



South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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CONTENTS

HOUSE WEEK IN REVIEW	02
HOUSE COMMITTEE ACTION	08
BILLS INTRODUCED IN THE HOUSE THIS WEEK.....	09

NOTE: Bill summaries included in this document 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. The summaries are strictly for the internal use and benefit of members of the House of Representatives and are not to be construed by a court of law as an expression of legislative intent.

HOUSE WEEK IN REVIEW

The House of Representatives amended, approved, and sent to the Senate **H.3716**, the **FISCAL YEAR 2005-2006 GENERAL APPROPRIATIONS BILL** and Joint Resolution **H.3717** making **CAPITAL RESERVE FUND APPROPRIATIONS** for Fiscal Year 2005-2006. Highlights of the budget legislation include:

- The total amount of funding for K-12 education is projected to be \$9,826 per pupil for operating expenses of local schools. This figure is composed of \$4,296 state, \$964 federal, and \$4,566 local funding.
- The Education Finance Act (EFA) is fully funded at a Base Student Cost (BSC) of \$2,290. The increase of \$315 million brings the total EFA and fringe funding to \$1.76 billion.
- Teacher salaries are funded at \$300 above the Southeast Average. Teacher supply money is increased from \$200 to \$250 per teacher.
- \$18 million in new funding is provided for school buses.
- Funding for Summer Schools is increased by \$10 million to \$31 million.
- LIFE, HOPE, and Palmetto Fellows Scholarships are fully funded.
- Forty trust funds are fully restored and two are partially restored (Barnwell receives \$25 million; Insurance Reserve Fund receives \$3.5 million; the Patients Compensation Fund is fully restored at \$1.5 million).
- The General Reserve Fund is fully restored at \$78 million. This fund is a mechanism employed against budgetary deficits or revenue shortfalls.
- Medicaid growth receives \$67,068,842. This includes \$17.7 million to replace non-recurring funding, \$40 million for Medicaid growth (allowing the Department of Health and Human Services to maintain current level of benefits), and \$9 million for physician rate increases.
- \$1 million is appropriated for courthouse security. This includes \$500,00 to the Judicial Department to improve security in the state's county courthouses and \$500,00 to the State Law Enforcement Division (SLED) for grants to local law enforcement agencies to enhance courthouse security.
- State employees receive a 4 percent base pay increase. Law enforcement officers receive an additional 6 percent, for a total base pay increase of 10 percent.
- The health insurance plan for State employees and retirees is fully funded so that there will be no premium increases or changes in benefits to plan participants.

Legislative Update, March 22, 2005

- The base budget of the State Library receives an additional \$4.3 million to increase the Aid to County Libraries from \$0.82 to \$2.00 per capita.
- Proviso 14.4 establishes a set-aside to make the Business Enterprise Program at the Commission for the Blind self-supporting.

The House concurred in Senate amendments on **H.3008** and enrolled the bill for ratification. H.3008, the **SOUTH CAROLINA ECONOMIC DEVELOPMENT, CITIZENS, AND SMALL BUSINESS PROTECTION ACT OF 2005**, provides for comprehensive **TORT REFORM**. This legislation addresses the way in which the State's judicial system handles torts. Torts are private or civil wrongs for which the court provides a remedy, usually in the form of damages.

Civil Procedure; Civil Liability

Current law provides liability among joint tortfeasors (wrongdoers) is both joint and several meaning that any tortfeasor may be responsible for the entire amount of the judgment.

Under this legislation, in an action to recover damages resulting from personal injury, wrongful death, or damage to property or to recover damages for economic loss or for noneconomic loss such as mental distress, loss of enjoyment, pain, suffering, loss of reputation, or loss of companionship resulting from tortious conduct, if indivisible damages are determined to be proximately caused by more than one defendant, joint and several liability does not apply to any defendant whose conduct is determined to be less than 50% of the total fault for the indivisible damages as compared with the total of: (i) the fault of all the defendants; and (ii) the fault ('comparative negligence') if any, of plaintiff. A defendant whose conduct is determined to be less than 50% of the total fault shall only be liable for that percentage of the indivisible damages determined by the jury or trier of fact. The legislation has provisions pertaining to apportionment of percentages of fault among defendants.

Under the legislation, the defendant shall retain the right to assert that another potential tortfeasor, whether or not a party, contributed to the alleged injury or damages and/or may be liable for any or all of the damages alleged by any other party.

The bill provides that setoff from any settlement received from any potential tortfeasor prior to the verdict shall be applied in proportion to each defendant's percentage of liability.

The provisions of this bill do not apply to a defendant whose conduct is determined to be willful, wanton, reckless, grossly negligent, or intentional or conduct involving the use, sale, or possession of alcohol or drugs.

Statue of Repose and Improvements to Real Property

This bill revises the statute of limitations for filing an action for a construction defect. Current law provides that no actions to recover damages in these situations may be brought more than 13 years after substantial completion of the improvement. The legislation lowers the statute of repose to eight years.

