

A4R
8.L33
v.7/3
Copy 3



South Carolina House of Representatives

Legislative Update

Robert J. Sheheen, Speaker of the House

Vol. 7

April 10, 1990

No. 13

CONTENTS

House Week in Review.....	2
Bills Introduced.....	4

S. C. STATE LIBRARY
APR 17 1990
STATE DOCUMENTS

Printed by the Legislative Council

House Week in Review

With the approach of the May 1 deadline when House bills must be introduced in the Senate, the House of Representatives spent a busy week clearing the calendar. A number of important bills received consideration last week, including several crime-related bills.

Crime-related Legislation

Among the legislation given third reading last week was H.4852, the Safe School Act of 1990. This bill is the result of recommendations received from the State Department of Education's Safe Schools Committee and South Carolina 2000, a coalition of interest groups which evolved out of the Commission on the Future of South Carolina.

This bill strengthens several provisions of criminal law as it relates to crimes committed on school property. H.4852 would:

- Increase penalties for carrying weapons on school property. The fine is increased from \$100 to \$1,000 with jail time increased to one year.
- Make it a separate offense to unlawfully distribute controlled substances within a half mile of a school. The bill would require both a fine (of up to \$10,000) and jail time.
- Create a new offense -- unlawfully purchasing controlled substances while on school grounds. This crime would carry a fine of up to \$1,000 and/or jail time of up to one year.
- would try as adults, juveniles 15-year-old or older who violate the provisions of the bill if the Family Court feels that this action would be in the best interest of the public and the juvenile.
- would make it a crime to threaten the life or family of a teacher or principal of a school;
- would require the Department of Education to develop a uniform school crime reporting form, which would be used to compile data to report back annually to the General Assembly.
- would require a juvenile's criminal record to be sent to the school he will attend after his release from DYS.

Legislative Update, April 10, 1990

Other crime-related bills receiving third reading and sent to the Senate were H.4573, which would allow an additional penalty if a gun or knife is used in connection with a drug-related crime and would increase the penalty for use of a machine gun or silencer. Also receiving a final reading was H.4628, which would increase the parental liability for malicious injury done by a minor from \$1,000 to \$7,500.

Sent to the Senate

Final approval was also given a number of other bills. These include H.4510, which would designate one-half of one cent of the gasoline tax to a water recreational resource fund. Also sent to the Senate was H.4728, which would prohibit the disqualification of blind, deaf or speech-impaired jurors and would provide for a sign language interpreter to assist a deaf juror. The updating of the state's public records law, H.4578, also was given House approval last week.

The House gave S.1065 considerable discussion before it was finally given third reading on Thursday. This bill would rewrite the current tax law to better clarify what portion of a real estate sale by a non-resident would be subject to state income taxes. It also better defines those who would be subject to these tax provisions.

Last session, a proviso to the 1989-90 Appropriations Act dealing with the income tax withheld in connection with the real estate transactions of non-residents caused considerable consternation in the real estate industry. S.1065 attempts to better define these tax provisions, while stemming the flow of revenue lost in connection with these property transactions.

Public Accommodation

Legislation that would allow the revocation of the license or permit of any place of public accommodation practicing discrimination was enrolled for ratification. S.1157 was enrolled Thursday.

But legislation that would require high school students to stay in school in order to obtain their driver's license hit a snag in the House last week. House objections to S.5 placed the bill on the House second reading contested calendar.

Bills Introduced

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

Agriculture and Natural Resources Committee

Disapproving DHEC Regulations (H.4957, Rep. McElveen). This joint resolution would disapprove regulations submitted by the state Department of Health and Environmental Control regarding location standards for hazardous waste management facilities. The resolution recommends that DHEC resubmit regulations providing that all existing hazardous waste facilities, which have not received final approval of their applications for a Part B permit, must meet the same standards as a new facility.

Phosphate Cleaning Agents (S.243, Sen. Pope). This legislation, which parallels H.3299 introduced last session, would prohibit the sale of cleaning agents containing phosphate with certain exceptions. Detergents used in commercial or household dishwashing machines or other products excluded from the ban by DHEC could have a phosphate level that could not exceed 8.7 percent phosphate by weight. In determining whether the product should fall within the 8.7 percent phosphate limit, DHEC would have to determine whether eliminating phosphate from the product would create a significant hardship or be unreasonable because of the lack of a reasonable cleaning alternative.

