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South Carolina House of Representatives

# Legislative Update

Robert J. Sheheen, Speaker of the House

Vol. 8

February 12, 1991

No. 5

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**STATE DOCUMENTS**

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## Legislative Update, February 12, 1991

### House Week in Review

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Two significant bills to shorten the length of the legislative session received third reading approval by the House of Representatives last week and were sent to the Senate for consideration.

H.3127, a joint resolution to convene the General Assembly on the second Tuesday in February instead of the second Tuesday in January, received the necessary two-thirds vote from the House to be sent to the Senate last week. Up for third reading on Thursday, the House first voted 79-32 for third reading passage. The vote prompted some discussion as to whether the legislation had achieved the necessary two-thirds vote. The Speaker ruled the vote did not, and the House agreed to reconsider the bill. The House then voted 85-28 to give H.3127 the two-thirds vote necessary for passage.

Last week, the House also passed H.3128, which would set mandatory adjournment for the General Assembly on the second Thursday in May instead of the first Thursday in June. By a 81-19 vote Tuesday, the House gave the bill second reading approval. H.3128 received a third reading on Thursday and was sent to the Senate.

Also sent to the Senate last week was H.3069, a bill allowing political parties to conduct presidential preference primaries.

Objections to H.3117, which would make the state superintendent of education a gubernatorial appointment instead of a statewide elective position, placed the bill on the House contested calendar.

Most of Wednesday's session was taken with judgeship elections. With the House and Senate meeting jointly, the following judges were elected:

#### Court of Appeals

Alexander M. Sanders Jr., chief judge  
Jasper M. Cureton, associate judge

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### Circuit Court

Costa M. Pleicones, 5th Circuit, Seat 3  
A. Victor Rawl, 9th Circuit, Seat 3  
Larry R. Patterson, 13th Circuit, Seat 3  
Jackson V. Gregory, 14th Circuit, Seat 2  
David H. Maring, 15th Circuit, Seat 2

Ralph K. Anderson, At-large, Seat 1  
William T. Howell, At-large, Seat 2  
M. Duane Shuler, At-large, Seat 3  
Frank P. McGowan Jr., At-large, Seat 4  
James B. Stephen, At-large, Seat 5  
James E. Lockemy, At-large, Seat 6  
H. Dean Hall, At-large, Seat 7  
Paul Short Jr., At-large, Seat 8  
Henry McKellar, At-large, Seat 9  
Joseph Alva Wilson, At-large, Seat 10

## Legislative Update, February 12, 1991

### Bills Introduced

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

#### Agriculture, Natural Resources and Environmental Affairs

Beverage Containers (H.3471, Rep. Thomas Alexander). The aim of this legislation is to reduce pollution from litter by encouraging manufacturers to use reusable beverage containers and by establishing a way to help consumers recycle the containers for a refund. Under this bill, beverage would refer to beer, malt liquor, mineral waters, soda water and carbonated soft drinks. Containers for recycling could be glass, metal or plastic bottles, cans, jars or containers. Refunds for containers would be set at not less than 5 cents.

Every beverage container sold in the state would have to bear an embossment stating its refund value. The only exception to this would be glass beverage containers which have the brand name permanently marked on the container and which already have a refund value of not less than a nickel.

The Alcoholic Beverage Control Commission would certify containers if they could be reused by more than one manufacturer and if more than one manufacturer will accept the containers for reuse and pay its refund value. The beverage container would not be certified by the ABC Commission if by its design it could be reusable only by a particular brand name.

Redemption centers for the convenience of consumers would be allowed by the bill. Dealers could refuse to redeem containers only if a redemption center for the container has been approved by the commission. They also could refuse to redeem a container that did not have a refund value stamp. Otherwise, no dealer could refuse to redeem containers presented by consumers, nor could manufacturer refuse to redeem containers from dealers.

