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Legislative update

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South Carolina House of Representatives

Legislative Update

Robert W. Harrell, Jr., Speaker of the House

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NOTE: THESE SUMMARIES 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. THEY 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 concurred in Senate amendments to **H.3004**, the “**SPENDING ACCOUNTABILITY ACT OF 2011**”, and enrolled the bill for ratification. The legislation establishes new requirements for the General Assembly to take roll call votes in the consideration of legislation that record the names and stances of legislators in the journals of the Senate and the House of Representatives. The legislation provides that the Annual General Appropriations Bill must be considered section-by-section on second reading, and must receive a recorded roll call vote by the House of Representatives and the Senate for the adoption of each section. The legislation provides that a bill or joint resolution must receive a recorded roll call vote by the House of Representatives and the Senate when: (1) the pending question is adoption of a Conference or Free Conference Report; (2) the pending question is the passage of a bill or joint resolution on second reading; (3) either the House of Representatives or the Senate agrees to the other body’s amendment; or (4) a bill or joint resolution is amended and the pending question is the passage of a bill on third reading.

The House concurred in Senate amendments to **H.3625**, a bill **PROHIBITING SOMEONE FROM SERVING AS BOTH A MEMBER OF AND AN EMPLOYEE OF A STATE OR LOCAL GOVERNMENT BOARD OR COMMISSION**, and enrolled the legislation for ratification. The legislation expands the current statutory prohibition on such employment arrangements to provide that no person shall serve at the same time on the governing body of a state, county, municipal, or political subdivision board or commission and as an employee of the same board or commission or in a position that is subject to the control of that board or commission or affects its decision-making. The prohibition also applies to a non-appointed member of the governing body of the board or commission for a water or sewer district or a nonprofit water or sewer corporation or company organized under state law. Anyone served by the board, commission, corporation, or company has standing to bring a lawsuit in the circuit court to uphold the prohibition. A violator may be assessed a civil penalty of fifty dollars per day to be remitted to the general fund of the board, commission, corporation, or company. In a lawsuit brought to force someone to vacate an unlawfully held position, the violator must pay the civil penalty plus court costs, attorney’s fees, and any damages required by the court.

The House gave second reading approval to **S.434**. This joint resolution suspends a Fiscal Year 2010-2011 General Appropriations Act provision prohibiting the Department of Health and Human Services from reducing **MEDICAID PROGRAM PROVIDER RATES**. The legislation authorizes the DHHS director to reduce rates paid to doctors and other providers under the state’s Medicaid Program as a cost saving measure. All proposed rate changes must include estimates of the projected dollar savings by source of funds and the number of providers and clients impacted. Six months after receiving approval from the Centers for Medicare and Medicaid Services to implement rate changes, DHHS must submit to the Senate Finance Committee and House Ways and Means Committee a report reconciling actual savings by source of funds and actual providers and clients impacted in comparison to the estimate.

The House amended, approved, and sent to the Senate **H.3267**, legislation providing for the **CONSOLIDATION OF THE DEPARTMENT OF PROBATION, PAROLE AND**

PARDON SERVICES WITH THE DEPARTMENT OF CORRECTIONS. This legislation transfers all functions, powers, duties, responsibilities and authority statutorily exercised by the Department of Probation, Parole and Pardon Services to the Department of Corrections, Division of Probation, Parole and Pardon Services. The legislation also provides that before the Department of Corrections may release from its custody an inmate who does not hold at least a high school diploma or a General Educational Development (GED) Diploma, the department must enroll the inmate in mandatory educational training that would prepare the inmate to successfully pass the GED test.

The House approved and sent to the Senate **H.3403, 'BORN-ALIVE' LEGISLATION.** The legislation provides that, in determining the meaning of any act or joint resolution of the General Assembly or in a regulation promulgated pursuant to Article 1, Chapter 23, Title 1, the words 'person', 'human being', 'child', and 'individual', must include every infant member of the species homo sapiens who is born alive at any stage of development. The term 'born alive', with respect to a member of the species homo sapiens, means the complete expulsion or extraction from the mother of that member, at any stage of development, who after the expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, or induced abortion. Nothing in this legislation may be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species homo sapiens at any point before being 'born alive' as defined in this legislation.

The House amended, approved, and sent to the Senate **H.3408**, which enacts the **"FREEDOM OF CONSCIENCE ACT"**. This legislation prohibits an employer from dismissing, demoting, suspending, disciplining or discriminating against an employee or prospective employee who advises the employer that he or she refuses to participate in certain activities. These activities include procedures related to embryonic tissue or a developing child in an artificial or natural womb. A health care facility is not required to admit a patient, or to allow the use of the facility for these procedures. Certain health care providers and employees of such providers who provided notice that they will not participate in such activities must not be required to participate, must not be disciplined due to such refusal, and are immune from liability for any damages caused by such refusal. The State or state exchange may not require an insurance plan or issuer to cover these procedures. A health plan or health insurer offering coverage within the State must accommodate the conscientious objection of a purchaser, or of an individual or institutional health care provider when any of the acts specified are contrary to its conscience. The legislation prohibits a health care facility, school, or employer from discriminating against a person regarding admission, hiring or firing, tenure, terms of employment, or student or staff status because the person refuses, whether or not in writing, to participate in these procedures. A person must not be required to participate in, make facilities available for, or provide personnel for these procedures if the activity is contrary to the person's conscience. The legislation prohibits discrimination against a person establishing or operating a health care facility because the facility declines to participate in a health care service that is contrary to the facility's conscience. A person adversely affected by conduct that is in violation of these provisions may bring a civil action for equitable relief, and if the person prevails, the court shall award attorney's fees.