The bill further provides that for any improvement to real property, a certificate of occupancy issued by a county or municipality, in the case of new construction or completion of a final inspection by the responsible building official in the case of improvements to existing improvements shall constitute proof of substantial completion of the improvement under the provisions of S.C. Code Ann. §15-3-630, unless the contractor and owner, by written agreement, establish a different date of substantial completion.

Civil Procedure; Venue

The legislation establishes new provisions for venue; the term 'venue' generally refers to the place where a jury is drawn and in which the trial is held. With regards to corporations, the legislation establishes criteria for determining a principal place of business; in considering the proper place for venue, the bill provides that owning property and transacting business in a county is insufficient in and of itself to establish the principal place of business for a corporation. With regards to venue, the legislation provides as follows:

- Civil actions against a **resident individual defendant** must be tried in the county where the most substantial part of the alleged act or omission giving rise to the cause of action occurred, or where the defendant resides at the time the cause of action arose.
- Civil actions against a **nonresident individual defendant** must be tried where the most substantial part of the alleged act or omission giving rise to the cause of action arose, or where the individual plaintiff resides at the time the cause of action arose, or where the corporate plaintiff (including also: domestic corporation, domestic limited partnership, domestic limited liability company, domestic limited liability partnership, foreign corporation, foreign limited partnership, foreign limited liability company, or foreign limited liability partnership) has its principal place of business at the time the cause of action arose.
- Civil actions against a **domestic corporation** (including also: domestic limited partnership, domestic limited liability company or domestic limited liability partnership) must be tried in the county of the corporation's principle place of business at the time the cause of action arose, or where the most substantial part of the alleged act or omission giving rise to the cause of action occurred.
- Civil actions against a **foreign corporation required to possess a certificate of authority** pursuant to the provisions of S.C. Code Ann. §33-15-101 et seq. (including also: foreign limited partnership, foreign limited liability company, foreign limited liability partnership) must be tried in the county where the corporation has its principle place of business at the time the cause of action arose, or where the most substantial part of the alleged act or omission giving rise to the cause of action occurred.
- Civil actions against a **foreign corporation not required to possess a certificate of authority** pursuant to the provisions of S.C. Code Ann. §33-15-101 et seq., (including also: foreign limited partnership, foreign limited liability

Legislative Update, March 22, 2005

company, foreign limited liability partnership) must be tried where the plaintiff resides or has its principal place of business at the time of the cause of action arose, or most substantial part of the alleged act or omission giving rise to the cause of action occurred, or where the foreign corporation (including also: foreign limited partnership, foreign limited liability company, or foreign limited liability partnership) has its principal place of business.

Civil Procedure; Frivolous Lawsuits

The legislation establishes new provisions regarding frivolous lawsuits. The legislation provides that a pleading must be signed by at least one attorney of record, or, if the party is not represented by an attorney (a pro se party), the pro se party must sign the pleading and must include the address and telephone number of the pro se party. The signature certifies to the court that the person has read the document and believes, in good faith, the pleading is not frivolous.

If a document is signed in violation of these provisions, the court may impose any sanction that the court considers just, equitable, and proper under the circumstances. Factors to be considered by the court include: the number of parties, the complexity of the claims and defenses, the length of time available to investigate conduct for alleged violations, information disclosed or undisclosed through discovery and adequate investigation, previous violations, any responses to the allegations, and any other factors the court considers just, equitable or appropriate under the circumstances. A person is entitled to notice and an opportunity to respond before the imposition of sanctions; upon notification, a person has 30 days to respond to the allegations as the person considers appropriate, including, but not limited to, by filing a motion to withdraw the pleading, motion, document, or argument or by offering an explanation of mitigation. If a court imposes a sanction on an attorney, the court shall report its findings to the South Carolina Commission of Lawyer Conduct. All violations shall be reported to the South Carolina Supreme Court and a public record must be maintained and reported annually to the Governor and the General Assembly. The provisions relating to frivolous lawsuits are in addition to all other remedies available at law or in equity.

Legal Rate of Interest

A money decree or judgment of a court enrolled or entered must draw interest according to the law. This legislation provides that the legal rate of interest is equal to the prime rate as listed in the first edition of the Wall Street Journal published each calendar year for which the damages are awarded, plus four percentage points, compounded annually. The South Carolina Supreme Court shall issue an order each year confirming the annual prime rate. This applies to all judgments entered on or after July 1, 2005. For judgments entered between July 1, 2005, and January 14, 2006, the legal rate of interest shall be the first prime rate as published in the first edition of the Wall Street Journal after January 1, 2005, plus four percentage points.

Attorney Advertising

Under this bill, it is an unlawful trade practice for an attorney to advertise his or her services in this State in a false, deceptive, or misleading manner including, but not limited to, the use of a nickname that creates an unreasonable expectation of results.

Department of Insurance and General Assembly Review of Insurer's Reduction of Premiums to Reflect Savings

The Department of Insurance shall review data reported on annual statements by liability insurers, including, but not limited to, paid claims, reserves, loss adjustment expenses, and such additional data as the department may require by promulgation of bulletin, to determine savings related to a decrease in litigation and claims paid pursuant to litigation after the effective date of this legislation. The department shall compile a report of savings realized and submit it for General Assembly review upon request.