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### Education and Public Works

Parental Responsibility Act (H.3417, Rep. Glover). The purpose of this act is to better involve parents in educating and parenting of their children and to ensure school attendance through the uniform handling and enforcement of nonattendance cases by the schools, the Departments of Social Services and Youth Services, solicitors and the courts.

The legislation directs the public school districts to involve parents of preschool-age children as early as possible in the education of their children and to make home-school relations a major component of school improvement efforts. The bill would require the districts to keep records of at-risk children and their behavior, providing counseling and referral to other state agencies as needed. "It is the responsibility of parents to keep school appointments so as to avoid being cited for parenting or educational neglect. Parental responsibility includes, but is not limited to, providing essential supervision, clothing, food and support of the child to attend school."

The State Department of Education would provide in-service training for educators, administrators and school improvement councils for working with at-risk youth and their parents. Education students would be required to complete training for working with at-risk youths and their parents. The department further would issue regulations prohibiting school guidance counselors from using their time for anything but counseling students and working with teachers and parents.

Young custodial parents receiving AFDC payments would be required to take parenting skill classes. Individual employment plans for all custodial parents under 20-years-old must include parenting skills.

The bill outlines what steps must be taken by a school board to ensure attendance by all students, including intervention plans for children not attending school and turning over information to the solicitor when a child has more than six unexcused consecutive absences or a total of eight unexcused absences. The legislation states what steps will be taken against the parent or the child if the nonattendance continues. Public service work might be required of parents who did work to keep their children in school. How a child is declared a status offender is also outlined in the bill. Parents could be held in contempt if they do not take responsibility for their child's attendance. They also may be required to complete a parental responsibility program.

Railroad Markings (H.3462, Rep. Rudnick). This legislation would require railroad companies to erect flashing red signals at all railroad crossings deemed particularly dangerous by the State Highway Department if the crossings are within a half mile of a school or church. In addition, the Highway Department would be required to paint white lines across the roads parallel with the stop signs on either side of these crossings.

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### Judiciary

Limiting House Members' Terms (H.3424, Rep. Cato). Beginning in 1992, House members would be limited to six consecutive terms, if this legislation is approved. This limit would not apply to members of the current General Assembly who are re-elected. Nor would the limit apply to those members who submit a petition signed by 25 percent of the registered voters in their districts.

Senators would be limited to three consecutive terms, but like the House, this would not apply to current senators who are re-elected at the next senatorial election. However, senators would be eligible for more than the three term limit if a petition is signed by 25 percent of the voters in their districts. This constitutional change must be approved by a statewide referendum.

Recalling and Removing Public Officials (H.3426, Rep. Baxley). Under this joint resolution, every person holding public office in the state would be subject to recall from office. Every registered voter in the state would be eligible to sign a recall petition. The basis for recall would be physical or mental lack of fitness, incompetence, violation of oath, official misconduct, or conviction of a felony. No person would be recalled for performing a mandatory duty of an office or for not performing an act that would subject him to prosecution for official misconduct.

A recall petition could not name more than one official and the official would have to be in office at least three months before a recall petition could be brought against. Further, another recall petition could not be initiated against a public official unless the expenses of the first recall election are paid.

Recall petitions for statewide officials must contain 15 percent of the total number of voters registered during the last general election. For state district, county or municipal officials, the petition must contain 25 percent of the voters registered during the last general election for the office in question in the respective district.

The legislation specifies what form the petition must take and how the signatures must be collected. Once the required number of signatures are collected, the official in question must be notified of the petition. He or she then will have 10 days to submit a statement of 200 words or less stating why she or she should not be recalled. This statement would be printed on the recall ballot. If the official in question submits a resignation, it must be accepted and the vacancy filled as provided by law.

The legislation outlines how the recall special election should be conducted. Expenses for the recall election would be paid for in the same manner as any other election.

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The joint resolution would have to be approved by the voters in a statewide referendum if it receives approval by the General Assembly.