H.3408 also provides that pursuant to applicable provisions of the federal Patient Protection and Affordable Care Act all **QUALIFIED HEALTH PLANS OFFERED THROUGH THE STATE EXCHANGE ARE PROHIBITED FROM INCLUDING ELECTIVE ABORTION COVERAGE**. Nothing in this section shall be construed as preventing anyone from purchasing optional supplemental coverage for elective abortions for which there must be paid a separate premium in the health insurance market outside of the state Exchange. No health plan, including health insurance contracts, plans or policies, offered outside of the Exchange, but within the State, shall provide coverage for elective abortions except by optional separate supplemental coverage for abortion for which there must be paid a separate premium. For purposes of this legislation, an 'elective abortion' means an abortion for any reason other than to prevent the death of the mother upon whom the abortion is performed; provided, that an abortion may not be deemed one to prevent the death of the mother based on a claim or diagnosis that she will engage in conduct which will result in her death. The legislation establishes procedures for providing elective abortion coverage. The issuer of any health plan providing any coverage other than elective abortion shall not discount or reduce the premium for such coverage on the basis that an enrollee has elective abortion coverage. Any employer who offers employees a health plan providing elective abortion coverage shall, at the time of beginning employment, and at least once in each calendar year thereafter, provide each employee the option to choose or reject elective abortion coverage. Any entity offering a group health plan providing elective abortion coverage, other than employers offering such a plan to their employees shall, at the time each group member begins such coverage, and at least once in each calendar year thereafter, provide each group member the option to choose or reject elective abortion coverage. Nothing in this legislation shall be construed to apply in circumstances in which federal law preempts state health insurance regulation.

The House approved and enrolled for ratification **S.277**, a bill ratifying the amendment to the South Carolina Constitution that voters approved at the last general election to provide that the **RIGHT TO A SECRET BALLOT INCLUDES VOTES OVER UNIONIZATION** and other decisions regarding employee representation by labor organizations.

The House amended and gave second reading approval to **H.3562**, the “**ALL-TERRAIN VEHICLE SAFETY ACT**” also known as “**CHANDLER’S LAW**”. The legislation provides that it is unlawful for the parents or legal guardian of a person less than six years old to knowingly permit that person to operate an all-terrain vehicle (ATV). The legislation further provides that it is unlawful for a parent or legal guardian of a person without a driver’s license and less than sixteen years old to knowingly allow that person to carry a passenger while operating an ATV. Under the bill, it is unlawful to remove from an ATV the required manufacturer Age Restriction Warning Label or for a parent or legal guardian of a person less than sixteen years of age to knowingly allow that person to operate an ATV in violation of the Age Restriction Warning Label affixed by the manufacturer. A person fifteen years of age or younger may not operate, ride, or otherwise be propelled on an all-terrain vehicle within the state unless the person wears a safety helmet. Effective July 1, 2011, every person fifteen years old and younger who operates an all-terrain vehicle must possess a safety certificate indicating successful completion of ‘hands-on’ all-terrain vehicle safety course approved by the All-Terrain Vehicle Safety Institute. The legislation establishes additional restrictions for the operation of ATVs on lands open to the public. The legislation provides that all-terrain vehicles are exempt from ad valorem personal property taxes beginning with calendar

year 2011. A violation of the All-Terrain Vehicle Safety Act is a misdemeanor subject to a fine of not less than fifty nor more than two hundred dollars. The All-Terrain Vehicle Safety Act does not apply to: an owner, operator, lessor, or renter of a farm or ranch, or that person's employees, immediate family, or household members, when operating an all-terrain vehicle while engaged in farming or ranching operations; or a person using an all-terrain vehicle for hunting or trapping purposes if the person otherwise is lawfully engaged in those activities. The bill also establishes procedures for the titling of ATVs.

The House approved **S.629**, a joint resolution pertaining to **TEACHER EMPLOYMENT FOR THE 2011-2012 SCHOOL YEAR**, and enrolled the legislation for ratification. This joint resolution requires local school districts to make teacher employment decisions and notify teachers of their employment for the 2011-2012 school year by May 15, 2011. The legislation requires teachers who are reemployed by written notification to notify the district board of their acceptance within ten days of receipt of written notification of employment. A continuing-contract teacher who is being recommended for formal evaluation the following school year must be notified in writing by the deadline for the written offer of employment or reemployment. The legislation allows districts to uniformly negotiate salaries below their salary schedule for the 2011-2012 school year for retired teachers.

