



South Carolina House of Representatives

# Legislative Update

ROBERT W. HARRELL, Jr., Speaker of the House

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# HOUSE WEEK IN REVIEW

Lawmakers returned to the State House on January 10, 2012, to commence the second legislative year of the 119<sup>th</sup> South Carolina General Assembly.

The House of Representatives approved **S.258** and enrolled the bill for ratification. The legislation creates the office of **STATE INSPECTOR GENERAL** for the purpose of investigating and addressing allegations of fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in state agencies. The State Inspector General is to be appointed by the Governor with the advice and consent of the Senate for a term of four years. The office is authorized to investigate any authority, board, branch, commission, committee, department, division, or other instrumentality of the executive branch of state government, including administrative bodies, but its investigatory powers do not extend to the legislative branch of state government, the judicial branch, the state's quasi-judicial bodies, or political subdivisions. For the purpose of conducting investigations, the State Inspector General is given authority to administer oaths, examine witnesses under oath, issue subpoenas, and examine the records, reports, audits, reviews, papers, books, recommendations, contracts, correspondence, or any other documents maintained by an agency. The State Inspector General must establish a toll-free public telephone number for the purpose of receiving confidential reports concerning state agency activities.

The House sustained the Governor's veto on **S.211**, legislation establishing the **I-95 CORRIDOR AUTHORITY** to carry out economic development and educational enhancement activities to improve the economic conditions in its member counties located along Interstate 95.

The House concurred in Senate amendments to **H.3095** and enrolled the bill for ratification. The legislation **DISALLOWS TRANSFER FEE COVENANTS**, which are provisions purporting to run with the land or bind current owners or successors in title to specified real property that obligate a transferee or transferor of all or part of the property to pay a fee or charge to a third person upon transfer of an interest in all or part of the property, or in consideration for permitting this transfer. The legislation provides a transfer fee covenant recorded after the effective date of this legislation, or any lien to the extent that it purports to secure the payment of a transfer fee, is not binding on or enforceable against the affected real property or any subsequent owner, purchaser, or mortgagee of any interest in the property. The legislation establishes requirements for filing documentation that must be met in order for a transfer fee covenant recorded before the legislation's effective date to be valid and enforceable.

The House concurred in Senate amendments to **H.4005**, a bill establishing **REQUIREMENTS FOR HONEY**, and enrolled the bill for ratification. The legislation defines the term "honey" as the raw food product produced by honeybees for human consumption and subjects all honey and honey products to the labeling requirements of the South Carolina Food and Cosmetic Act. Honey sold wholesale to other retail outlets for resale must be processed and packaged in an inspected and registered food processing facility regardless of the amount of overall honey produced by the beekeeper. Beekeepers producing no more than four hundred gallons (4,800 pounds) of honey annually and who only sell directly to the end consumer are exempt from

inspections and regulations requiring honey to be processed, extracted and packaged in an inspected food processing establishment, or from being required to obtain a registration verification certificate (RVC) from the Department of Agriculture. However, labels are required on all containers of honey sold in South Carolina.

The House amended, approved, and sent to the Senate **H.3495**, a joint resolution creating a **SCHOOL DISTRICT CONSOLIDATION STUDY COMMITTEE**. The legislation creates a committee to study the feasibility and cost effectiveness of consolidating the school districts within the individual counties of this state. In making its determinations, the study committee shall consider potential savings that may occur from the centralization of the administrative and programmatic functions of the several districts. The legislation provides for the membership of the committee and requires a report of its findings to the General Assembly by January 31, 2013, at which time the committee will be abolished. The legislation provides that members shall serve without compensation and may not receive mileage or per diem.

The House approved and sent to the Senate **H.3236**, a bill that includes member schools of the South Carolina Association of Christian Schools among the list of organizations that satisfy the state's **COMPULSORY EDUCATION REQUIREMENTS**.

## **BILLS INTRODUCED IN THE HOUSE THIS WEEK**

### **AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS**

#### **H.4573 TRAPPING COYOTES Rep. McCoy**

Currently, it is lawful to trap coyotes from December first of each year to March first of the succeeding year; the bill changes the trapping period from August first of each year to March first of the succeeding year.

### **EDUCATION AND PUBLIC WORKS**

#### **H.4541 "WELCOME TO THE HICKORY RIDGE COMMUNITY" MARKERS OR SIGNS IN RICHLAND COUNTY Rep. Bales**

This legislation requests that the Department of Transportation erect appropriate markers or signs at a designated intersection in Richland County that contain the words "Welcome to the Hickory Ridge Community".