Child Support (H.3438, Rep. Burch). Under this legislation, the courts would determine whether a child of 18 receiving child support is self supporting enough for the support payments to be discontinued. In addition, the legislation would allow child support to continue past the age of 18 if the child is in high school and making satisfactory progress toward completion of high school. But this continuation of payments would not extend beyond the 19th birthday unless exceptional circumstances are found or a preexisting court order requires payments for the child beyond the age of 18. The legislation further would authorize child support payments beyond the age of 18 when there are physical or mental disabilities or other exceptional circumstances that warrant continued support of the child as long as these disabilities or circumstances continue.

Sheriff Qualifications (H.3447, Rep. Wilkins). This legislation would require additional qualifications for those seeking to be the sheriff of a county. First, the bill would change the county residency requirement from one to two years immediately preceding the date of election. It would raise the age of sheriffs from a minimum of 21-years-old to a minimum of 26-years-old. The legislation would further stipulate that the candidate have five years of law enforcement experience. The current statute says that the candidate must have five years experience in the criminal justice field. It would add to the statutes the requirement that the candidate not have a conviction for a crime of moral turpitude in South Carolina or any other state during the past ten years. Currently, the statute says only that the candidate cannot have been convicted of a felony during the past ten years.

In addition, sheriff candidates would have to be finger printed and undergo a SLED criminal background check. Further, the candidate would be required to supply the clerk of court a history of his places of residence and employment for the past six years.

Impersonating a Law Enforcement Officer (H.3452, Rep. Rudnick). This legislation would make it a felony to impersonate a law enforcement officer during the commission of a felony. Punishment would be up to the discretion of the court.

Penalty for Pointing a Firearm (H.3457, Rep. Rudnick). Under current law, the penalty for pointing a loaded or unloaded firearm at another person is left up to the discretion of the court. This legislation would make the penalty three years in jail and would eliminate the possibility of a fine.

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PSC Popular Elections (H.3460, Rep. Rudnick). This legislation would allow the state Public Service Commissioners to be popularly elected, instead of nominated by merit selection and elected by the General Assembly. Under this bill, six PSC members would be elected from the state's six congressional districts, and one commissioner would be elected statewide to serve as chairman.

The new commissioners would not be elected until the 1992 general election and current PSC members would serve until then.

Fleeing from the Police (H.3474, Rep. Meacham). Under this legislation, a vehicle could be seized and forfeited if the owner is convicted of the violation of increasing speed above the posted limit to avoid a pursuing law enforcement officer. The confiscation could take place at the time of arrest. The owner could get his car back if he can show the court he was not driving it at the time of the incident, or that the person driving did not have permission to drive the car. If the convicted person is not driving his own vehicle at the time of the incident, any vehicle he owns could be seized and forfeited, under this bill. The legislation would authorize the law enforcement agency to sell the seized cars at auction.

Adoption Information (S.263, Sen. Nell Smith). This legislation would make it unlawful for any person having custody or access to records from adoptions or adoption hearings from releasing identifying information in the records. The violation would be a misdemeanor carrying a fine of not more than \$500 or not more than six months in jail.

Zoning Suits (S.283, Sen. Hinds). This legislation would establish deadlines within which a person objecting to a zoning change must file a suit. Unless the person is filing the suit in order to contest the adequacy of the public notice of the change, any suit challenging the change must be filed within 60 days of notifying the governing authority of the intent to challenge the change. This intent must be filed with the governing authority within 30 days of the change's approval by the governing board. This legislation also would give the planning commission an additional 15 days (from 30 to 45 days) to submit a report on any proposed change to zoning ordinances, regulations or maps.



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### Labor, Commerce and Industry

Cable Television Regulation (H.3450, Rep. Koon). Under this legislation, cable television rates would be regulated by the state Public Service Commission, instead of county and municipal governments. The PSC would handle rate regulation for cable television in the same way that telephone utility rates are handled. Local governments would retain authority over installation or removal of cable beneath public lands, roads or waters. This change would go into effect July 1.