The House amended, approved, and sent to the Senate **H.3642**. This joint resolution authorizes the **SUSPENSION OF AUTOMATIC STEP INCREASES IN TEACHER SALARIES** by providing that a local school district may, for Fiscal Year 2011-2012, pay teachers based on the years of experience the teachers possessed in fiscal year 2010-2011 without negative impact to their experience credit. The legislation provides voting and notice requirements for this decision. The legislation requires that payment under the suspension must be applied uniformly. If a local school district takes advantage of this authority to suspend step increases, the school district may not pay district or school administrators more than they received in fiscal year 2010-2011. The legislation requires a local school district to continue to pay teachers and administrators for changes in their education levels.

The House approved and sent to the Senate **H.3496**, relating to the **BLOOD BORNE DISEASE CONFIDENTIALITY REQUIREMENT**. The South Carolina Department of Health and Environmental Control is required to keep records regarding sexually transmitted diseases, including HIV/AIDS, strictly confidential except in specific circumstances. In cases involving a minor, DHEC is required to report the child's name and medical information to appropriate agents if a report is required by the Child Protection Act. In addition, if a public school student has AIDS or HIV, DHEC is required to notify the school district superintendent and the school nurse. This bill will delete the public school notification requirement. The bill also requires each school district to adopt the Centers for Disease Control and Prevention (CDC) recommendations on universal precautions for blood borne disease exposure and communicate the appropriate procedures with each school within the district.

The House amended, approved, and sent to the Senate **H.3711**, a bill relating to an **EXEMPTION FROM MOTOR CLUB SERVICES ACT REQUIREMENTS** for in-vehicle security navigational, communications, and remote diagnostics services such as OnStar. This bill provides that an entity that enters into a service contract with a club licensed under the Motor Club Services Act for the provision of emergency road service and towing service to its customers is not, itself, considered to be a motor club subject to the requirements of the Motor Club Services Act.

The House approved **S.533** and enrolled the bill for ratification. This bill revises the requirements for the **SALES TAX EXEMPTION FOR FACILITIES RESEARCHING AND TESTING THE IMPACT OF NATURAL DISASTERS**, so as to provide that the qualifying investment of at least twenty million dollars may begin at any time period after December 31, 2008, and all or a portion may occur before the taxpayer notifies the Department of Revenue of its intention.

The House approved and enrolled for ratification **S.522**, a bill **UPDATING STATE INCOME TAX LAW'S REFERENCE TO THE FEDERAL INTERNAL REVENUE CODE** to include its most recent amendments.

The House amended, approved, and sent to the Senate **H.3643**, a joint resolution pertaining to **TEACHER EMPLOYMENT FOR THE 2011-2012 SCHOOL YEAR**. This joint resolution requires local school districts to make teacher employment decisions and notify teachers of their employment for the 2011-2012 school year by May 15, 2011. The legislation requires teachers who are reemployed by written notification to notify the district board of their acceptance within ten days of receipt of written notification of employment. A continuing-contract teacher who is being recommended for formal evaluation the following school year must be notified in writing by the deadline for the written offer of employment or reemployment. The legislation allows districts to uniformly negotiate salaries below their salary schedule for the 2011-2012 school year for retired teachers who are not participants in the Teacher and Employee Retention Incentive (TERI) Program.

The House amended, approved, and sent to the Senate **H.3748**, a bill providing for **DELAYED IMPLEMENTATION OF THE EDUCATION AND ECONOMIC DEVELOPMENT ACT**. The legislation extends the date by which the act must be implemented fully from July 1, 2011 to July 1, 2016.

The House approved and sent to the Senate **H.3957**. This bill authorizes the Richland-Lexington Airport Commission to apply to the federal Foreign-Trade Zones Board for the purpose of **EXPANDING THE MIDLANDS FOREIGN-TRADE ZONE** so that it includes not only Richland and Lexington Counties but also Aiken, Allendale, Bamberg, Barnwell, Calhoun, Clarendon, Edgefield, Fairfield, Kershaw, Lee, McCormick, Newberry, Saluda, and Sumter Counties.

The House approved and sent to the Senate **H.3947**. This bill revises the procedure for appointing the members selected by the Richland County Legislative Delegation to the **RICHLAND-LEXINGTON AIRPORT COMMISSION**.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full committee did not meet this week.

EDUCATION AND PUBLIC WORKS

The full Education and Public Works Committee met on Wednesday, March 30, and reported out several bills.

H.3748 received a favorable with amendment report from the House Education and Public Works Committee. This legislation provides for **DELAYED IMPLEMENTATION OF THE EDUCATION AND ECONOMIC DEVELOPMENT ACT**; it extends the date by which the act must be implemented fully from July 1, 2011 to July 1, 2016.

