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South Carolina House of Representatives

# Legislative Update

**Robert J. Sheheen, Speaker of the House**

Vol. 7

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STATE DOCUMENTS

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House Week in Review

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The House of Representatives made headway on several significant bills last week. Among these was H.4423, which would add nine new judgeships to the Circuit Court. The House also passed a compromise measure on the number of missed school days students will have to make up as a result of Hurricane Hugo.

Early in the week, H.3739, the local option sales tax bill, was ratified. The legislation was signed into law by Gov. Campbell Friday.

On Tuesday, the House amended and gave second reading approval to H.4190, the school day make-up bill. Under the amendment proposed by the House Education and Public Works Committee, schools that missed 10 or more days as a result of the hurricane will have five days waived by the district school board.

For schools that missed less than 10 days as a result of the hurricane, the district school board may waive up to half of the days missed. Under this provision, the board may not waive more than five days for any school.

For those missed days that the school board is not authorized to waive under this joint resolution, the board may request the State Board of Education to waive additional days "upon good cause showing that the particular school cannot make the days up without undue hardship."

Staff development and teacher work days could be waived by the district trustee board to provide make up days, under this resolution.

The legislation received third reading in the House on Wednesday and was sent to the Senate, where it was placed on the calendar without reference. The Senate voted to give the bill second and third readings on the next two consecutive legislative days.

Wednesday afternoon, the House spent much of its time debating the circuit judgeship bill. The House approved an amendment to the bill to set the election date for the nine new circuit judgeships for April 1, 1991. The amendment authorizes the Judicial Screening Committee to begin screening candidates for the new posts.

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The House narrowly tabled an amendment which would have prohibited any candidate for a judgeship to campaign, directly or indirectly, or to lobby a member of the General Assembly for election or reelection until the qualifications of all candidates have been determined by the screening committee. The House voted 52-50 to table the proposal.

Second reading approval was given the bill by a vote of 90-27. On Thursday, the House gave H.4423 a third reading and sent it to the Senate.

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### PLEASE NOTE:

Due to mechanical difficulties in the Legislative Council print shop, printing and distribution of the Legislative Update was delayed during the past two weeks. With this issue, we hope to get back on the regular Tuesday distribution schedule.

We apologize for any inconvenience or confusion these delays have caused. If you are missing any issue of the 1990 Legislative Update, please call the House Research Office at 734-3230.

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Bills Introduced

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Here is a sampling of the bills introduced in the House last week. Not all the bills that were introduced are featured here. The bills are arranged by the standing committees to which they were referred.

**Agriculture and Natural Resources Committee**

Solid Waste Management Legislation (H.4542, Rep. Keyserling). This legislation came about after almost two years of study by the Legislative Task Force on Solid Waste. Highlights of this 70-page bill are:

- Establishment of a statewide recycling goal of 25 percent of the total solid waste stream in the state not later than five years after enactment of this bill;
- Establishment of a statewide solid waste reduction goal of 30 percent of this solid waste being disposed on in municipal solid waste landfills not later than five years after the date of enactment.
- Not more than half of the waste reduction goal may be achieved by removal of yard trash, white goods (appliances), and similar waste from the waste stream.
- Local government should make every effort to achieve the statewide recycling and waste reduction goals. The legislation sets forth a method to determine whether a county has met the 30 percent reduction goal.
- Three years after enactment of the bill, DHEC would determine the number of plastic, glass and aluminum containers sold and the number recycled. If the number recycled is less than 25 percent, a fee of one cent per container is to be levied on all containers of that type. Two years later, the percentage required to be recycled increases to 35 percent. DHEC can revoke the one cent levy if it is determined the recycling goals are being met. Fees levied are to be put into the Solid Waste Management Trust Fund.
- DHEC could only issue construction permits for a new solid waste management facility based on a demonstration of need. This need may not include solid waste generated in jurisdictions not subject to the provisions of a county or regional solid waste management plan. (This provision is aimed at limiting out-of-state solid waste.)

