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South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

Vol. 19

February 26, 2002

No. 08

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STATE DOCUMENTS

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least one-half of the state agencies or departments or in any year when the Budget and Control Board orders across the board cuts to state agencies and departments, no further transfer of deed recording fees or other appropriated funds, state or local, may be credited to the trust fund for the fiscal year or balance of the fiscal year. Under such circumstances, existing balances in the trust fund may be used as provided.

The Bank is established and authorized to: (1) award grants to eligible trust fund recipients for the purchase of interests in land, so long as the grants advance the purposes of the Bank and meet the specified criteria; (2) make loans to eligible trust fund recipients for the purchase of interests in land, at no interest or at an interest rate determined by the board, and under terms determined by the board, so long as the loans advance the purposes of the Bank and meet the specified criteria; (3) apply for and receive additional funding for the trust fund from federal, private, and other sources, to be used as provided; (4) receive charitable contributions and donations to the trust fund, to be used as provided; and (5) receive contributions to the trust fund in satisfaction of any public or private obligation for environmental mitigation or habitat conservation, whether such obligation arises out of law, equity, contract, regulation, administrative proceeding, or judicial proceeding. Such contributions must be used as provided; (6) exercise its discretion in determining what portion of trust funds shall be expended, awarded, or loaned in any particular year, and what portion of trust funds shall remain in the trust fund from one fiscal year to the next. Funds within the trust fund shall be invested or deposited into interest-bearing instruments or accounts, with the interest accruing and credited to the fund.

An eligible trust fund recipient may apply for a grant or loan from the trust fund to acquire a specific interest in land identified in its application. An application must not be submitted to the board without the written consent of the owner of the interest in land identified in the application. Contiguous landowners and other interested parties may submit in writing to the board their views in support of or in opposition to the application. The board must hold a public hearing on the application at which the eligible trust fund recipient, contiguous landowners, and other interested parties shall be heard. Interested parties include representatives of the municipality, county, and public or private utilities in the area wherein the property is located. The board shall conduct a public hearing on an application before awarding a grant or loan pursuant to the application.

Before applying for trust funds for the purchase of an interest in land, the eligible trust fund recipient receiving the funds must notify the owner of the land that is the subject of the trust fund grant or loan of the following in writing: (1) that interests in land purchased with trust funds result in a permanent conveyance of such interests in land from the landowner to the eligible trust fund recipient or its assigns; and (2) that it may be in the landowner's interest to retain independent legal counsel, appraisals, and other professional advice.

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compatible activities may be conducted, where appropriate, upon lands preserved with trust funds.

The bill requires the Bank submit an annual report containing specified data, to the Governor, Lieutenant Governor, and General Assembly. The Board must also perform a bi-annual review of the plight of land loss by small land owners and holders of heirs property. The results of this review must be submitted to the General Assembly.

The South Carolina Conservation Bank Act provisions are repealed effective July 1, 2013, unless reenacted or otherwise extended by the General Assembly. However, the South Carolina Conservation Bank established by this act may continue to operate as if it were not repealed until the South Carolina Conservation Bank Trust Fund is exhausted or July 1, 2016, whichever first occurs. Any balance in that trust fund on July 1, 2016, reverts to the general fund of the State.

The House concurred in Senate amendments to **H.4475**, a bill that charges the Secretary of State with the responsibility of maintaining for public inspection a **record of the current membership of every state board and commission**, and enrolled the bill for ratification. Under the bill, The Secretary is required to keep in a public record available for inspection an up-to-date compilation of the membership of the State's boards and commissions, so that members of the General Assembly and interested citizens may be informed of the current composition of these boards and commissions. This compilation must include: (1) length of term for each office; (2) the month and year in which terms have expired or will expire; (3) terms which have expired; (4) vacancies; (5) the body or authority which elects or appoints, as appropriate; (6) any qualifications including, but not limited to, residency requirements or limitations required for a particular vacancy; and (7) the membership information that the state's boards and commissions are required to report under the bill. This membership information includes: (1) the governing statute or Executive Order authorizing the appointment or election; (2) the board or commission's address, phone number, fax number, and e-mail address, if any; (3) the member's name; (4) the member's district, circuit, seat, or position, if applicable; (5) when the member's term begins and ends; (6) the qualifications for membership on the board or commission and any specific requirements for the member's position; (7) whether the member is eligible to receive compensation for his service; (8) the name of the former member; and (9) in the case of an appointment or election, whether it is a reappointment or reelection of an incumbent. The Secretary of State must publicize vacancies, expired terms, and those terms expiring within one year on a semiannual basis statewide. The legislation imposes reporting requirements on the State's boards and commissions that will allow the Secretary of State to keep the records up to date.