No phosphate limitations would apply to the following products: cleaning agents used in dairy, beverage or food processing equipment; industrial sanitizers, acid cleaners or metal conditioners; cleaning agents used in hospitals, veterinary hospitals, agricultural or dairy production or in the manufacture of health care supplies; commercial laundries that serve health or veterinary facilities; products used by industry for metal cleaning or conditioning; products to be used or sold outside the state; products used in laboratories or for cleaning hard surfaces; or those products used as water softeners or corrosion inhibitors.

Penalties for violating the phosphate limit are included in the bill.

Legislative Update, April 10, 1990

Pet Certificates (S.1235, Sen. McConnell). Like H.4642 introduced in February, this legislation would require a pet dealer or pet shop owner to provide the buyers of animals with a statement from a licensed veterinarian that the animal being purchase is free of disease and deformity.

If the owner or dealer fails to comply, the purchaser can return the animal and receive a refund within 30 days of the sale. The legislation also provides remedies for relief if a dealer or shop owner refuses to refund the money.

Hazardous Waste Disposal Sites (S.1255, Senate Agriculture and Natural Resources Committee). This legislation would reduce the cap on the amount of hazardous waste disposed of in South Carolina, would further restrict the transportation and disposal of out-of-state hazardous waste commercially landfilled in the state, and would give preference to the disposal of in-state generated hazardous waste.

This bill stipulates that beginning July 1, permitted hazardous waste landfill sites would be limited to 120,000 tons of hazardous waste. On July 1, 1991, and annually after that, hazardous waste disposal sites would be limited to 110,000 tons of waste. DHEC could authorize the exceeding of this amount if:

- Further burial at the site is needed for South Carolina-generated waste, or
- At least 110,000 tons of waste disposed of by landfilling during the past year was generated in South Carolina.

Further, during each 12 month period, each disposal facility would reserve at least the same capacity to disposed of South Carolina waste as was buried the year before.

Education and Public Works Committee

Parent Responsibilities Act (H.4936, Rep. Glover). The purpose of this act is to better involve parents in the educating and parenting of their children in the hopes of making more children "productive citizens rather than socioeconomic liabilities to the state."

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

limited to, providing proper clothing and sufficient monies for the child to attend school."

The State Department of Education would provide in-service training for educators, administrators and school improvement councils for working with at-risk youth and their parents. The department further would issue regulations prohibiting school guidance counselors from using their time for anything but counseling students or working with teachers and parents. School improvement council reports must include data indicating the level of parental involvement in several areas.

The bill outlines what steps must be taken by a school board to ensure attendance by all students, including implementation of intervention plans for children not attending school and turning over information to the solicitor when a child has more than six unexcused consecutive absences or a total of eight unexcused absences.

Parents could be held in contempt for the truancy of their children. They could be ordered to public service work, family therapy or substance abuse therapy. By 1993, the school districts must devise and the court could implement "electronic home detention."

Tuition Payment Plan (H.4946, Rep. Sharpe). This legislation would require the state to pay the college tuition of in-state students who meet certain academic and financial criteria. The money would be appropriated each year by the General Assembly to pay for the students' college educations at a public college.

Students would be required to have been state residents for the past two years, have no criminal record, including substance abuse violations; and meet two of the following three requirements: a 2.5 high school academic record, completion of a college prep core curriculum, or a cored of at least 800 on the SAT or 18 on the ACT. To maintain this state grant, the student would have to be a fulltime student two of three semesters, be in the upper 50 percentile of his or her class and have no criminal record.

Families with children eligible for this program would have to meet the following financial criteria:

- Have one dependent child and a four-year annual adjusted gross income of less than \$20,000;
- Have two dependent children and a four-year annual adjusted gross income of less than \$25,000;
- Have three or more dependent children and a four-year annual adjusted gross income of less than \$30,000.

Judiciary Committee

County Civil Service Commission (H.4929, Rep. Waldrop). This legislation would give county governing bodies the authorization to establish county civil service commissions, which would have the power to promote and discharge deputies sheriffs upon the advice and consent of the sheriff. The commission also would have the power to hire new deputies, with the advice of the sheriff, and to establish employment criteria. Under this legislation, sheriffs would still appoint their chief deputies, who would not be subject to the commission.

The commission would establish a free and competitive examination for new deputies, times and dates the exam would given, and maintain a registry of people who have successfully passed the test.

New deputies would be given a six month probation period, during which they could be discharged by the commission, upon the advice of the sheriff, without cause or a hearing. The bill states what power the commission would have over the employment of deputy sheriffs, their suspension and grievance hearings.

The organization of the commission is outlined in the bill. The provisions of this legislation would be subject to the approval of voters in a countywide referendum.