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- Eighteen months after the bill is enacted, DHEC would submit a comprehensive state solid waste management plan. Thereafter, the department would submit annual reports describing the progress made implementing state and local solid waste plans. A 13-member Statewide Solid Waste Advisory Council would review the plan.
- Creation of a 15-members Recycling Market Development Council within the State Development Board. This board would assist in identifying and developing markets for recycled materials. Make-up of the council is described in the bill. Fifteen months after the bill is enacted, the council would have to submit a comprehensive recycling report, to be submitted annually thereafter. The council would be sunsetted six years after the date of enactment.
- Fifteen months after DHEC submits a statewide solid waste management plan, counties, groups of counties (regions) or municipalities would submit local solid waste management plans. Among other provisions, the plans must include source separation and recycling programs. The plans, after DHEC review, must be fully implemented no more than four years after the bill is enacted. Under these provisions, the local plans must meet the statewide goal, but local governments may set higher goals. DHEC could modify the statewide goals for a local government showing good cause.
- Municipalities could continue to operate waste facilities and provide services under this bill. A \$5 per ton fee would be imposed on all solid waste disposed of in a municipal disposal facility, which would be divided between the Solid Waste Management Trust Fund and the county to be used for solid waste management activities.
- In addition to providing public education, help to local governments and establishing programs to implement the statewide solid waste management plan, DHEC must submit a study and report to the General Assembly on alternate packaging of six-ring plastic container holders within three years of the bill's enactment.
- Establishment of the Office of Solid Waste Reduction and Recycling. This office would receive and disperse funds from the Solid Waste Management Trust Fund, educate the public, manage the Solid Waste Management Grant Program and promote recycling and waste reduction.
- A Solid Waste Management Grant Program would be established from monies from the trust fund to assist local governments and private entities in meeting their solid waste responsibilities. For the first five years, the grants must be used to help local governments carry out their responsibilities under the bill. After five years, 50 percent of the grants going to local governments must be as rewards for having met or exceeded goals.

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- All branches of state government, all state agencies, and higher education institutions must establish source separation and recycling programs within 12 months of DHEC submitting the statewide plan. General Services and the Highway Department must study and implement ways of using recycled materials when feasible.
- This bill would prohibit:
  - beverage containers with detachable metal rings or tabs -- six months after enactment;
  - products packed in a container or packing material manufactured with CFC's -- one year after enactment;
  - plastic bags for consumer purchases unless the bags are recyclable -- one year after enactment;
  - beverage container plastic ring carriers unless they are recyclable.
  - Polystyrene for products used in conjunction with food unless the products are recyclable.
- Used oil must be disposed at a collection facility or a recycling facility. The Highway Department would establish a used oil collection center in each county, unless it certifies a private collection facility is in operation. Permits for operating the facility, or transporting certain amounts of used oil are outlined in the bill, as are penalties for improper disposal.
- The bill establishes standards which must be met in disposing of waste or scrap tires. The bill would prohibit anyone from knowingly disposing of scrap tires in a landfill. Disposal at collection centers would be required. A \$2 fee per new tire would be imposed. The fee, in part, would be returned to the counties for the management of waste tires and part would go to the Trust Fund for waste tire management activities and to educate the public. Counties could impose additional fees on scrap tires generated outside the state.
- Lead acid batteries would be disposed only at certain entities specified in the bill. A \$2 fee per lead acid battery sold would be imposed. In part, the fee would go to counties for the collection and disposal of lead acid batteries and to the Trust Fund. All state agencies would be required to procure recycled lead acid batteries whenever practicable.
- The disposal of yard trash and land clearing debris would be regulated by DHEC, under this bill. Fifteen months after enactment, no one could knowingly send yard cuttings to a municipal landfill, and no landfill could accept this kind of yard trash unless it has a composting facility. Fines would be established. State agencies would procure composted materials when possible.

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- No white goods (appliances, etc.) could be disposed in landfills. A \$2 fee would be imposed on each white good sold, with part remitted to the counties and part to the Trust Fund.
- Fines would be increased for littering in large amounts or for commercial purposes. Littering would be a 2 point violation on a person's driver's license.
- Tax credits would be established for corporations for qualified recycling equipment.