South Carolina Tort Claims Act and South Carolina Solicitation of Charitable Funds Act

The provisions of this legislation do not affect any right, privilege, or provision of the South Carolina Tort Claims Act or the South Carolina Solicitation of Charitable Funds Act.

The House concurred in Senate amendments on **H.3026** and enrolled the bill for ratification. This legislation provides that lawfully promulgated **MODIFICATIONS TO BUILDING CODES AND STANDARDS** do not require readoption by the Building Codes Council for subsequent editions of the building codes. Upon submission of a formal request, existing modifications shall be reconsidered each time a new edition of the building code is considered for adoption by the council.

The House approved **S.339** and enrolled the bill for ratification. This bill provides that, except for beer brewed at a brewpub, **TAXES ON BEER AND WINE** are in lieu of all other taxes and licenses on beer and wine of the State, the county, or the municipality, except the sales and use tax or the local hospitality tax.

The House approved **S.113** and enrolled the bill for ratification. The legislation authorizes and provides for the issuance of **SONS OF CONFEDERATE VETERANS SPECIAL LICENSE PLATES**. Funds remaining from sale of the plates after the Department of Motor Vehicles' costs are reimbursed would be distributed to the South Carolina Division of the Sons of Confederate Veterans.

The House amended, approved, and sent to the Senate **H.3072**. This bill authorizes and provides for **SPECIAL "BREAST CANCER AWARENESS" MOTOR VEHICLE LICENSE PLATES**. Funds from sale of the plates remaining after costs of producing and administering the plates, would be distributed to breast cancer programs specified in the bill.

The House approved and sent to the Senate **H.3024**, a bill which specifies projects that may be financed from the "Keep South Carolina Beautiful" Special License Plates Fund, and revises allocation of these funds. The bill also revises the name of the special plates to "Keep It Beautiful" and revises the name of the fund to the "**HIGHWAY BEAUTIFICATION FUND**". The House also amended **S.3** and returned the bill to the Senate with these provisions.

The House approved and sent to the Senate **H.3503**, a bill which provides that every **PERSONALIZED LICENSE PLATE ISSUED TO MEMBERS OF LICENSED FEDERAL**

COMMISSIONS AND BOARDS expires January thirty-first each year in which a new session of the General Assembly begins.

The House amended, approved, and sent to the Senate **H.3392**, regarding **TUITION ASSISTANCE TO ATTEND A STATE TECHNICAL COLLEGE OR A TWO-YEAR INSTITUTION**. This bill provides that if a student feels that he will definitely not qualify to receive federal financial aid, the student may complete a simple form to determine if he will definitely not qualify to receive financial aid. If the student is then determined unqualified to receive such aid, the student shall sign a form and be exempted from completing the Free Application for Federal Student Aid.

The House approved and sent to the Senate **H.3413**. This bill changes statutory references including but not limited to “vocational education,” “vocational training,” and “vocational programs,” to “**CAREER AND TECHNOLOGY EDUCATION**,” “career and technology training,” and “career and technology programs.”

The House approved and sent to the Senate **H.3454**, a bill relating to **METHODS OF ENTERING A MORTGAGE SATISFACTION**. This bill makes revisions pertaining to the contents of the affidavit that an attorney is permitted to file in regard to a mortgage which he/she has satisfied. Current law provides for the affidavit to state that the attorney was given written payoff information and made such payoff and is in possession of a canceled check to the mortgagee, holder of record, or representative servicer. This bill allows for a canceled check or other evidence of payment.

The House approved and sent to the Senate **H.3577**, a bill relating to **PESTICIDE REGISTRATION FEES**. This bill increases the basic annual pesticide registration fee from \$100 dollars to \$175 dollars for each product registered. The bill provides that this fee may not be increased unless the General Assembly authorizes the State Crop Pest Commission to increase this fee by regulation and such a regulation is promulgated and adopted. The bill further provides that this fee must be used to support the general regulatory enforcement and education programs of the Division of Regulatory and Public Service.

The House approved and sent to the Senate **H.3578**, a bill that makes **AMENDMENTS TO THE SOUTH CAROLINA FERTILIZER LAW OF 1954**. The bill revises the definition of the term 'soil amendment' as used in the South Carolina Fertilizer Law of 1954. Under this bill, the term 'soil amendment' includes every substance or mixture of substances that is intended to improve the physical characteristics of the soil, except commercial fertilizers, agricultural liming materials, unmanipulated animal manures, unmanipulated vegetable manures, pesticides, and other materials exempted by regulation. **H.3578** permits the State Crop Pest Commission to require proof of claims made for any fertilizer. If no claims are made, proof of usefulness and value of the fertilizer may be required. With regard to an inspection tax and tonnage reports pertaining to commercial fertilizers, **H.3578** increases the inspection tax from 25¢ to 50¢ for each ton of commercial fertilizer sold. Current law requires that a report of tonnage is due and the inspection payable monthly on the 15th day of the following month. The bill provides that the report of tonnage is due and the inspection payable quarterly and that the report is due within 30 days following the end of each quarter. If the tonnage report is not filed and the payment of the inspection fee is not made within 30 days after the due date, then the registration of the commercial fertilizer registered by the delinquent guarantor is automatically cancelled.