The full committee gave a favorable with amendment recommendation to **H.3013**, which **ALLOWS A SCHOOL DISTRICT TO BE EXEMPT FROM CERTAIN STATUTES AND REGULATIONS**. This legislation provides a mechanism for a local school district to be exempt from statutes and regulations relating to the Education Accountability Act upon meeting certain conditions. The district must apply to the State Board of Education for exemption. The legislation specifies what the application must include and how the application must be made. The State Board of Education must adopt rules and promulgate regulations regarding application procedures. A local school district that receives an exemption must be evaluated by the State Board after three years to ensure that it continues to meet the needs of the students of the district. The legislation provides for suspension of the exemption upon certain conditions. Also, the legislation repeals two other code sections pertaining to exemptions. The legislation further provides that the facilities of any public or nonprofit private college, university, or technical college, which comply with applicable state, county, and local fire codes, may be used without modification for secondary school students in joint or cooperative programs, which include, but are not limited to, middle or early college programs and dual enrollment programs.

S.38 received a favorable report. This bill revises the information that must be provided by an individual or business owner on applications for **VEHICLE TITLES**. The bill provides that the Department of Motor Vehicles will issue a title and registration only for vehicles that are physically located and primarily operated in this State. Additionally, the bill provides that vehicles purchased for operation in a foreign jurisdiction cannot be titled and registered in South Carolina.

The full committee gave a favorable with amendment recommendation to **H.3259**, which pertains to **OPERATING GOLF CARTS ALONG THE STATE'S HIGHWAYS**. The legislation provides that when a golf cart owner's residence is located within a gated community, the two-mile limit for operating the golf cart on a secondary highway or street must be measured from the community's entrances and not from the owner's residence. The legislation also includes provisions for the operation of a golf cart along a secondary highway or street on a sea island.

H.3124, an **OMNIBUS SPECIAL LICENSE PLATE BILL**, received a favorable with amendment report. This legislation provides for the issuance of the following license plates: 'Distinguished Service Medal' Special License Plate; 'Second Amendment' Special License Plate; 'Historic' automobile special motor vehicle license plate for use on

a private passenger motor vehicle or a motorcycle that is 25 years or older; 'Distinguished Service Cross' Special License Plate; 'Department of the Navy' Special License Plate; 'Parents and Spouses of Active Duty Overseas Veterans' Special License Plates; 'State Flag' Special License Plates; 'South Carolina Highway Patrol-Retired' Special License Plates; 'Eagle Scouts of America' Special License Plates; 'I Support Libraries' Special License Plates; 'South Carolina Educator' Special License Plates; 'Coon Hunters' Special License Plates; 'Beach Music' Special License Plates; Citadel Alumni Association 'Big Red' Special License Plates; 'Largemouth Bass' Special License Plates; High School Special License Plates; 'South Carolina Wildlife Federation' Special License Plates; and University of South Carolina Gamecocks 2010 NCAA College World Series Baseball National Championship Special License Plate. The legislation allows a coroner to be issued two special license plates. The legislation allows frames for license plates. With regards to the existing Veteran's special license plate, this bill allows qualified persons to have the wheelchair symbol placed on this plate as well as allows qualified individuals to have the word 'disabled' placed on this plate. The bill allows for the issuance of a third Purple Heart License Plate upon payment of the regular registration fee and a special fee. The bill raises the fee requirements for special license plates to a non-profit. The bill also allows the Department of Motor Vehicles to set \$10 dollar special license plate fee if the sponsoring entity does not set fee.

The full Education and Public Works Committee gave a favorable with amendment recommendation to **H.3431**, which enacts "**JOHN'S LAW**" **PERTAINING TO PUBLIC RAILROAD CROSSINGS**. This legislation requires the Department of Transportation to publish on its website (1) a list of all public railroad crossings, and (2) the list of railroad crossings programmed for upgrades. Contingent upon the receipt of additional funds for the installation of public railroad signals and gates, the department is directed to increase the number of installations of railroad signals, crossing arms, or both utilizing all funds available for this type of work at dangerous railroad crossings throughout the State.

H.3731, providing for an **ADDITIONAL MEGALOAD IMPACT FEE FOR LOADS**, received a favorable report. This bill authorizes the Department of Transportation (DOT) to charge a new impact fee on the entire gross vehicle weight for transporting loads in excess of 500,000 pounds in this State. This Additional Megaload Impact Fee would be set at a rate of five cents per 1,000 pounds per mile traveled. The bill also includes technical amendments.

JUDICIARY

The full Judiciary Committee did not meet this week.

LABOR, COMMERCE AND INDUSTRY

The full committee did not meet this week.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full committee did not meet this week.

WAYS AND MEANS

The full committee did not meet this week.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

S.502 WATERCRAFT AND OUTBOARD MOTORS TITLING REQUIREMENT

Sen. Davis

This bill exempts sailboats, without motorized propulsion which are not more than fourteen feet in length, from the titling requirement.

S.512 MIGRATORY WATERFOWL Sen. Grooms

It is unlawful to hunt migratory waterfowl on Lake Moultrie within two hundred yards of a dwelling without written permission of the owner and occupant. Lake Moultrie means all waters impounded by the Pinopolis Dam, including the Diversion Canal and those waters of the Re-diversion Canal within the Santee Cooper project area.