The House concurred in Senate amendments to **H.3107**, a bill dealing with **magistrates' court jurisdiction**, and enrolled the bill for ratification. This bill provides that actions in the nature of interpleader arising from real estate contracts for the recovery of earnest money, in which the value of the money that is the subject of the action does not exceed the jurisdictional limit of the magistrates' court, may be

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days of purchasing the vehicle or moving a foreign vehicle into this State. A person who operates a vehicle in violation of this provision is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars. A person who transfers a license plate from one vehicle to a newly acquired vehicle must register the new vehicle within forty-five days of the purchase date. The bill of sale and registration which corresponds to the license plate must be maintained in the newly acquired vehicle at all times to verify its date of purchase to a law enforcement officer. Nothing in these provisions displaces the responsibility of a person to obtain the proper insurance before operating a vehicle. The House also amended the bill to provide that only one temporary license plate shall be issued to a purchaser of a vehicle for the vehicle he has purchased before it is registered permanently. This provision limiting the number of temporary license plates issued to a purchaser takes effect on July 1, 2003. The rest of the act takes effect upon approval by the Governor.

The House amended, approved, and sent to the Senate **H.4494**, a bill pertaining to the **issuance of special Armed Forces license plates**. The bill eliminates the provision that limits issuance of the special U.S. Military Reserve license plate to one per person. The bill also provides that retired, as well as active members of the Military Reserve may purchase these plates, and the bill requires that these plates issued to retired Reserve members shall bear the word "Retired." The bill further provides that fees collected for the special plates will be used to defray the expenses for producing the plates.

The House amended, approved, and sent to the Senate Joint Resolution **H.4317** which establishes a twelve member **Motor Vehicle Services Privatization Feasibility Study Committee**, with six members appointed by the Speaker of the House and six appointed by the President *Pro Tempore* of the Senate. Members of the General Assembly appointed to serve shall serve *ex officio*. The Committee is charged to review the functions of the Division of Motor Vehicles (DMV) to determine if privatization of various DMV functions or other legislative initiative could improve the DMV's customer service. The Study Committee is required to report any recommendations to the General Assembly and the Governor by February 15, 2003, or ninety days following its organizational meeting, whichever is later. Members would receive mileage, subsistence, and *per diem*, but would otherwise receive no compensation. Staffing would come from existing agency personnel and the Study Committee's existence would terminate upon presentation of its report or February 15, 2003, whichever occurs first.

The House adopted **House Resolution 4766** expressing the sense of the House of Representatives that **no revisions to permanent law, i.e., Part II Provisos, should be included in the general appropriations bill for fiscal year 2002-2003**, when the bill is under consideration in the House beginning March 11, 2002.

The House returned **S.856** to the Senate with amendments. This bill reestablishes the **special water recreational resources fund**. The bill provides that one percent of the proceeds from thirteen cents of the gasoline tax must be transmitted to the Department of Natural Resources (DNR) for this special fund, and that all balances

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of a "cruise to nowhere" is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned for not more than one year.

The House approved and sent to the Senate H.4455, a bill pertaining to **falsifying or altering school transcripts**. The legislation provides that falsifying or altering, or fraudulently using, a high school diploma or transcript, including GED diplomas, is a misdemeanor punishable by fine and/or imprisonment. These provisions currently apply to college transcripts.

The House approved and sent to the Senate H.4592, a bill pertaining to the **allocation of certain higher education scholarship funds**. The bill provides that of the funds available for higher education scholarship grants under the South Carolina Children's Education Endowment, the Commission on Higher Education shall receive an annual allocation of which fifty percent must be allocated for Needs-Based Grants and fifty percent must be allocated for Palmetto Fellows Scholarships. The bill also provides that a specified percentage of the Need-Based Grants allocation must be allocated for students attending South Carolina independent and public colleges, and provides that of the allocation each year for Palmetto Fellows Scholarships, awards will be made to students based on academic criteria established by the Commission on Higher Education, which may be used to attend any eligible institution in South Carolina.

The House amended, approved, and sent to the Senate H.4375, a bill regarding **references to the word "vocational."** Under the bill, certain statutory references to "vocational" are revised to "career and technology," including revising the name of the South Carolina State Board of Vocational Training to the "South Carolina State Board of Career and Technology Training." The bill also revises references to "job preparatory" to "workforce preparation." The bill amends references to State Department of Education review of certain local agricultural programs to reflect review instead by Clemson University. The bill eliminates the provision that makes it a misdemeanor to injure, destroy, tamper with, or impair the facilities of a vocational board.