#### **H.4582 ISSUANCE OF DEALER AND WHOLESALER LICENSE PLATES Rep. Atwater**

Relating to the issuance of dealer and wholesaler license plates, this legislation allows the Department of Motor Vehicles to issue license plates to be used on vehicles loaned or rented to the United Service Organization South Carolina and the American Red Cross.

**H.4584 MOTORCYCLE SAFETY Rep. Atwater**

This legislation requires the Department of Transportation to design and erect along the state's highways traffic signs that promote motorcycle safety at locations that are deemed high motorcycle traffic areas, specifically, but not limited to, motorcycle rally event areas. The department shall convene a committee to advise the department's director on the design and location of the signs. The members of the advisory committee shall serve without compensation.

**H.4585 "EQUAL ACCESS TO INTERSCHOLASTIC ACTIVITIES ACT"  
Rep. Atwater**

This legislation permits home school students, Governor's school students, and charter school students to participate in interscholastic activities of the school district in which the student resides pursuant to certain conditions. 'Interscholastic activities' includes, but is not limited to, athletics, music, speech, and other extracurricular activities.

**H.4586 CPR TRAINING FOR HIGH SCHOOL STUDENTS Rep. Sottile**

This legislation requires local school districts to provide CPR training to all high school students as part of the required curriculum. It also provides that a person must pass the CPR course and become CPR certified before he is eligible to receive a high school diploma.

## JUDICIARY

**H.4542 CONSIDERATION OF RECALL OF ELECTED PUBLIC OFFICIALS  
Rep. H. B. Brown**

This legislation provides that in addition to the matters which may be considered by the General Assembly after July 1, 2011, pursuant to H. 4195 of 2011, joint resolutions amending the State Constitution providing for the recall of elected public officials may also be introduced, received, and considered by each house of the General Assembly, including, but not limited to, receipt, consideration, and disposition of conference or free conference reports, appointment of conference and free conference committees, messages pertaining to such reports and appointments, and amendments to such legislation.

**H.4549 THIRD-PARTY VOTER REGISTRATION ORGANIZATIONS  
Rep. Clemmons**

This legislation requires a third-party voter registration organization operating in this state to register and file certain information with the State Election Commission. The commission shall make voter registration forms available to third-party voter registration organizations. Among other things, the commission must maintain a database of all third-party voter registration requirements, update information on third-party voter registrations daily and make the information publicly available. A third-party voter registration organization must promptly deliver all collected registration applications to

the appropriate registration office. The legislation includes penalties for not promptly delivering collected registration applications.

**H.4554 CLOSING OR SETTLEMENT INSURANCE Rep. Clemmons**

This legislation allows a title insurer to issue closing or settlement insurance. It provides for loss against which this insurance may indemnify an insured, and it provides for administrative forms, fees, and notice requirements. The legislation conforms other provisions to include closing or settlement insurance.

**H.4570 PROBATE COURT COSTS AND FEES Rep. J. E. Smith**

Relating to probate court costs and fees, this legislation revises the reference from fees to costs in the calculation of the gross value of a decedent's estate and increases from \$6.75 to \$35 the fee for reforming or correcting a marriage record. The legislation provides the fee for filing formal petitions in any action in the probate court including estate and conservatorship proceedings and provides a motion filing fee of \$25 with certain exceptions. A probate judge may not relieve any person from filing fees, costs, and other probate costs except in specific instances.

**H.4571 REVISIONS PERTAINING TO THE REPEAL OF SECTION 56-1-745 WHICH RELATES TO THE SUSPENSION OF A DRIVER'S LICENSE OF A PERSON CONVICTED OF A CONTROLLED SUBSTANCE VIOLATION Rep. Rutherford**

This legislation makes revisions relating to the repeal of section 56-1-745 which relates to the suspension of a driver's license of a person convicted of a controlled substance violation. This legislation provides that the repeal of this provision applies to all actions, rights, duties, or liabilities founded on it pending on and before April 12, 2011, and alters, discharges, releases and extinguishes any penalty, forfeiture, or liability incurred under the repealed section.

**H.4572 SURETY FOR BAIL BOND Rep. Rutherford**

This legislation deletes language providing a procedure through which a surety may be relieved of liability for a bail bond upon filing of an affidavit stating certain information when the defendant is incarcerated by the surety or a law enforcement agency as a result of a bench warrant.

**H.4574 ADDING OFFENSES TO THE LIST OF OFFENSES DELINEATED AS SERIOUS OFFENSES FOR PURPOSES OF THREE STRIKES FOR REPEAT OFFENDERS Rep. Tallon**

This legislation adds offenses to the list of offenses delineated as serious offenses for purposes of three strikes for repeat offenders. Those offenses added to the list include: resisting arrest with a deadly weapon; common law robbery; taking firearm or other weapon from law enforcement officer, discharging firearms at or into dwellings, structures, enclosures, vehicles or equipment; criminal domestic violence of a high and aggravated nature; and common law assault with intent to kill.