S.520 FISHING PIERS Sen. Cleary

The legislation requires no permits for associated amenity structures constructed on fishing piers if local government has the responsibility for the planning and zoning to authorize construction of those amenity structures. Associated amenity structures, excluding restrooms, handicapped access features, and observation decks, may occupy no more than thirty-five percent of the total surface area of the fishing pier or be constructed at a location further seaward than one-half the length of the fishing pier as measured from the baseline.

S.636 LIFETIME HUNTING AND FISHING LICENSE Sen. Land

This bill adds that a nonresident may obtain a lifetime combination license which grants the same privileges as a statewide combination license from the Department of Natural Resources if the applicant was born in this state; holds title in fee simple real property in the state for at least five years prior to the application date and if an applicant has not been charged for natural resource violations which could result in the suspension of hunting or fishing privileges. The license is available for purchase from July 1, 2011, through September 30, 2011. The fee is seven hundred dollars.

H.4005 REQUIREMENTS FOR RAW HONEY Rep. Corbin

The legislation defines the term "honey" and provides labeling requirements. "Honey" means the raw food product produced by honeybees for human consumption. A container of honey packaged for sale must have a label made with ink and placed on the side of the container. The label shall include at least the name and address of the honey producer and the net weight of the product.

EDUCATION AND PUBLIC WORKS

S.686 CLARIFY THE SCIENCE COURSE REQUIREMENT FOR RECEIVING A SOUTH CAROLINA HIGH SCHOOL DIPLOMA

Senate Education Committee

This is a joint resolution to clarify the science course requirement for receiving a South Carolina High School Diploma. To provide clarity and certainty for high school students, for the graduation classes of 2011 and 2012, students who earn a unit of credit in either biology or physical science shall count that course credit as the required science course for graduation purposes.

H.4022 EXTENDING CERTAIN EXEMPTION PROVISIONS GRANTED TO CHARTER SCHOOLS TO TRADITIONAL PUBLIC SCHOOLS

Rep. Allison

Under this legislation, the exemption provisions provided in Section 59-40-50 that apply to charter schools also shall apply to traditional public schools of the local public school districts of this State, subject to the following exceptions: (1) a traditional public school may employ noncertified teachers in a ratio of up to ten percent of its entire teacher staff; (2) teachers who teach in core subject areas as defined by the federal Elementary and Secondary Education Act must be highly qualified, requiring a valid professional teaching certificate; (3) a traditional public school may not limit or deny admission or show preference in admission decisions to any group of individuals; and (4) a traditional public school must meet the student attendance requirements as provided in this title.

JUDICIARY

S.271 PROPERTY EXEMPT FROM ATTACHMENT, LEVY, AND SALE

Sen. Cleary

Relating to property exempt from attachment, levy, and sale, this bill deletes the limitation on the exemption for individual retirement accounts that allowed the exemption only to the extent reasonably necessary for the support of the debtor or his dependents. The legislation provides that the interest of an individual under a retirement plan shall be exempt from creditor process to the same extent permitted in Section 522(d) under federal bankruptcy law and is an exception to Section 15-41-35. The exemption provided by this section shall be available whether such individual has an interest in the retirement plan as a participant, beneficiary, contingent annuitant, alternate payee, or otherwise.

S.336 UNIFORM TRAFFIC TICKETS AND ESTABLISHMENT OF THE SOUTH CAROLINA TRAFFIC CAMERA ENFORCEMENT COMMISSION

Sen. Grooms

Among other things, this legislation provides that a uniform traffic ticket may only be issued for violating a local ordinance or the traffic laws relating to speeding and/or disregarding a traffic control device by a law enforcement officer incident to and contemporaneous with a traffic stop for the offense. A copy of the citation must be given directly to the offender by the law enforcement officer issuing the citation at the time of the traffic stop for the offense. The legislation prohibits a law enforcement agency from utilizing other means to send the operator or owner of a motor vehicle or motorcycle a uniform traffic citation alleging a violation of a local ordinance of the traffic laws relating to speeding and disregarding a traffic control device. The legislation places certain restrictions on the use of photographic evidence. The legislation also establishes the South Carolina Traffic Camera Enforcement Commission to conduct a comprehensive study concerning the use of traffic enforcement camera systems. The legislation outlines the powers and duties of the commission and provides for its membership. The

committee must conclude its business and report its finding to the General Assembly on or before November 1, 2011. The members of the commission shall serve without compensation.

H.3960 PROHIBITING THE OFFICE OF GOVERNOR FROM EXPENDING PUBLIC FUNDS IN ORDER TO HIRE OR CONTRACT WITH A PERSON WHOSE ACTIVITIES INCLUDE LOBBYING THE GENERAL ASSEMBLY
Rep. King

Notwithstanding another provision of law, this legislation provides that it is unlawful for the Office of the Governor to expend public funds in order to hire or contract with a person whose activities include lobbying the General Assembly.