HOUSE COMMITTEE ACTION

No full committee meetings were held this week due to the House budget debate.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

S.289 TRAPPING, FURBEARING ANIMALS, REGULATION OF DEALERS, BUYERS, PROCESSORS, AND TRANSPORTERS OF FURS OR SIMILAR PRODUCTS OR ARTICLES Sen. Gregory

The bill increases fees for commercial fur licenses. The fee for residents is increased from \$10 to \$25, and the fee for nonresidents is increased from \$100 to \$200.

With regards to the trapping of bears, the bill provides for the types of traps that may be used.

The bill makes revisions as to who is required to obtain a fur processor's license. The bill also makes revisions as to who is required to obtain a fur buyers license. With regards to fur buyers and processors required to keep a daily register, this bill further provides what the contents of the register should contain.

The bill provides that that a person with a commercial fur license who takes an otter or bobcat must tag the fur, pelt, hide or whole animal before it is sold, shipped, or transferred to a person or business or transported out of State, if required by the federal government to comply with the Convention on International Trade in Endangered Species.

The bill further provides for the elements of the offense of trafficking in furs or furbearing animals. The bill also revises penalties for certain offenses.

Currently the trapping season for furbearing animals for commercial services may not exceed 60 days; this bill extends the season from 60 to 61 days. The bill also changes the permit year for fox and coyote hunting enclosure permits.

The bill also repeals S.C. Code Ann. §50-11-2500 relating to permits to hold furs beyond the end of the regular season for taking furbearing animals.

H.3772 OFFICIAL STATE HORSE Rep. Ceips

This bill designates the Marsh Tacky as the Official State Horse of South Carolina.

H.3780 AMENDMENTS TO THE AQUATIC LIFE PROTECTION ACT OF 2004 Rep. Rice

This bill amends the Aquatic Life Protection Act of 2004. The bill further provides for the manner in which and conditions under which the Department of Health and Environmental Control may impose NPDES (Natural Pollutant Discharge Elimination System) permit limitations for toxicity if a discharge has the reasonable potential to cause or contribute to a violation of water quality standards. The bill also outlines the

circumstances when the provisions of this act do not apply or may be administratively modified.

EDUCATION AND PUBLIC WORKS

S.418 “ARTS AWARENESS” LICENSE PLATES Sen. Hayes

This bill authorizes and provides for the creation and issuance of “Arts Awareness” special license plates. After deducting costs of producing and administering the plates, remaining funds from sale of the plates would go to the South Carolina Arts Commission and be used to support activities that “build a thriving arts environment in South Carolina.”

JUDICIARY

S.20 UNLAWFUL TO RECORD MOTION PICTURE IN A THEATER WITHOUT CONSENT Sen. McConnell

This bill provides that it shall be unlawful for any person to knowingly and willfully operate an audiovisual recording device in a motion picture theater, with intent to record a motion picture, without written consent from the theater owner. Penalties are established.

S.427 PROPOSED CONSTITUTIONAL AMENDMENT PERTAINING TO SESSIONS OF THE GENERAL ASSEMBLY Sen. Campsen

This joint resolution proposes to submit to the electors at the next general election whether or not to amend the State Constitution with regards to sessions of the General Assembly. The joint resolution provides that after the General Assembly convenes on the second Tuesday in January of each year that the Senate and the House of Representatives may recess for a period not to exceed 30 calendar days, unless extended by a two-thirds vote. The joint resolution further provides that each body may provide for meetings during the legislative session, as it considers appropriate. The joint resolution proposes to delete the section of the State Constitution, which provides that neither house, during the session of the General Assembly, shall without the consent of the other adjourn for more than three days, nor adjourn to meet in another place.

H.3762 FILING OF WRITTEN INSTRUMENTS Rep. Kirsh

This bill relates to the filing of written instruments. The bill authorizes a person submitting a document that the Register of Deeds has refused to file to commence a lawsuit requiring the Clerk of Court or Register of Deeds to accept the document for filing. The bill deletes current provisions that establish a procedure for a person to have a document accepted for filing after a sworn affidavit is submitted.

H.3774 BAIL BONDSMEN AND RUNNERS Rep. Rutherford

The bill provides that licensed bail bondsmen and runners must be issued identification cards, which they must possess when they perform their duties.

H.3775 TORT REFORM Rep. Harrison

The bill provides that in an action to recover damages resulting from personal injury, wrongful death, damage to property or to recover damages for economic loss or noneconomic loss, joint and several liability does not apply to a defendant whose conduct is determined to be less than 50% at fault. The bill provides for the apportionment of percentages of fault among defendants.