Exxon Beware (H.4933, Rep. Kohn). Under this bill, the court could award treble damages in a legal action to recover damages caused by an oil spill that affects waters or land within the territorial jurisdiction of South Carolina. This provision would apply to ocean-going tankers, a pipeline, or other means of conveyance owned, leased or operated by a person engaged in the petroleum industry.

Trademark Prohibition (H.4938, Rep. Davenport). This legislation would prohibit a candidate from using a product, service, name or trademark to imply a relationship or an association with it in an election campaign. This prohibition would apply to political literature, advertisement or other documents. The bill provides penalties.

State Commission on Prosecution Coordination (S.1411, Sen. Williams). In order to better coordinate the record backlog of criminal cases awaiting prosecution, this legislation would establish the South Carolina Commission on Prosecution Coordination. The commission would oversee the uniform and efficient prosecution of criminal cases, now reaching an all-time high, primarily due to drug-related arrests.

Those serving on the panel would include the state attorney general, the chief of SLED, the chairmen of the House and Senate Judiciary Committees, the director of the Judicial Circuit Pre-trial Intervention Program, the Judicial Circuit Victim-Witness Assistance Advocate, and three judicial circuit solicitors, appointed by the governor. The duties of the commission, as proposed in the bill, would include the coordination of all administrative function of solicitors' offices, submission of solicitors' budgets to the General Assembly, development of legal education and training programs for solicitors to aid their efficiency and to establish minimum standards for the operation of solicitors' offices. The commission would have the authority to hire an executive director, who could hire additional support staff.

Requirements for Solicitors (S.1206, Sen. Long). Circuit solicitors would be required to be licensed to practice law in South Carolina and have practiced a minimum of five years, if this bill is enacted.

Guardian Ad Litem Representation (S.1265, Sen. Hayes). Under this legislation, the person who initially serves as a guardian ad litem for a child in an abuse and neglect case would continue to serve in that capacity through all subsequent abuse and neglect proceedings unless released by the court for good cause.

Medical, Military, Public and Municipal Affairs Committee

Waterways Included as Municipal Improvements (H.4921, Rep. Elliott). Under this legislation, the relocation, construction, widening and dredging of channels, canals and waterways used for recreation would be added to the list of improvements that could be included in a municipal improvement district. The Municipal Improvement law allows municipalities to designate certain areas as improvement districts and assess the residents to pay for the improvements, after certain requirements are met.

Fire Marshal Board of Appeals (H.4923, Rep. Felder). This legislation would authorize the creation of the State Fire Marshal Board of Appeals. This seven member board would hear appeals from municipalities, counties, state agencies or a resident directly affected by a decision by the State Fire Marshal. The appeals board could modify or reverse any decision made by the fire marshal in a case when, in the opinion of the appeals board, the decision is unjust and contrary to the purpose of the fire regulations or the public interest.

Legislative Update, April 10, 1990

The bill also eliminates the courts as a route to appeal a Fire Marshal's decision. Under this legislation, any person protesting a decision by an agent of the Fire Marshal's office would first appeal to the State Fire Marshal. A decision by the Fire Marshal would be final unless the aggrieved person submits a written request for a hearing by the Fire Marshal Appeals Board.

Statewide Alzheimer's Disease Registry (H.4924, Rep. Blackwell). A statewide Alzheimer's Disease and Related Disorders Registry would be established by this bill. The purpose of the registry would include providing tissue to validate diagnoses and support research on Alzheimer's Disease, collect data to evaluate the incidence of the disease and related disorders, and provide data to support research. Hospitals, clinics and doctors would provide abstracts of patient records to DHEC to maintain the registry.

The commissioner of DHEC also would set up an advisory committee on the disease. The committee would assist DHEC in developing protocols, choosing necessary psychometric validation instruments and other technical mechanisms. The commissioner would contract with one of the state's medical schools for diagnostic quality assurance of a random sampling of patients with the disease. The school would report the results of the postmortem examination or other conclusive tests to the family of the deceased patient and to the attending doctor, as well as provide tissue for research. Fees would be established by the department for non-participating agencies, wishing access to the data gathered. Any specific patient information would be kept confidential except to family members or attending doctors.

Execution Witnesses (H.4958, Rep. Wilkins). This legislation would change the witnesses required by law at an execution. Under this legislation, those present at an execution would be the executioner and the staff necessary to carry out the execution as determined by the Corrections commissioner; two private citizens (down from four) designated by the commissioner, and five South Carolina media representatives: One from the wire services, two from the print media, and two from the electronic media. The Corrections department would determine how the individual reporters are selected. The convict's attorney and a minister may also be present.

The bill expressly prohibits audio recorders, cameras or recording devices in the Capital Punishment Facility during an execution.