H.3961 DOMICILE Rep. Clemmons

Relating to the definition of domicile, this legislation provides factors to consider in determining a person's intention regarding his domicile. Relating to the Boards of Registration being the judges of the legal qualifications of all applicants for registration, this bill adds a reference to Section 7-1-25 and deletes certain criteria used when considering a challenge regarding the residence of an elector.

H.3969 CONSOLIDATION OF THE PROSECUTION COORDINATION COMMISSION WITH THE OFFICE OF THE ATTORNEY GENERAL
Rep. Quinn

Among other things, this legislation makes the Prosecution Coordination Commission a division within the Office of the Attorney General. The legislation removes the former commission membership.

H.3976 PROHIBITION ON THE DEPARTMENT OF CORRECTIONS TRANSPORTING DISCHARGED INMATES TO A BUS STATION
Rep. Rutherford

This bill prohibits the Department of Corrections from transporting an inmate to a bus station upon his discharge from a state prison.

H.3987 CHILD SUPPORT ENFORCEMENT Rep. Nanney

In all cases not being administered pursuant to Title IV-D of the Social Security Act by the Department of Social Services (DSS), this bill allows the clerk of court to attempt to locate individuals for the purpose of establishing, modifying, and enforcing child support obligations. Relating to entities required to provide information to DSS for the purpose of establishing, modifying, and enforcing child support obligations, this bill requires these entities to provide this information to clerks of court for the same purpose.

H.3988 MORTGAGES Rep. Clemmons

This legislation provides that the commission of an act constituting the unauthorized practice of law in the course of or in conjunction with the negotiation, preparation, execution, or recording of a mortgage or mortgage modification shall not impair the validity or enforceability of the mortgage or mortgage modification, shall not impair the right of the mortgage holder to foreclose on or otherwise enforce a provision of the mortgage or modified mortgage, and shall not impair or restrict the right of a mortgagee to seek a legal or equitable remedy. Notwithstanding the limitation of remedies, nothing in this legislation is intended to or should be construed to alter, impair, or otherwise affect the power of the South Carolina Supreme Court to define and regulate the practice of law in this State.

H.3991 REDISTRICTING - HOUSE OF REPRESENTATIVES Rep. Harrell

This legislation adopts the United States Census of 2010 as official. This legislation provides for establishing election districts from which the members of the House of Representatives are elected beginning with the 2012 general election, and it repeals Section 2-1-45 relating to election districts from which members of the House of Representatives were formerly elected. The legislation designates the Speaker of the House of Representatives as the submitting authority to make the required submission of the House of Representatives reapportionment plan to the United States Department of Justice under the Voting Rights Act.

H.3992 REDISTRICTING - CONGRESSIONAL DISTRICTS Rep. Harrell

This legislation provides for establishing seven election districts from which the members of the congressional districts are elected beginning with the 2012 general election. The legislation repeals Section 7-19-40 relating to election districts from which members of the congressional districts were formerly elected. The legislation jointly designates the President Pro Tempore of the Senate and the Speaker of the House of Representatives as the appropriate officials of the submitting authority to make the required submission of the congressional reapportionment plan to the United States Department of Justice under the Voting Rights Act.

H.4007 ESTABLISHMENT OF THE SOUTH CAROLINA DEPARTMENT OF LAW ENFORCEMENT AND PUBLIC SAFETY Rep. Pitts

This legislation establishes the South Carolina Department of Law Enforcement and Public Safety as an administrative agency of state government which is comprised of a Division of Public Safety and a State Law Enforcement Division. The director of the Department of Law Enforcement and Public Safety is appointed by the Governor, upon the advice and consent of the Senate. The functions, powers, duties, responsibilities, and authority statutorily exercised by these offices, sections, departments, or divisions of these state agencies as existing on the effective date of this act are transferred to and devolved on the department to include the Department of Public Safety, and the State Law Enforcement Division. All rules, regulations, standards, orders, or other actions of these entities shall remain in effect unless specifically changed or voided by the department in accordance with the Administrative Procedures Act, or otherwise provided.

H.4008 HOSPITALS Rep. Harrison

This legislation provides that there is no monetary liability, and no cause of action is created, by a hospital undertaking or performing certain acts if not done with malice. The legislation further provides that certain hospital proceedings and data, documents, records, and information resulting from these proceedings are confidential and not subject to discovery or subpoena and may not be used as evidence in a civil action unless the hospital has waived confidentiality or the data, documents, records, or information are otherwise available and subject to discovery. The legislation provides that the outcome of a practitioner's application for hospital staff membership or clinical privileges is not confidential but that the application and supporting documents are confidential. The legislation provides that disclosure of certain information by a hospital through reports to the Department of Health and Environmental Control, the joint commission, or the Board of Medical Examiners is not a waiver of any privilege or confidentiality. An affected person may file an action to assert a claim of confidentiality and to enjoin the hospital, the joint commission, or the Board of Medical Examiners from

releasing such information, and if the court finds that the person acted unreasonably in asserting this claim, the court shall assess attorney's fees against that person. If in a judicial proceeding the court finds documents, over which the hospital asserted a claim of confidentiality, are not subject to confidentiality and that the hospital acted unreasonably in asserting this claim, the court shall assess attorney's fees against the hospital for costs incurred by the requesting party to obtain the documents. Relating to the exemption from tort liability for members of certain professional committees, this legislation deletes from the exemption an appointed member of a committee of a medical staff of a hospital if the staff operates pursuant to written bylaws approved by the governing board of the hospital.

