prohibiting the sale of bottle rocket fireworks -- were given second and third readings in the House last week and returned to the Senate with amendments.

Also given third reading was H.3777, legislation amending the Dangerous Dog Act. This legislation would expand the law to include dangerous animals, not just dogs, and would significantly increase the penalties. On Wednesday, the House voted 50-35 to table a motion to recommit the bill to the House Agriculture, Natural Resources and Environmental Affairs Committee. House members then gave the bill second reading approval; third reading was given on Thursday.

On Tuesday, the House tabled H.3536, a bill to allow the establishment of brewpubs in South Carolina. And on Wednesday, objections placed S.385 on the House second reading contested calendar. This Senate bill would abolish the mandate to write physical damage automobile insurance coverage and would prohibit the ceding of any physical damage coverage to the Reinsurance Facility after September 30, 1992.

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Bills Introduced

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

Education and Public Works

Driving Age (H.4271, Rep. Morgan Martin). This legislation would raise the minimum driving age to 17-years-old for a regular driver's license and 16-years-old for a beginner's restricted license. Currently the law allows 16-year-olds to receive a regular driver's license and 15-year-olds the beginner permit. The bill further directs the school districts to initiate and maintain driver training courses, and students age 16 would have to complete the course and provide certification of completion to the State Highway Department before they could receive their driver's licenses. The driver training courses run by the school districts would be open to public and private school students and to people not enrolled in school. The district would be authorized to charge a fee for the course. In addition, districts would receive \$30 from the state for each student completing its driver training courses.

School Bus Speed Limit (H.4296, Rep. Rama). This legislation would limit school buses to traveling no more than 55 mph. Mechanical devices would be placed on the school buses in order to ensure that the speed limit was maintained. Violation of this provision would be a misdemeanor punishable by a \$100 fine or not more than 30 days in jail.

Selective Service Special Tags (H.4297, Rep. Phillips). Members of the Selective Service Board would join those whose vehicles bear special license tags if this bill is enacted. Fee for the tag would be the regular motor vehicle registration fee plus the personalized license tag fee.

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In addition, this bill would make it illegal to knowingly permit a specialized license tag to be displayed on a vehicle except the one authorized by the State Highway Department.

Middle School Interscholastic Activities (H.4305, Rep. Cromer). This legislation would extend to middle school students the same academic requirements now required of high school students to participate in interscholastic activities. The bill states that the academic requirements implemented during passage of the EIA would be expanded to include grades 6 through 12 instead of the current grades 9 through 12. In addition to the academic requirements already in the code, this bill further would require that these students have at least a 2.0 grade point average to participate.

Driver's Education (H.4320, Rep. Jimmy Bailey). The state's vocational schools would be required to establish driver training and defensive driving courses if this legislation is enacted. In addition, the bill would raise the driving age to 17-years-old for a regular driver's license and to 16-years-old for a beginner's permit. All high school students would be required to take driver's training. School districts would be directed to establish driver's education courses and could charge a fee of \$25 to participate in the program. In addition, the districts would receive an additional \$30 a pupil from the state for each student completing the driver's education course.

To apply for a driver's license, the applicant would have to present a certificate stating he has successfully completed a driver's training course or a defensive driving course. First time applicants (except for those drivers who hold a valid driver's license from another state) would have to present proof of completing a driver's training course. For applicants 21-years-old or younger, whose license has been suspended or revoked, or to whom the objective standards rate applies, these applicants must complete a defensive driving course before they receive their license.

In addition, those drivers who had their license suspended or revoked would have to show proof of completing a driver's education or defensive driving course when they apply for reinstatement.

Failure to use a seat belt in a motor vehicle would go from a secondary enforcement offense to a primary enforcement offense if this legislation passes. Currently, a motorist must be stopped for another violation before he can be cited for disobeying the state seat belt law.

Beginner's Permit Driving Time (H.4324, Rep. Altman). This legislation would leave the age for a beginner's permit at 15, but would expand the time allowed to those driving with a beginner's permit unaccompanied by an adult to better coincide with daylight savings time beginning and ending dates.

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Judiciary

Term Limitations (H.4276, Rep. Clyborne). Members of the S.C. House of Representatives would be limited to four consecutive two year terms and members of the State Senate to two consecutive four year terms under this proposed constitutional amendment. Incumbent members of the House would be allowed to serve four consecutive two year terms after this amendment is ratified. Incumbent state senators would be allowed two additional four year terms. All constitutional officers, as well as all elected local officials in the state, would be held to two consecutive terms, the incumbents being given two additional terms in office if they are serving when it is ratified. These proposed amendments, if approved by the General Assembly, must go before the voters in a statewide referendum.