The House amended, approved, and sent to the Senate H.4682, a bill revising the scope of the **Uniform Commercial Code provisions governing secured transactions**, so as to make provisions inapplicable to a transfer by a governmental unit, and to eliminate the preemption of these provisions governing secured transactions by a statute of this state or another state or foreign country.

The House approved and sent to the Senate H.4758, a bill that requires the State Law Enforcement Division to submit **fingerprint cards, received in connection with security, investigation, and weapon license and permit applications**, respectively, to the Federal Bureau of Investigation to facilitate a national criminal records check of the applicant. The bill makes this and other related revisions so as to avoid an impending loss of federal funding.

manner in which extensions may be obtained, and procedures for operating under time-sensitive emergency conditions.

The legislation establishes new offenses to **punish those who commit, attempt to commit, or support acts of terrorism.**

Terrorism Identification and Prevention Provisions

The bill provides that it is unlawful to provide material support or resources knowing that they will be used in preparation for, or in carrying out a violation of an anti-terrorist law or in support of a foreign terrorist organization. Anti-terrorist law is defined to include multiple offenses currently established under federal law including, use, possession or development of weapons of mass destruction in furtherance of domestic and international terrorism; destruction of aircraft or aircraft facilities; hostage taking. A person who violates this provision is guilty of a felony and, upon conviction, must be fined not less than ten thousand dollars nor more than one hundred thousand dollars, and/or imprisoned not more than ten years. All property or resources pertaining to a violation is considered contraband and is subject to forfeiture. Conditions similar to the procedures used for the confiscation of property in drug trafficking offenses are established for the seizure of such property and resources and for their subsequent use or sale.

The bill provides that it is unlawful for a terrorist organization or any person, in furtherance of terrorism, to damage, destroy or interfere with public infrastructure by using weapons of mass destruction, arson or interfering with, disabling or incapacitating a person or operator of a component of public infrastructure with the intent to endanger the public's safety. A person who violates this provision is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years or for life without parole.

The bill provides that it is unlawful to interfere with private or public mass transportation with the intent to cause bodily injury. A person who violates this section is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years.

Death Penalty for Violation of Anti-terrorist Law

This legislation creates an aggravating circumstance for when the death penalty may be ordered to include a violation of specified laws pertaining to terrorist activities and weapons of mass destruction.

Revisions to Weapons of Mass Destruction Statutes

The bill revises current provisions pertaining to weapons of mass destruction, so as to make it unlawful for a person to cause sickness and disease by using a weapon of mass destruction or destructive device.

SLED Criminal Background Checks of Emergency Workers

The legislation authorizes SLED, during a declared state of emergency by the Governor, to conduct state and FBI criminal background checks of persons engaged in volunteer, paid, public or commercial employment related to the emergency.

Leaves of Absence for State Workers Trained in Disaster Response

The legislation provides officers or employees of this State who are trained for disaster response by the American Red Cross or whose training is utilized by the American Red Cross a leave of absence not to exceed fifteen days in any one year to engage in training or any other duties requested by the Governor, the American Red Cross, or other state or federal agency without being penalized, but only upon obtaining their supervisor's approval.

Tax Credits for Emergency Workers

The legislation provides that provides that a taxpayer employed in a member of some emergency entity (fire, police, etc.) that is assigned for more than five days by a superior officer to assist in the wake of a terrorist attack may claim a \$25 a day credit against the state income tax up to \$1,000 in a taxable year.

Active Duty State Income Tax Exclusion

The legislation provides that all compensation and benefits earned while mobilized for active duty otherwise subject to the state income tax are excluded from SC gross income of reservists and members of the National Guard if they are called to active duty for "Operation Enduring Freedom" or "Operation Noble Eagle," or both and perform such duty.

Free Admission to State Parks for Emergency Workers on September Eleventh

The legislation allows any law enforcement official, firefighter and emergency medical technician to enter a state park without charge on September 11 of each year upon showing proof of employment with a badge, certification card or other valid credentials.

South Carolina 9/11 Scholarship Program

The legislation creates the South Carolina 9/11 Scholarship Program and will provide a scholarship to any South Carolina resident whose parent or legal guardian who was also a South Carolina resident and died as a result of the terrorist attacks on September 11, 2001, in New York City, the Pentagon and Pennsylvania. This scholarship includes the cost of tuition at any state public institution of higher learning for up to 5 years of full-time undergraduate study.

including those necessary to bring the statutes in conformity with the South Carolina Administrative Procedures Act.