**H.4575 REGULATIONS Rep. Atwater**

This legislation provides that a regulation promulgated under the Administrative Procedures Act expires five years from the date on which it becomes effective. The legislation also deletes language requiring a state agency to review regulations it promulgates on a five year basis.

**H.4577 ALTERATION, MODIFICATION, OR RESCISSION OF A COURT ORDER THAT GRANTS A VICTIM RESTITUTION Rep. Hodges**

This legislation provides that before a court order that grants a victim restitution may be altered, modified, or rescinded, the victim must approve the alteration, modification, or rescission.

**H.4583 ADMISSIBILITY OF EVIDENCE CONCERNING BATTERED SPOUSE SYNDROME Rep. Atwater**

This legislation provides that a defendant who intends to offer evidence of battered spouse syndrome must file a written report of the testimony to be offered by an expert in addition to filing the written notice of the intent to offer this evidence.

**H.4588 PROHIBITION ON ELECTION, REELECTION OR APPOINTMENT TO CERTAIN PUBLIC OFFICES FOR INDIVIDUALS WHO OWE THE STATE ETHICS COMMISSION FINES OR OTHER MONIES Rep. Pinson**

This legislation provides that an individual who owes the State Ethics Commission unpaid fines or other monies may not be elected, reelected, or appointed to a public office whose qualifications are not defined in the constitution.

## **LABOR, COMMERCE AND INDUSTRY**

**H.4548 RESTRICTIONS ON FEES CHARGED FOR CELLULAR TELEPHONE BILL PAYMENTS Rep. King**

This bill provides that a communications service provider may not charge a fee to a customer for payment of his cellular telephone bill with a credit card or debit card when the payment is made online or by telephone.

**H.4553 HEALTH INSURANCE COVERAGE REQUIREMENTS FOR CHILDREN'S HEARING AIDS Rep. Huggins**

This bill establishes requirements for group health insurance and group health benefit plans to cover hearing aids and replacement hearing aids for an insured with impaired hearing and who is twenty-one years of age or less.

**H.4555 PARENTAL ACCESS TO MINOR CHILD'S TEXT MESSAGES Rep. Clemmons**

This bill requires the provider of a text messaging service or text messaging remote storage service to give a parent or guardian who subscribes to these services access to the content of text messages sent, received, or stored using any of these services by his minor child. The legislation provides that the parent or guardian of a minor child shall not provide a text messaging service to the minor child if the child refuses to provide consent necessary for the parent or guardian to obtain access to the contents of a text message sent or received by the child. Penalties are provided for violations.

**H.4592 PENALTIES FOR UNEMPLOYMENT COMPENSATION VIOLATIONS Rep. Sandifer**

This bill establishes a civil penalty for violations of prohibitions against making false statements related to unemployment compensation and provides for the use of money received from fines created by this penalty. The legislation provides that the Director of the Department of Employment and Workforce may nevertheless enter a certain written consent agreement with a person alleged to be guilty. The bill revises provisions relating to obtaining or increasing an employment security benefit by use of false statements or false representations, or by the failure to disclose material facts, so as to remove civil penalties and to impose criminal penalties and a requirement of restitution. The bill revises provisions relating to the prevention or reduction of employment security benefits or contributions by an employer, so as to remove civil penalties and impose criminal penalties.

**H.4593 PROFESSIONAL OR OCCUPATIONAL LICENSING BOARD UNDER  
THE DEPARTMENT OF LABOR, LICENSING AND REGULATION**

**Rep. Sandifer**

This bill provides for the disclosure of certain information relating to proceedings before a professional or occupational licensing board under the Department of Labor, Licensing and Regulation, among other things; by adding provisions relating to administrative citations, penalties, and appeals for a violation. The legislation eliminates certain requirements imposed upon the director of the department when hiring certain personnel of a professional or occupational licensing board and provides the department with the authority to promulgate certain regulations. The legislation includes new provisions governing when these professional or occupational licensing boards may delegate any duty, right, or responsibility of the board to the department. The legislation revises provisions relating to investigations by these boards, so as to include new provisions that allow a person filing a written complaint with a board or the director to request his identity be withheld from the licensee against whom the complaint is made for a good cause. The legislation revises provisions relating to disciplinary action proceedings before a board, so as to provide an alternate means of serving notice to a licensee, and to provide that in the absence of a quorum of the board in a disciplinary hearing due to recusals of board members, the director or his designee may appoint an impartial tribunal to reach a final determination of the pending disciplinary matter. The legislation revises provisions relating to immunities of the director and the members of the board, so as to provide the director or individual board members may not be individually liable for actions they take in their official capacities except upon a showing of actual malice. The legislation revises provisions relating to jurisdiction of a board, so as to provide a board may fine a license applicant for unauthorized practice as a condition of licensure or renewal of a license if the applicant has practiced without a license or with a lapsed, suspended, or revoked license.