Indirect Judgeship Pledges (H.4278, Rep. Corning). This legislation would prohibit candidates from directly or indirectly seeking pledges for a judgeship before they have been screened and declared qualified by the judicial screening committee. Indirectly seeking pledges is defined by the bill as the candidate, or someone acting on his behalf, requesting a person to contact a member of the General Assembly on behalf of the candidate.

Drug Forfeiture Procedures (H.4286, Rep. Wilkins). This legislation would make permanent the temporary provisions enacted in 1990 by the General Assembly regarding the disposition of drug forfeiture items. In addition, the legislation makes permanent the division of the proceeds of forfeiture items with 75 percent going to law enforcement, 20 percent to the prosecuting agency and 5 percent to the State Treasurer.

Lawyers as Public Officials (H.4289, Rep. Quinn). This legislation would prohibit a member of the General Assembly or his firm from representing a client in a contested matter before any state agency or board. This prohibition does not apply to court appearances or those appearances required by law. The bill strikes current provisions that require legislators to disclose on their statements of economic interest the fees they receive for representing clients before state agencies. It also strikes provisions that prohibit a legislator from voting on the budget of a state agency before which he has represented a client. Both of these provisions would be made obsolete if this legislation is enacted.

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Subject Legislative Caucuses (H.4290, Rep. Fulmer). This bill would add to the definition of what makes up a legislative caucus. Under this bill, a legislative caucus could include a group of legislators committed to a particular subject or issue. To be established as a subject caucus, the group must have a minimum of 20 members.

Photographs of DUI Offenders (H.4304, Rep. Rama). Those convicted of driving under the influence for the third time would have their pictures published in the newspaper of the county where they reside or were convicted if this legislation is enacted. The convicted would be assessed \$25 to pay for the ad, which would include the photograph taken of the person by law enforcement when he was booked.

Forfeiture of Motor Vehicles (H.4311, Rep. Clyborne). Under this legislation, an arresting officer, seizing a motor vehicle, may turn the vehicle over to the sheriff of the county or chief of police where the vehicle was seized, instead of the head of the officer's law enforcement agency. The sheriff or police chief then would be responsible for selling the forfeited vehicle, turning over any proceeds that remained after the liens were satisfied to the political subdivision of which the law enforcement agency is a part.

Recalling Public Officials (H.4316, Rep. Rudnick). This proposed constitutional amendment would allow voters to petition for the removal of elected officials from office. Under this joint resolution, a recall vote could be held on a statewide elected official if 15 percent of the voters statewide petition for the vote. A vote to recall state district officials, county or local government officials, including school boards, would require a petition of 25 percent of the voters of that district.

The legislation specifics how the petition must be carried out, including specifications for the petition form itself. A recall election on any public official could only be held once every two years provided all the expenses of the previous recall election have been paid. The filing officer who receives the petition must certify the signatures on the form as being qualified voters in the number required by the law.

The public official in question would be notified in writing of the recall petition. The provisions allow the official in question to place a statement of not more than 200 words on the ballot explaining why he should not be recalled. The recall of an official would be based on a simply majority vote of the electorate of the district, or statewide in the case of a statewide official.

If ratified, this joint resolution must go before the voters in a statewide referendum.

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Annexation Changes (H.4318, Rep. Fulmer). This legislation would add additional provisions to the only remaining allowable annexation method in state statutes, the 75 percent petition method. Under this bill, the area requesting annexation could include residential property, or commercial or undeveloped property, but not both.

Property Owners and Annexation (H.4317, Rep. Fulmer). This legislation also would add new provisions to the 75 percent petition method of annexation. Under this legislation, if one or more property owners objects to the annexation petition and 50 percent of the assessed value of the property proposed to be annexed is commercial or undeveloped, then the property cannot be annexed until a vote is held on the issue. In addition, the bill states that all property owners in the proposed area must be notified of the petition by registered or certified mail.

Judicial Nominating Commission (H.4322, Rep. Wilkins). This legislation would create an 18-member Judicial Nominating Commission to assist the governor in selection of judges for all levels of the court. The commission would consist of six House members appointed by the Speaker, six Senators appointed by the president pro tempore, and six members of the State Bar Association appointed by the governor. At least one of the House and Senate members must be lawyers. Those who serve on the Judicial Nominating Commission could not be nominated or appointed to judicial office. None could be an elected or appointed official or an officer of a political party.

The commission would be responsible for announcing vacancies on the court, gathering information on the candidates, issuing subpoenas and holding hearings.

After determining the qualifications of the candidates, the commission would submit three names to the governor for each judicial vacancy. Fewer names could be submitted if the commission determines there are not three qualified candidates. The governor must choose among the three candidates if three are presented by the commission. However, if less than three names are submitted, then the governor could reject all the candidates and require further nominations for the judgeship. The governor would appoint a judge from the names submitted, with confirmation of the appointment by the General Assembly. The Legislature would have 30 days to reject a judicial appointment.