The bill provides that a defendant retains the right to assert that another potential tortfeasor, whether or not a party, contributed to the alleged injury or damages and may be liable for any or all of the damages alleged by another party.

The provisions of this bill do not apply to a defendant whose conduct is determined to be willful, wanton, reckless, grossly negligent, intentional or conduct involving the illegal or illicit use, sale or possession of alcohol or drugs.

H.3777 UNLAWFUL TO ENGAGE IN GEOCACHING AND LETTERBOXING IN CEMETERIES, ARCHEOLOGICAL SITES OR ON THE HISTORIC

***PROPERTIES OF THE STATE* Rep. Ceips**

This bill provides that it is unlawful to engage in geocaching or letterboxing in cemeteries, archeological sites, or on the historic properties of the State. As used in the bill, the term 'geocaching' means the activity of hiding a geocache container from public view for the challenge of participants using a global positioning system device and internet published coordinates to locate the geocache. As used in the bill, the term 'letterboxing' means an activity similar to geocaching in which the participant takes directions and uses those directions to find a hidden object. The directions normally are in the form of a riddle, and the hidden object is a stamp that the participant uses to stamp a piece of paper to prove he/she has visited the site.

H.3788 REGULATION OF SALE OF PSEUDOEPHEDRINE Rep. Skelton

Pseudoephedrine is an over-the-counter nasal decongestant that is used in the illegal manufacturing of methamphetamine. Under this bill, any compound containing pseudoephedrine would be considered a Schedule V controlled substance. The bill provides that any compounds, mixtures, or preparations which are liquid, liquid capsule or gel capsule form and which pseudoephedrine is not the only active ingredient are not Schedule V controlled substances.

Under this bill, only a licensed pharmacist or licensed pharmacist technician could dispense compounds containing pseudoephedrine. The bill requires a picture identification to purchase such compounds as well as limits the amount of the compound that may be purchased in a 30 day time period.

The bill provides that it is unlawful to possess a drug product containing ephedrine, pseudoephedrine or phenylpropanolamine with the intent to use the drug product as a precursor to the manufacture of methamphetamine or another controlled substance.

LABOR, COMMERCE AND INDUSTRY

S.49 HEALTH INSURERS REQUIRED TO COVER TREATMENT OF MENTAL HEALTH CONDITIONS Sen. Hayes

This bill requires health insurance plans to provide coverage for treatment of mental conditions. Health insurers may not establish a rate, term, or condition that places a greater financial burden on an insured for access to treatment for a mental health condition than for access to treatment for a physical health condition in similar settings and treatment modalities. Any required deductible or out-of-pocket limits must be comprehensive for coverage of both mental health and physical health conditions. The legislation establishes provisions under which a health insurer may provide coverage for treatment of mental health conditions through a managed care organization even if the insurer does not otherwise provide for management of care. The bill requires the Department of Insurance to report to the General Assembly on the fiscal impact of the legislation.

S.67 “VOLUNTEER FIREFIGHTER AND EMERGENCY MEDICAL SERVICES PERSONNEL JOB PROTECTION ACT” Sen. Short

This bill provides that employers may not fire employees who are volunteer firefighters or volunteer emergency medical services personnel when they are mobilized in response to a state of emergency declared by the Governor or President of the United States.

S.202 UNSOLICITED CHECKS SENT BY LENDERS Sen. Sheheen

This bill provides conditions under which it is an unfair trade practice for a lender to deliver to a person an unsolicited check made payable to the recipient which, upon negotiation, obligates the recipient to repay the amount of the check plus interest and fees. The legislation provides that a consumer may bring a civil action to recover damages, costs, and attorney fees for violations.

S.348 HOTELS WITHOUT SPRINKLER SYSTEMS REQUIRED TO POST NOTICE Sen. Thomas

This bill provides that all hotels in this State that are not required by law to have a fire sprinkler system in the building shall post a notice in a conspicuous place at or near the guest registration desk. A hotel that violates the provisions shall be fined up to two thousand dollars a day. Any insurance company that provides property insurance for a hotel that is not equipped with a National Fire Protection Association compliant fire sprinkler system may include with all insurance coverage renewal notices a statement calculating the estimated savings that the insured would realize, if any, with regard to insurance premiums, if the insured were in compliance.

S.509 REGULATION OF HAIR BRAIDING Sen. Elliott

This bill provides for the registration and regulation of persons who practice hair braiding, including requiring a registration fee, a six hour hair braiding course, and an examination.

S.581 “BOILER SAFETY ACT” Sen. Lourie

This bill enacts the “Boiler Safety Act” to provide that the Contractors’ Licensing Board shall promulgate regulations for the safe installation, maintenance, and repair of boilers in this state. Certain boilers are exempted from regulation under this legislation. The bill authorizes the Director of the Department of Labor, Licensing and Regulation to appoint a chief boiler inspector for the purpose of enforcing the laws of this state regulating the use of boilers. The bill provides certification requirements for special inspectors for companies insuring boilers in this state. The bill provides for boiler inspection timeframes, criteria, and reporting requirements. Penalties are provided for violations.