## **MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

**H.4497 “CERVICAL CANCER PREVENTION LICENSURE ACT” Rep. Sellers**

The bill enacts the “Cervical Cancer Prevention Act” to provide that beginning with the 2012-2013 school year, DHEC shall offer as an option the cervical cancer vaccine series to female students enrolling in the seventh grade. The parent or guardian of a student may authorize the vaccination of the student by signing and submitting the appropriate form. The “cervical cancer vaccination series” means the human papillomavirus vaccination series. Implementation is contingent upon the appropriation of state and

federal funding to the department to fully cover the costs of providing this vaccine to eligible female students.

**H.4569 “ADULT HEALTH CARE CONSENT ACT” Rep. J. E. Smith**

In an effort to satisfy a Federal requirement relating to public health and the privacy rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), this bill requires a health care provider to give a patient an opportunity to review, approve, and sign an authorization requiring the provider to release specified information concerning the patient and his treatment to family members and other people designated by the patient. In addition, the provider must involve those designated family members and other people in the course of the treatment of the patient.

The bill outlines that “patient” means a person age sixteen or older who presents or is presented to a health care provider for treatment. The bill also outlines that “treatment” means the broad range of emergency outpatient, intermediate, and inpatient services and care that may be extended to a patient to diagnose and treat a human disease, ailment, defect, abnormality, or complaint, whether of physical or mental origin. It includes, but is not limited to, psychiatric, psychological, substance abuse, and counseling services.

## WAYS AND MEANS

**H.4547 TAX CREDITS AND DEDUCTIONS FOR K-12 EDUCATION EXPENSES Rep. White**

This bill authorizes a state income tax deduction for tuition paid by a parent or legal guardian for their child or ward to attend an independent school or a public school outside the child’s or ward’s school district of residence. The legislation authorizes a similar income tax deduction to a parent or legal guardian for home school expenditures. The legislation establishes tax credits for contributions made to nonprofit scholarship funding organizations that provide grants for children who are eligible for the federal free or reduced school lunch program, who are “exceptional needs” children, or who meet other requirements to attend independent schools of their choice.

**H.4568 SOUTH CAROLINA SOLICITATION OF CHARITABLE FUNDS ACT EXEMPTIONS Rep. Mitchell**

This bill specifies that the provisions of the South Carolina Solicitation of Charitable Funds Act do not apply to certain parent-teacher associations and trade associations. The legislation clarifies which charitable organizations are subject to filing requirements. The legislation clarifies when a professional solicitor, commercial co-venturer, or professional fundraising counsel may begin providing solicitations and services in this state.

**H.4576 TAX CREDITS AND DEDUCTIONS FOR K-12 EDUCATION EXPENSES Rep. Bedingfield**

This bill authorizes a state income tax deduction for tuition paid by a parent or legal guardian for their child or ward to attend an independent school. The legislation

authorizes a similar income tax deduction to a parent or legal guardian for home school expenditures. The legislation establishes tax credits for contributions made to nonprofit scholarship funding organizations that provide grants for children who are eligible for the federal free or reduced school lunch program or Medicaid benefits to attend independent schools of their choice. The legislation also establishes tax credits for contributions made to special education nonprofit scholarship granting organizations that provide grants for children who have special educational needs. The legislation authorizes an income tax credit for a classroom teacher for expenditures on classroom supplies.

**H.4587 STATE SUPERINTENDENT OF EDUCATION REQUIRED TO ACCEPT FEDERAL FUNDS Rep. Butler Garrick**

This bill provides that the State Superintendent of Education is required to accept any federal funds available to South Carolina which are distributed to this state on a nonmatching basis through his office or the State Department of Education. The legislation provides that, beginning July 1, 2012, the State Superintendent of Education is required to notify each house of the General Assembly through their presiding officers, the Chairman of the House Education and Public Works Committee, and the Chairman of the Senate Education Committee of those federal funding opportunities made available to the state since his last report. The legislation provides that any citizen of this state is conferred legal standing to bring a writ of mandamus in a court of competent jurisdiction to compel the State Superintendent of Education to comply with these requirements, and if that citizen is deemed to be the prevailing party in such an action is also entitled to costs and attorney fees.

**H.4596 REDUCTION OF COMMERCIAL PROPERTY TAX ASSESSMENT RATIO Rep. Lowe**

This bill reduces the property tax assessment ratio imposed on commercial and other applicable real property from six percent to five percent of value. The reduction is phased in over the course of two property tax years.

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