The legislation prohibits a judicial candidate from lobbying the governor for the appointment.

In addition, retired judges appointed by the Supreme Court to hear cases must be screened by the Judicial Nominating Commission.

These provisions would take effect after a proposed constitutional amendment creating the Judicial Nominating Commission is ratified by the General Assembly and approved by the voters in a statewide referendum.

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Judicial Nominating Commission Constitutional Amendment (H.4323, Rep. Wilkins). This joint resolution proposes a constitutional amendment to change the filling of all judicial positions in the state from election by the General Assembly to nomination by the Judicial Nominating Commission and appointment by the governor with confirmation by the General Assembly. Under these provision, a gubernatorial appointment to the bench could be rejected by the General Assembly twice. After the second rejection, the governor would appoint the judge from the three nominees submitted by the Judicial Nominating Commission without confirmation by the General Assembly. These provisions would cover all judgeships from the State Supreme Court to the Family Court. All judges on the bench at the time the proposed constitutional amendment is approved would serve until the end of their terms and then would be required to go through the judicial nominating procedure and appointment by the governor.

The joint resolution also would create a Judicial Nominating Commission to consider the qualifications and fitness of the judicial candidates and submit nominees to the governor for appointment.

This proposed constitutional amendment would have to be approved in a statewide referendum.

Labor, Commerce and Industry

Motor Vehicle Safety Responsibility Act (H.4272, Rep. Clyborne). This legislation abolishes three primary components of the state automobile insurance statutes: the requirement that all vehicle owners carry automobile insurance; the mandate for companies to write insurance for all persons seeking to buy it; and the Reinsurance Facility, the state's residual market mechanism.

Under this bill, a person could choose between carrying minimum liability limits automobile insurance or paying a fee of up to \$100 which would go into an Uninsured Motorist Fund. Monies in this fund would be remitted to companies writing automobile insurance to reduce the cost of insurance for motorists who are required to carry insurance following an accident.

Drivers unable to purchase liability coverage or other coverages in the free market would be allowed to petition the Insurance Commission, which would assign that risk to an insurance company. However, after review of the available information on the person, the commission could refuse to assign the person's application for coverage to a company, or could uphold the rejection of the application, or cancellation or non-renewal of coverage.

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Physician Disclosure (H.4298, Rep. Corning). This legislation would require a doctor to disclose in writing his financial interest in any facility to which he is referring a patient. This bill would prohibit the physician from referring a patient to any facility or entity in which the doctor has a financial interest, without first notifying the patient in writing of the nature of the financial interest. These provisions would not apply to emergency admissions.

Average Administrative Costs (H.4299, Rep. Harrelson). This legislation would require that the expense component of the formula used by the Insurance Commission to determine premium charges cannot be more than the average administrative costs for all private passenger automobile insurers doing business in South Carolina during the preceding calendar year.

Ways and Means

Highway Patrolmen Mandatory Retirement (H.4309, Rep. Boan). This legislation would repeal the 1986 act which requires State Highway patrolmen to retire at age 62.

Millage Increase After Reassessment (H.4313, Rep. Sturkie). This legislation would limit millage increases, following reassessment, to two percent over the cost of services during the previous year.

Decrease of Millage on Chemically Damaged Property (H.4315, Rep. Waites). Under this legislation, a county or municipal government could decrease the tax millage of property which, in the opinion of the governing body, has been damaged by natural disaster or chemical contamination.

The millage could be reduced only in the year of the natural disaster or chemical contamination to "reflect the governing body's opinion of the decrease in the fair market value of the property as a result of the disaster or contamination" when there is not sufficient time to reassess.

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Without Reference

DSS Board Resolution (H.4321, Rep. McAbee). This joint resolution would dissolve the South Carolina Board of Social Services and direct the General Assembly to elect new members to the DSS board. Further, all powers and duties of the DSS board temporarily would be transferred to the State Budget and Control Board. The Budget and Control Board also would appoint an interim director to work with DSS Commissioner James Solomon until his resignation date on June 30. The interim commissioner would report directly to the Budget and Control Board.

The joint resolution points out that the department currently is running a deficit in excess of \$15 million. The resolution states that the General Assembly is "gravely concerned with the refusal of the current South Carolina Board of Social Services to fulfill even its most basic statutory duties and its refusal to work effectively with the agency's own employees, to cooperate with other agencies and branches of state government, and importantly, to cooperate with and assist the General Assembly and the Executive Branch in efforts to help resolve the many financial and organizational problems of the State Department of Social Services."

The resolution further states that the "continual lack of leadership and poor judgment" demonstrated by the DSS board and its "shocking misuse of public resources" has created "a crisis for state government."