H.4012 REPORTING REQUIREMENTS OF DIRECTORS OF WATERSHED CONSERVATION DISTRICTS Rep. Gambrell

Under this legislation, the reporting requirements relating to the disclosure of economic interests and campaign practices, contributions, and expenditures do not apply to Directors of Watershed Conservation Districts.

H.4014 LIMITATION ON LIABILITY FOR CERTAIN VOLUNTEER DRIVERS TRANSPORTING SENIORS OR PERSONS WITH DISABILITIES Rep. Long

This legislation provides that a licensed driver operating an insured vehicle to transport seniors or persons with disabilities who renders service voluntarily and without compensation or the expectation or promise of compensation, is not liable in a civil action for damages beyond the limits of his automobile insurance liability coverage, if the driver's coverage meets the minimum liability requirements for South Carolina, for an act or omission resulting from the rendering of the services unless the act or omission was the result of the licensed driver's gross negligence or willful misconduct.

H.4015 JOINT CUSTODY OF MINOR CHILDREN FOR PURPOSES OF SEPARATION AND DIVORCE Rep. Long

This legislation defines joint custody of minor children for purposes of separation and divorce. Joint custody is a custodial arrangement where both the mother and the father equally share the legal custody and physical custody of a minor child such that each parent begins with equal care-giving time with the minor child in any manner or fashion determined to meet the child's needs and best interests. Even if one parent in a joint custody arrangement is designated as primary caregiver and the other parent is designated as secondary caregiver, each parent has equal weight and voice concerning the minor child that must be considered by the other parent before making major decisions regarding the minor child's educational, extracurricular, athletic, medical, spiritual, and emotional wellbeing. Visitation is not involved in joint custody.

H.4021 CERTAIN SCHOOL DISTRICT EMPLOYEES ENTITLED TO COUNSEL IN PROCEEDINGS RELATED TO A FORMAL GRIEVANCE ALLEGED AGAINST THE EMPLOYEE Rep. Allison

This legislation provides that an employee of a school district paid an annual salary according to the statewide minimum salary schedule may choose to be accompanied by counsel and represented by them in any meeting, hearing, or appeal related to a formal grievance alleged against the employee.

LABOR, COMMERCE AND INDUSTRY

S.295 SOUTH CAROLINA SUMMER CAMP STUDY COMMITTEE Sen. Hutto

This joint resolution establishes a South Carolina Summer Camp Study Committee to study the summer camps in the State and to recommend legislation, if appropriate, related to the licensing and regulation of summer camps. The study committee must provide a written public report detailing its findings and recommendations to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives by January 31, 2012, at which time the study committee must be dissolved.

S.431 LIABILITY INSURANCE COVERING CONSTRUCTION PROFESSIONALS

Sen. McConnell

This bill provides that a liability insurance policy issued by an insurer and covering a construction professional in this state must be broadly construed in favor of coverage. The legislation provides that work of a construction professional resulting in property damage in certain circumstances constitutes an occurrence as commonly defined in liability insurance and is not the intended or expected consequence of the work of the construction professional.

H.3962 ELECTRICAL UTILITIES REQUIRED TO BURY POWER LINES WITHIN

MUNICIPALITIES Rep. Hart

This bill requires an electrical utility operating in this state to bury all of its new electrical power transmission lines installed within the boundaries of a municipality in this state after January 2, 2012, and to bury all of its existing electrical power transmission lines located within the boundaries of a municipality according to a graduated schedule before January 1, 2020.

H.4006 AUCTIONEERS NOT TO BE CONSIDERED MOTOR VEHICLE DEALERS Rep. White

This bill revises the definition of the term "dealer" or "motor vehicle dealer" under the provisions for the regulation of motor vehicle manufacturers, distributors, and dealers so as to exclude from the definition those who auction motor vehicles for companies or estates.

H.4009 JOINT REGIONAL WATER ASSOCIATION MEMBERS Rep. Bowen

This bill provides that each entity, including political subdivisions, in a county providing water service which is part of a joint regional water association and obtains its water, in whole or in part, from a regional producing center shall have a special water board to perform the function of establishing water rates for the entity based on certain factors. The legislation provides for the membership of the board and other functions it shall perform.