Interstate Compact for Adoption and Medical Assistance (S.1241, Sen. Nell Smith.). This is the Senate's version of H.4650, introduced in the House in February. The purpose of the legislation is to authorize the state Department of Social Services to enter into interstate agreements with out-of-state agencies to assist in carrying out services to families with adopted children when they move out of state, including assistance to special needs children and the medical help due them.

Labor, Commerce and Industry Committee

State Employee Drug and Alcohol Testing (H.4960, Rep. Neilson). This bill would allow state agencies to test prospective employees for drugs or alcohol as a condition of employment. The employer would have to pay for the initial testing, and enough of a sample must be taken from the prospective employee to do the test and a confirmation test if the employee desires it.

The bill outlines the criteria for the collection, storage and testing of the sample. Testing or retesting must be carried out within the terms of a written policy which would be available for review by prospective employees. A verified positive drug or alcohol test, or the refusal of a prospective employee to take the test, could be used by the employer for refusing to hire the employee. If the initial test is positive, the employee may require a confirmation testing of the rest of the sample. If these results are negative, testing from another sample must be conducted if the employee desires. The employer then can give no consideration to the results of the first test when deciding whether to hire the employee.

The bill also stipulates what causes of action can and cannot arise from the testing program. It also contains a confidentiality provision.

Homebuyers Protection (H.4961, Rep. G. Bailey). This legislation sets out what parameters homebuilders must follow when providing a written warranty for the homes they build. The warranties would protect the initial purchaser and subsequent purchasers up to ten years following the date of the initial purchase. The legislation sets out what would be and would not be protected under the express written warranty, and what the minimum standards for a written warranty would be. It also sets out the claims procedure for the home owner. If enacted, this bill would effect homes purchased after June 30, 1990.

Ways and Means Committee

Volunteer Firefighter and Rescue Squad Retirement System (H.4930, Rep. Bruce). This legislation would establish a retirement system for volunteer firefighters and rescue squad members. The legislation addresses who is eligible to join the system, what their monthly contribution would be, how they would get credit for past service, how long they must serve before becoming eligible for pensions, and how much that pension would be.

The legislation also would require all fire insurers to pay a one percent fire insurance premium tax annually. This revenue would be credited to the State Retirement System for Volunteer Firefighters and Rescue Squad Members.

S.C. Tax Procedures Act (H.4926, Rep. Kirsh). The purpose of this bill, entitled the South Carolina Tax Procedures Act, is to provide taxpayers "with a straightforward procedure to determine any disputed tax liability on the merits and not to permit technical procedural rules to prevent that determination." This lengthy bill outlines in detail the channels a taxpayer must follow when disputing a tax assessment whether at the state or local level. It outlines the appeals process through the administrative channels and into the courts when disputing state tax assessments involving the State Tax Commission; the protest, appeal and refund procedures for disputes involving property taxes and local governments; and other appeal procedures for tax-related disputes.

Tax Exempting Oxygen (H.4949, Rep. Koon). Oxygen and related equipment sold by prescription would be exempt from the state sales tax under this legislation.

Tax Credit for Employing Students (H.4955, Rep. J.C. Johnson). This bill would allow a taxpayers to take a 10 percent tax credit on the amount of wages he paid to employ a student not yet graduated from high school. The student must be taking a full academic load and have no grade below "C" on his report card in the last academic reporting period prior to his or her employment. If the student is a minority, then the tax credit could be equal to 20 percent of his or her wages. For the purposes of this provision, minority is defined as an African-American.

Without Reference

Above Ground Petroleum Storage (H.4922, House Medical, Military, Public and Municipal Affairs Committee). This legislation details the requirements for storage of petroleum in above ground storage tanks, and deletes the requirements that the State Fire Marshal set regulations for this storage.

Under this bill, a maximum of 30,000 gallons of flammable or combustible liquids may be stored. No single storage tank, however, could exceed 20,000 gallons liquid capacity. The above ground tanks must be enclosed by an 8-foot industrial-type chain link fence with a barbed wire barricade. Two emergency entrances must be in the fence. The tanks must be a minimum of 25 feet from all occupied buildings and a minimum of 500 feet from the nearest property line, if the adjoining property contains institutional, educational or assembly buildings. The tank must be 50 feet from the property line of land containing other structures.

A service station with an above ground tank must carry a minimum of \$300,000 of public liability insurance. Scale plans for the construction of a service station with an above ground storage tank must be submitted to the Fire Marshal for approval before construction. Other provisions are also stipulated in the bill.

The legislation states that service stations with existing above ground storage tanks on the act's effective date may continue operation with the separating distances present on that date.