### Education and Public Works Committee

Trunk Riding Prohibited (H.4525, Rep. L. Martin). This legislation would prohibit a person from riding as a passenger in the trunk of a car. Violators would be guilty of a misdemeanor.

Photos of Accidents (H.4545, Rep. Simpson). Law enforcement officers investigating accidents would be required to take photographs of accident scenes, which would be made part of the accident report, if this legislation is enacted.

Pearl Harbor Survivors License Plates (H.4548, Rep. H. Brown). Military survivors of the Pearl Harbor attack would be eligible for a special license tag, if this bill is enacted. The bill sets out the criteria the person must meet to qualify for the tag. An initial fee of \$15 would be charged.

Corporal Punishment in the Schools (H.4552, Rep. Rama). This bill would prohibit the use of corporal punishment in schools with certain exceptions. These exceptions would include "incidental, minor or reasonable physical contact" to maintain order; "reasonable and necessary force" to quell a disturbance or remove students from the scene of a disturbance, to prevent a student from harming himself, for self-defense or the defense of others, or to obtain possession of weapons or controlled substances.

### Judiciary Committee

Horse Auctions (H.4533, Rep. M.O. Alexander). Under this bill, any auctioneer who sells a horse or mule at auction would be responsible to the purchaser for actual damages in the event it turns out the animal has been stolen.

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Juvenile Criminal Records (H.4550, Rep. Huff). This legislation would allow the release, under provisions specified in the law, of the juvenile criminal record of a person adjudicated as juvenile for the commission of a violent crime. Now the law limits the release to the record of adjudication only.

Juvenile Information for Victims of Violent Crimes (H.4551, Rep. Wilkins). Under this legislation, the Department of Youth Services could provide the victim of a violent crime with the name and other basic descriptive information of the juvenile charged with the crime, with information about the juvenile justice system, the status and disposition of the delinquency action, including hearing dates, times and locations, and information regarding services available to victims of juvenile crimes.

Motor Vehicle Search Decals (S.667, Sen. Martschink). This legislation would allow the owner of a motor vehicle to request a decal from the State Highway Department, which would allow the search of the vehicle for illegal drugs. Display of the decal would "indicate the person in control of the vehicle and its passengers consent to its search for illegal drugs." Under these provisions, it would not be necessary for probable cause to exist for a search to be conducted.

Absentee Ballot Examination (S.1105, Senate Judiciary Committee). This Senate bill parallels H.4384, which specifies the way absentee ballots would be examined on election day. H.4384 is described in the January 16 Legislative Update.

### Labor, Commerce and Industry Committee

Unrefrigerated Beer and Wine (H.4529, Rep. Fair). If this legislation is enacted, any person licensed to sell beer and wine at retail for off-premises drinking could sell only unrefrigerated beer and wine.

No Premium Increase Unless Convicted (S.883, Sen. Mitchell). This bill would prohibit an insurance company from raising the premiums or adding surcharges to the auto insurance of a person unless he is convicted of the driving violation. The Highway Department also would be prohibited from reporting an alleged driving violation unless it results in a conviction.



**Medical, Military, Public and Municipal Affairs Committee**

Mental Retardation and Related Disabilities Act (H.4509, Rep. P. Harris). This legislation would reorganize into one new chapter existing law concerning mental retardation programs operated by the state Department of Mental Retardation and local program providers. Generally, present operations would continue, with some additional language to give greater protection to clients participating in programs. This legislation is the product of public hearings and work by the Joint Legislative Committee on Mental Health and Mental Retardation.

Highlights of the bill include language expressing the state's philosophy toward providing services for the mentally retarded and the rights of the clients as well as their families. This includes providing services for mentally retarded clients in the "least restrictive environment." The bill outlines the organization and system for the delivery of services, including the make up and duties of the state commission, and the responsibilities and organization of the Department of Mental Retardation. New language allows the commissioner to act as advocate and educator for the mentally retarded.