H.4013 GOVERNING BODY OF A PUBLIC SERVICE DISTRICT PROVIDING WATER AND SEWER SERVICES THAT WAS CONVERTED FROM A NONPROFIT CORPORATION Rep. Cooper

This bill revises procedures, including election procedures, for the method of selecting members of the governing body of a public service district providing water and sewer

services that was converted from a nonprofit corporation, so as to provide that, beginning with the 2012 election, all members of the governing body of a district must be elected in nonpartisan elections conducted at the same time as the general election. The legislation includes other provisions pertaining to the election of these members.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

S.232 HEALTH CARE FACILITY Sen. Cleary

The bill includes narcotic treatment programs in the definition of Health Care Facility.

S.241 SOUTH CAROLINA DYSLEXIA TASK FORCE Sen. Rose

This bill establishes the South Carolina Dyslexia Task Force to study and evaluate practices for diagnosing, treating, and educating children with dyslexia and to examine how current statutes and regulations affect these students. The task force shall consist of the State Superintendent of Education; five persons appointed by the Governor; three persons appointed by the Speaker of the House and three persons appointed by the President Pro Tempore of the Senate. The findings and recommendations of the task force shall be reported to the Governor and the General Assembly no later than twelve months after the initial meeting.

S.445 CONFIDENTIALITY OF SEXUALLY TRANSMITTED DISEASE RECORDS Sen. Hutto

This bill deletes the provision requiring the Department of Health and Environmental Control to notify the school district superintendent and school nurse if a minor is attending a school in the district and has Acquired Immunodeficiency Syndrome or is infected with the Human Immunodeficiency Virus. The bill also adds that by January 1, 2012, each school district shall adopt the Centers for Disease Control and Prevention (CDC) recommendations on universal precautions for blood borne disease exposure and shall communicate written notice of these procedures to each school within the district.

S.568 TESTING OF CERTAIN OFFENDERS FOR HEPATITIS B AND HUMAN IMMUNODEFICIENCY VIRUS (HIV) Sen. L. Martin

The bill further clarifies offenders who must be tested and the time frame that testing must be conducted. It also provides for follow-up testing for HIV when medically appropriate.

S.590 GEROPSYCHIATRIC DISTRICT PART UNIT PILOT PROJECT Sen. McGill

This joint resolution establishes a pilot project to assess the provision of care for a defined population of patients at least sixty-five years old and in need of psychiatric crisis stabilization services. The pilot project shall be conducted at two Critical Access Hospitals (CAHs) in the State and must be coordinated between the South Carolina Department of Health and Environmental Control (DHEC) and the South Carolina Department of Mental Health. To the extent practicable, the CAHs must be located in different regions of the State with differing racial and socioeconomic demographics. A CAH desiring to participate in this pilot project shall apply to DHEC by July 1, 2012.

H.3989 "STATE CERTIFICATION OF NEED AND HEALTH FACILITY LICENSURE ACT" Rep. Govan

The bill addresses the definition of “mentally retarded” under this Act. It replaces “mentally retarded” with “persons with intellectual disability”.

H.3994 PUBLIC SWIMMING POOLS Rep. Stavrinakis

Public swimming pools operated by the state, or a political subdivision of the state, must have one lifeguard for every forty swimmers and if there are more than forty swimmers, there must be one lifeguard for every twenty, with more to be added if needed.

WAYS AND MEANS

S.36 SALES TAX EXEMPTION FOR DURABLE MEDICAL EQUIPMENT AND SUPPLIES Sen. McConnell

This bill revises the sales tax exemption for durable medical equipment and supplies by eliminating the provision that gradually reduces the sales tax rate contingent upon sufficient general fund revenue growth, and establishing, instead, a schedule that gradually reduces the five and one-half percent sales tax rate on durable medical equipment until a full exemption is implemented effective January 1, 2013.

S.172 ONLINE POSTING OF STATE GOVERNMENT FINANCES Sen. Rose

This bill requires all agencies, departments, and institutions of state government to be responsible for providing on its Internet website a link to the any other Internet website that posts its monthly state procurement card statements or reports. The legislation requires each public institution of higher learning to maintain a transaction register that includes a complete record of all funds expended, from whatever source for whatever purpose. The register must be prominently posted on the institution’s Internet website and made available for public viewing and downloading.

S.523 JOINT COUNTY FIRE DISTRICT BONDING AUTHORITY Sen. Leatherman

This bill authorizes joint county fire districts to issue general obligation bonds.

H.3986 RETENTION OF SCHOOL FACILITIES FUNDS Rep. Hayes

This joint resolution provides that a school district that has received school facilities funds pursuant to Section 59-21-430 that are set to lapse on or before June 30, 2011, may retain those funds and use them for the same purposes until June 30, 2012.

H.3993 “SOUTH CAROLINA FAIR TAX ACT” Rep. Taylor

This bill enacts the “South Carolina Fair Tax Act” in order to: raise revenue needed by the state government; tax all non federal government consumption of goods and services in this State without exception, a single time; prevent double, multiple, or cascading taxation; simplify the tax law and reduce administrative costs and costs of compliance; and, provide for the administration of the tax law in a manner that respects privacy, due process, individual rights when interacting with the government, the presumption of innocence in criminal proceedings, and the presumption of lawful behavior in civil proceedings.

Legislative Update, April 5, 2011

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