Payment of Insurance Claims (H.3458, Rep. Rudnick). This bill would require insurance companies to pay all benefits under a health or accident policy immediately upon receiving proof of the loss. This requirement would not pertain to benefits for loss of time. If the insurer does not pay the benefits immediately, the company has 15 days to notify the policy holder in writing why the claim was not paid and an itemized list of documents needed to pay the claim. Once the documents are received, the company has 15 days to pay the claim or deny it. Failure to comply with these time limits would require the insurer to pay the policyholder 18 percent interest on the benefits due.

### Medical, Military Public and Municipal Affairs

Prisoner Rehabilitation Program (H.3425, Rep. Baxley). The aim of this legislation is to promote the use of prison rehabilitation groups to ease the overcrowding problems and "grave problems of prisoner hopelessness" in county jails.

Under this legislation, a county prisoner could be released into the custody of a prisoner rehabilitation program approved by the county government. County governments would be authorized to contract with rehabilitation groups. Current state laws do not permit counties to undertake this type of arrangement.

Prisoners could be released into these approved program under the following circumstances:

- The prisoner volunteered for the program by applying for entry into the program. In addition, the prisoner must release the county government from all liability while he is in the custody of the program, and the program would assume all liability.
- The prisoner must agree to obey all rules of the rehabilitation program.
- The prisoner's application must be approved by the program, the chief jailer and a majority of the county governing body.

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-- The General Sessions Court must approve and order the prisoner's participation in the program.

If the program director does not feel the prisoner is participating sufficiently to receive benefits from the program or is not obeying the program's rules, the prisoner may be returned to the jail. If the prisoner is returned, he may be replaced by another prisoner as long as all conditions are met.

When the prisoner successfully completes the program, he may apply to the General Sessions Court for a reduction in sentence.

### Ways and Means

Tuition Payment Plan (H.3418, Rep. Sharpe). Under this legislation, the state would pay the tuition of a student who enrolls as an undergraduate in a state-supported college under certain criteria. These conditions include the student being a state resident for two years before enrollment or that his or her parent or guardian is a state resident; has maintained a 2.5 grade point average; has completed a core curriculum specified in the bill; scores at least 800 on the SAT; has no criminal record and meets the bill's financial need requirements. Not all the criteria would have to be met -- the bill states what part of the criteria would be required for participation in the free tuition program.

In addition, the legislation outlines what academic performance the student must maintain in order to remain eligible for the free tuition. If the student fails to graduate in six years or fails to maintain full-time student status, he would have to repay the amount of tuition he has received.

Financial need would be determined under the same criteria used to allocate the Tuition Grants program.

Attorney Costs in Adoptions (H.3441, Rep. Wright). Under this legislation, taxpayers who adopt a child could deduct attorney fees and court costs up to \$500 from their state income tax.

Easter Monday Holiday (H.3470, Rep. Thomas Alexander). Easter Monday would become one of the state's legal holidays if this legislation is enacted.

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### Without Reference

Real Estate Appraiser Registration, License and Certification Act (H.3421, House Labor, Commerce and Industry Committee). This committee bill establishes the provisions for the registration, licensing and certification of real estate appraisers in South Carolina. For a detailed explanation of this legislation, please see the special report in the February 5 Legislative Update.

House District 54 Special Election (H.3445, Rep. Baxley). With only one candidate filing for the House District 54 seat, this legislation would speed up the special election to allow the new House member to be elected before the reapportionment debate begins early in April. Further, holding the special election on March 26 will allow it to coincide with the Senate District 28 primary also being held in Marlboro County that day.

Motion Picture Companies (H.3463, House Ways and Means Committee). This legislation would exempt motion picture companies filming in South Carolina from the 2 percent withholding on a business required of nonresident businesses. This exemption would also include any entities performing personal services for the film company during its tenure in the state. Both the motion picture company and the personal services companies would have to obtain certificates of authority from the Secretary of State's office. In addition, the legislation would also exempt motion picture companies from paying state sales tax on supplies, technical equipment and machinery, and electricity.