H.3781 BOARD REGULATION OF PROFESSIONS AND OCCUPATIONS

Rep. Harrison

This bill revises provisions relating to the regulation of professions and occupations. The legislation provides that boards administered by the Department of Labor, Licensing and Regulation must include two or more public members and provide the rights and responsibilities of public members. The legislation provides that board members are appointed by the Governor, serve at the pleasure of the Governor, and may not serve as officers or directors of any associations whose members are regulated by the board on which the member serves. The legislation authorizes a board to elect officers and adopt procedures. The legislation provides for the duties of the chairman of a board and for attendance and compensation of board members. The legislation provides for fees for programs and provide for the adjustment and analysis of the fees. The legislation provides for the powers and duties of regulatory boards including the disciplinary proceedings of a board and the remedies of a board or the department. The legislation changes the programs administered by the Division of Professional and Occupational Licensing. The legislation provides that the personnel employed by the Director of the Department of Labor, Licensing and Regulation are subject to certain laws and that the Director shall enter into contracts to provide authorized services. The legislation provides for the issuance, renewal, and suspension of a practice authorization. A criminal history background check is required for an applicant for a practice authorization and in an investigation or a disciplinary proceeding. The legislation provides for how a person authorized to practice may relinquish that authorization when under investigation for a violation. The legislation also makes provisions regarding the collection and deposit of certain fees, the confidentiality of certain matters, and record-keeping requirements.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

**H.3741 STATE LOAN REPAYMENT PROGRAM TO REIMBURSE STUDENT
LOAN PAYMENTS OF PHYSICIANS COMPLETING FELLOWSHIPS
IN GERIATRICS OR GEROPSYCHIATRY**

Rep. Ballentine

This bill establishes the State Loan Repayment Program to reimburse the student loan payments of physicians completing fellowships in geriatrics or geropsychiatry. This program would be a part of the Division on Aging. To be eligible for the program a physician must contract to practice in this State for no fewer than five consecutive years; the bill outlines additional eligibility qualifications. The bill establishes the Physician Advisory Board to assist the Division on Aging in reviewing applications, and the bill provides for the membership, powers, and duties of the Board. The bill establishes a limit on participating physicians and provides an annual and overall limit of amounts that may be reimbursed. The bill provides a penalty for failure to complete the program contract. The bill further provides that the General Assembly shall appropriate funds for the program in the annual General Appropriations Act.

H.3753 HEALTHCARE SERVICES FOR ILLEGAL ALIENS

Rep. Duncan

This bill prohibits a hospital that receives State funds, including Medicaid funds, to provide nonreimbursable, nonemergency healthcare services to an illegal alien unless that person provides payment for these services.

H.3784 PRACTICE OF PHYSICIANS, SURGEONS, AND OSTEOPATHS
Rep. White

This bill makes comprehensive revisions pertaining to the practice of physicians, surgeons, and osteopaths. Substantive changes include, but are not limited to, the following:

- Increases membership on the State Board of Medical Examiners from 10 to 11 members by adding another lay member.
- Changes references from “osteopathy” to “osteopathic medicine” throughout the legislation.
- Adds stipulation that members of the State Board of Medical Examiners and Medical Disciplinary Commission of the State Board of Medical Examiners must not have been convicted for a felony or other crime of moral turpitude.
- The bill deletes term limits for members of the State Board of Medical Examiners.
- Adds 12 lay members, appointed by the Governor, to the Medical Disciplinary Commission of the State Board of Medical Examiners.
- Provides that physician members of the Medical Disciplinary Commission may serve as expert reviewers and witnesses in investigations and proceedings. A physician commissioner who serves as an expert reviewer or witness in an investigation or proceeding may not serve on the hearing panel for that particular matter or related matters.
- The bill makes substantive changes with regards to the definition of the term ‘practice of medicine.’
- The bill provides that the Board may issue a license to a physician licensed in good standing in another state who has been engaged to testify as an expert witness in an administrative, civil, or criminal proceeding in this State. The license only shall authorize practice in this State as an expert medical witness in a particular proceeding in this State.

WAYS AND MEANS

S.205 MARINE CORPS LEAGUE PROPERTY TAX EXEMPTION Sen.

Courson

This bill adds property of the Marine Corps League to the classes of property which are exempt from *ad valorem* taxation.