Criteria for admissions would be reduced to (1) the relative need of the person for special training, supervision, treatment and care, and (2) availability of services suitable to the needs of the applicant. The bill also covers the procedure for involuntary admissions.

Licensing and regulation of facilities and programs for the mentally retarded are described in the bill. Penalties for operating programs without proper authorization are increased. Licenses would be issued for three-year periods, instead of annually.

Section on capital improvements is largely the same as the current law.

Public Assistance Recipients and Public Records (H.4511, Rep. Felder). This legislation would eliminate the provision now in the law which provides that the names of recipients receiving public assistance payments from the state or county Departments of Social Services and the amounts received are public record and open to public inspection. Under this bill, agencies would promulgate regulations complying with federal disclosure requirements that concern applicants and recipients of public assistance, including Medicaid. No person could disclose information except in connection with the administration of public assistance, under this legislation.

Sexually Transmitted Disease Testing (H.4512, Rep. Felder). Under this legislation, a portion of the results of a person's testing for sexually transmitted diseases may be disclosed to a solicitor or state law enforcement agency by court order, if the court finds the request for the information valid and there is a "compelling need for the test results." The court would provide the subject of the testing with a hearing.

Courts would be prohibited from ordering the disclosure on the basis of anonymous tips. A person who provides information must sign an affidavit setting forth the facts and appear at the hearing.

The hearing would be private, unless the subject of the hearing requests an open hearing. Disclosure of the subject's name would be made in sealed court documents. All files of the case would be sealed unless waived by the subject. If the court order disclosure of the results, it may stipulate safeguards against unauthorized disclosure. No information regarding persons other than the subject of the test results could be released.

The legislation also prohibits anyone with the HIV virus, which causes AIDS, to engage in sex without first notifying the partner, to commit an act of prostitution, to knowingly sell blood or other body organs or fluids, to forcibly engage in sexual activities without the consent of the partner, including the legal spouse, or to knowingly share needles or syringes without informing the other of his HIV infection.

#### Ways and Means Committee

Water Recreational Resources Fund (H.4510, Rep. Kirsh). Revenues distributed to the counties under the Water Recreational Resources Fund could be used for recreational capital improvements in addition to water recreational resources, if this bill is enacted. Currently, one-half of one percent of state gas tax revenues are earmarked for the Water Recreational Resources Fund, which is handled by the Department of Wildlife and Marine Resources. The present law says revenues from this fund going to the counties are used for "the purpose of water recreational resources."

"Official Inspection Handbook" (H.4528, Rep. McLeod). This bill would require the Legislative Audit Council to publish annually an "Official Inspection Handbook." This handbook would be a compilation of all regulations, standards and guidelines of inspection used by state agencies, charged by law with making inspections of any kind. The handbook would ensure no regulations or standards are duplicated. Each state inspector would have a copy of the handbook in his possession when making inspections.

Deductible Adoption Costs (H.4543, Rep. Wright). Under this legislation, attorneys fees and court costs, up to \$5,000, involved in the adoption of a child paid by the adoptive parent would be tax deductible.

Coroners' Salary Supplement (H.4538, Rep. Harvin). The state would provide an annual \$1,750 salary supplement to coroners, if this bill is enacted. The legislation also stipulates that the coroners' supplements must be increased at the same time and in the same amount as the supplement paid to sheriffs.

Local Government Homestead Exemption (H.4557, Rep. McGinnis). In addition to the state Homestead Exemption, this legislation would authorize counties and municipalities to provide an additional \$5,000 homestead exemption by ordinance. This exemption would be effective for tax years after 1989.

Ad Valorum Tax Exemption (H.4558, Rep. McEachin). This joint resolution would amend the State Constitution to provide that the ad valorum tax exemption for all property belonging to schools, colleges and other institutions of learning, charitable hospitals and institutions would not extend beyond the buildings and premises actually occupied by the owners.

#### Without Reference

Hurricane School Days Missed (S.1113, Senate Education Committee). This bill was amended to reflect the provisions in H. H.4190, which was passed last week, and sent to the Senate.