S.305 “SOUTH CAROLINA MEDICAID MODERNIZATION ACT” Sen. Peeler

This bill enacts the “South Carolina Medicaid Modernization Act,” which among other things:

- Requires the Department of Health and Human Services (DHHS) to focus on controlling costs by implementing care management programs for Medicaid recipients whose conditions exert unusually high demand on the Medicaid system;

Legislative Update, March 22, 2005

- Requires DHHS to implement disease management and education efforts for Medicaid recipients;
- Establishes the Pharmacy and Therapeutics Committee (11 physicians and 4 pharmacists appointed by the Director of DHHS) to recommend to DHHS therapeutic classes of drugs that should be included on a preferred drug list;
- Allows DHHS to meet with other state agencies (who have Medicaid funding) to examine ways to improve the Medicaid program addressing growth, quality and efficiency, and to report the findings to the Governor and the health and finance standing committees;
- Requires DHHS to conduct periodic audits of state agencies and other providers;
- Tightens the eligibility processing system and procedures by verifying income and residency before approving eligibility;
- Allows DHHS to maintain an electronic interface with the South Carolina Employment Security Commission to provide employment and earning information on Medicaid applicants;
- Requires DHHS to report information that includes expenditures, growth rates, and any changes to the program;
- Allows DHHS to take action when fraud and abuse occurs, such as denying a payment or assessing a fine (implemented by regulations);
- Allows DHHS to request information on policyholders from every health insurer doing business in this state for the purpose of assisting the department in determining dual coverage of its Medicaid beneficiaries;

S.363 PAYMENT OF REAL PROPERTY TAXES Sen. Lourie

In addition to other allowed methods of payment for *ad valorem* taxes on real property, this bill allows such payments to be made in monthly installments.

S.490 PROPERTY TAX LIENS Sen. Land

This bill provides that payment of a lien for state or county taxes, without payment of a lien for municipal taxes, does not extinguish a lien for municipal taxes and makes the lien a first lien on the property until legally discharged. The bill also provides that if the tax sale of an item produces more cash than the full amount due in taxes, assessments, penalties, and costs, the overage must be applied to outstanding municipal tax liens on the property. Any remaining overage belongs to the owner of record immediately before the end of the redemption period to be claimed or assigned according to law.

H.3742 VENDOR PREFERENCES UNDER STATE PROCUREMENT CODE Rep. Harrell

Currently, resident vendors or vendors whose products are indigenous to South Carolina are provided a seven percent preference for purposes of the State Procurement Code. This bill replaces this preference with a "Best Value Preference," which is provided to vendors who show the most positive economic impact based on a model to be determined by the Board of Economic Advisors and approved by the State Budget and Control Board.

H.3754 CONTRIBUTIONS TO PUBLIC EDUCATION THROUGH INCOME TAX RETURNS Rep. Duncan

This bill authorizes and provides for a taxpayer to contribute toward K-12 public education in this State by designating to that purpose five dollars to be paid with his income tax return, as provided in the bill. Funds from these contributions would be used to increase base student cost pursuant to the Education Finance Act.

H.3755 ALLOCATION OF ACCOMMODATIONS TAX REVENUE Rep. Kirsh

Regarding allocation of Accommodations Tax revenues, this bill makes several technical changes and clarifications, including but not limited to deleting references to the South Carolina Accommodations Tax Oversight Committee and replacing those references with the Tourism Expenditure Review Committee, and clarifying the number of members who serve on that committee.

H.3756 INCOME TAX DEDUCTIONS Rep. Kirsh

For purposes of computing South Carolina income taxes due, this bill provides that a deduction is not allowed by a "related person" (as defined in the bill) for the accrual of interest or expense or by the holder of an obligation for interest paid as a dividend except as provided in the bill.

H.3757 VOLUNTARY CONTRIBUTIONS ON STATE INCOME TAX RETURNS Rep. Kirsh

This bill repeals certain sections regarding authorization for contributions to various trust funds on state income tax returns, and includes all funds authorized for such designation in one section of law. Under the bill, such authorized funds would include the War Between the State Heritage Trust Fund; the Nongame Wildlife and Natural Areas Program Fund; the Children's Trust Fund of South Carolina; the Eldercare Trust Fund of South Carolina; the First Steps to School Readiness Fund; the South Carolina Military Family Relief Fund; the Gift of Life Trust Fund; the Veterans' Trust Fund; the South Carolina Litter Control Enforcement Program (with funds to be used only for this program); the South Carolina Law Enforcement Assistance Program; the South Carolina Department of Parks, Recreation, and Tourism for use in the State Park Service as the General Assembly provides; or the South Carolina Military Family Relief Fund. The bill also authorizes the Litter Control Program and the Law Enforcement Assistance Program to carry forward funds.

H.3758 REQUIRED METHOD OF PAYMENT FOR CERTAIN TAX DEBTS Rep. Kirsh

Regarding the Department of Revenue's (DOR) authority to require payment with immediately available funds for debts of at least \$20,000, this bill requires that tax return preparers who prepare one hundred or more returns for the same tax year must submit all returns and make all associated payments by electronic means or, if electronic means are not available, by 2D barcode if 2D barcode is available. The bill provides that if a taxpayer submits a written request to the preparer stating a reason for his return to be filed by another means, the preparer may comply with this request, maintaining the request for the same period as the preparer retains the return. The bill also includes provisions requiring DOR to give certain notice of this requirement, and conditions upon which a person may be exempted from the requirement. Penalty for failure to comply with this requirement is fifty dollars for each return.

H.3759 EXEMPTION FROM PROPERTY TAX FOR DEALER INVENTORY VEHICLES Rep. Kirsh

Currently, a property tax exemption is provided for motor vehicles which are part of the inventory held for sale by licensed motor vehicle dealers and which are operated on the highways under a dealer tag. This bill adds to this provision that to qualify for this exemption, these vehicles also must be used exclusively for dealer purposes.

H.3760 RETAIL SALE/SALES AND USE TAX Rep. Kirsh

Relating to the definition of "retail sale" for purposes of the sales and use tax, this bill revises the manner of determining the tax on building materials of a manufacturer used in the performance of a construction contract. The bill provides that the manufacturer must pay the sales tax based on total costs of manufacturing and transporting the building materials to the job site including, but not limited to, the cost of materials, overhead, labor, and transportation. Currently, the manufacturer pays the sales tax based on the fair market value at the time and place where used or consumed.

H.3761 GROSS PROCEEDS OF SALE/SALES AND USE TAX Rep. Kirsh

For purposes of the sales and use tax, this bill excludes as gross proceeds the fair market value of tangible personal property used or consumed from business or stock if the property is replacing a defective part in connection with a warranty or service contract and the tax was paid earlier on the sale or renewal of the contract or the tax was paid on the sale of the defective part or the property it was part of. For purposes of imposing the sales and use tax on tangible personal property, this bill includes the gross proceeds accruing from the sale or renewal of a warranty or service contract.

H.3763 PROPERTY TAX CREDITS Rep. Kirsh

This bill makes a technical change regarding the taxation of entities taxed as a partnership pursuant to Subchapter K of the Internal Revenue Code.

H.3764 VENDORS-SALES AND USE TAX Rep. Kirsh

This bill requires and provides for state procurements of tangible personal property to be made from vendors who are licensed by the South Carolina Department of Revenue and who agree to remit South Carolina sales and use tax.

**H.3765 CIVIL PENALTIES APPLICABLE TO TAX AND REVENUE
LAW Rep. Kirsh**

This bill provides that if a taxpayer asserts a value for property used in, or owned by, a business for property tax purposes that is fifty percent or more below the property's property tax value, there must be added to the tax an amount equal to the fifty percent of the underpayment which would have resulted if the value asserted had been accepted.

H.3766 DELAY OF TAX REFUND Rep. Kirsh

This bill provides that a tax refund may not be denied or delayed because the Department of Revenue (DOR) is auditing or planning an audit of the taxpayer for a different tax or tax period. The bill provides that a violator of this provision is subject to DOR disciplinary procedures, including dismissal from employment.

H.3767 MISCELLANEOUS TAX REVISIONS Rep. Kirsh

This bill includes numerous revisions and technical changes to South Carolina taxation provisions including, but not limited to: authorizing tax preparers to sign returns electronically; including amounts attributable to lottery and bingo winnings as taxable income reportable by nonresidents; amending provisions regarding job development credits by providing that the county designation is effective as of the date the application

for credits is received in the Office of the Coordinating Council; amending provisions regarding the Department of Revenue's power to summon a person by providing that an Administrative Law Judge hold a contempt hearing on failure to comply with a summons; and amending provisions relating to sanctions against a person authorized to represent a taxpayer administratively, by including a monetary penalty.

H.3768 DEPARTMENT OF REVENUE "CLEAN-UP" BILL Rep. Kirsh

This comprehensive bill is a Department of Revenue "clean-up bill," which amends numerous sections of the Tax Code.

H.3773 SALES TAX EXEMPTIONS Rep. Vick

This bill exempts from sales tax the gross proceeds of sales or sales price of gold, silver, and platinum bullion, coins, and currency. The bill requires the retailer to maintain proper documentation as required by the South Carolina Department of Revenue for each exempt sale.

H.3779 REVISION OF DEFINITIONS IN TAX INCREMENT FINANCING ACT Rep. Herbkersman

This bill amends definitions for purposes of the Tax Increment Financing Act for counties and the tax increment financing law by revising the definition of "blighted area" and "conservation area" to include the presence of or potential environmental hazard, lack of storm drainage, and inadequate transportation infrastructure. The bill also provides that a "conservation area" may include vacant land, and not just improved areas.

S.117 EDUCATION LOTTERY SCHOLARSHIP RESERVE ACCOUNT Sen. Ritchie

This bill creates and provides for a Scholarship Reserve Account for the purpose of maintaining funding of the Palmetto Fellows, LIFE, and HOPE scholarships, need-based and tuition grants and grants to teachers for advanced education, and National Guard and tuition assistance for two-year institutions if certified new lottery proceeds and investment earnings fall below a level sufficient to fund these scholarships. The bill limits the amount of the reserve to three percent of the Education Lottery Account for the latest completed fiscal year.

H.3791 SCHOOL FUNDING Rep. Cobb-Hunter

This bill provides that all public monies distributed to schools in this State must be distributed pursuant to the Education Finance Act funding formula, and a school district must be held harmless from liability for losing state funding. The bill also adds an additional "weighting" of .50 for pupils whose families are below the federal poverty level.

Legislative Update, March 22, 2005

The *Legislative Update* is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (<http://www.scstatehouse.net>) 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.

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