The committee gave a favorable report on H.4633, a bill pertaining to **captive insurance companies** which are authorized to insure only the risks of their parent, affiliated companies, or controlled unaffiliated companies. This legislation establishes a new category, the special purpose captive insurance company which may only insure the risks of its parent and could provide other insurance and/or reinsurance for other risks as approved by the Director of the Department of Insurance. Requirements are established for the licensure and operation of a special purpose captive insurance company. The legislation establishes the Captive Insurance Regulatory and Supervision Fund for the purpose of providing the financial means for the Director of the South Carolina Department of Insurance to administer captive insurance laws and for reasonable expenses incurred in promoting the captive insurance industry in the State. The fund is composed of ten percent of the captive insurance premiums tax, all fees and assessments received by the department pursuant to the administration of captive insurance provisions, and all fees received by the department from reinsurers who assume risk solely from captive insurance companies. The legislation revises provisions relating to the aggregate taxes paid by a captive insurance company, so as to allow a captive insurance company in its first operating year to pay the minimum premium tax on a prorated schedule.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full Medical, Military, Public and Municipal Affairs Committee gave a favorable recommendation to H.4402. This bill **authorizes a county legislative delegation to terminate its respective county board of social services** by a majority vote, including the senators, of the county legislative delegation.

The committee reported favorable with amendment on H.3957. As reported by the committee, this bill **repeals the State Council on Maternal, Infant and Child Health (MICH) Act**, effective on approval of the Governor. MICH was created by legislation in 1986 to improve the health status of pregnant women, infants, and children in South Carolina. There are currently no employees working for the MICH Council.

The committee reported favorable on H.4545. This bill **allows cosmetologists, estheticians, and manicurists to practice in barbershops**.

The committee reported favorable with amendment on H.4571. As reported by the committee, this bill **allows the Board of Cosmetology to issue a license to an applicant whose license has lapsed** for any length of time, to have the license reinstated without taking the state licensure examination if the person is over sixty years old and has practiced under a valid license for more than thirty years.

The committee gave a report of favorable with amendment to H.3145. As reported by the committee, this bill provides that **no direct care entity (defined in the bill)**

- **LOTTERY** - The Committee recommended that all of the \$194.2 million in lottery revenue be considered non-recurring funds, to be expended as follows (figures are rounded):
 - Education Accountability Act Increase \$23.9 million
 - K-12 Reading, Math, Science Program 27.5 million
 - School Buses 35.0 million
 - ETV Digitalization 18.5 million
 - LIFE Scholarship Increase (Includes TEC Students) 42.0 million
 - Palmetto Fellows Increase to \$5,500 3.5 million
 - Endowed Chairs at Research Universities 30.0 million
 - Technology: Public four-year universities,
two-year institutions, and state technical schools 13.7 million

- Teacher pay was set at \$300 above the Southeastern average (which is projected to be \$39,551);

- A teacher supply allotment of \$200 must be paid to teachers, media specialists, and guidance counselors who are employed as of November 30 of each school year, payable on the first day that teachers are required to be in attendance at their school;

- Funds credited to the Personal Property Tax Relief Fund established for car tax relief are reduced from \$20 million to zero (of the monies in this fund, \$12.38 million are recurring funds);

- All provisos and funds of the S.C. Commission for the Blind are transferred to the Department of Vocational Rehabilitation.

- \$1.4 million is included in SLED's budget for homeland security. (Additional federal funds are anticipated.)

BILLS INTRODUCED IN THE HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

S.894 HUNTING WILD TURKEY Sen. Gregory

This bill revises statutes regulating the hunting of wild turkeys in South Carolina.

H.4757 HOUSING FEDERAL PRISONERS IN COUNTY DETENTION FACILITIES Rep. Harrison

This bill provides that a contract for the housing of federal prisoners must be made between the entity that operates the county jail or detention facility and the appropriate federal authority. The bill replaces the one dollar per day fee that a sheriff or jailer is currently authorized to charge for the housing of a federal prisoner, with an amount per day as provided by contractual agreement with the appropriate federal authority. The legislation provides for the distribution and expenditure of this fee.

H.4759 SECURITY OFFICERS Rep. Harrison

This bill revises registration qualifications and requirements for security officers, so as to require an applicant to have a high school diploma or the equivalent. The legislation exempts persons from this requirement who were registered before this requirement became effective and who have maintained their registration. The bill revises grounds for the State Law Enforcement Division to deny, suspend, or revoke a license or registration for a security or investigation agency, so as to include in these grounds commission of an act of fraud or dishonesty.

H.4762 CHEMICAL TESTS FOR CERTAIN INDIVIDUALS INVOLVED IN SERIOUS MOTOR VEHICLE ACCIDENTS Rep. Rice

This bill provides that, notwithstanding another provision of law, when a motor vehicle accident results in the death or serious bodily injury of a pedestrian or a person who is either a passenger in, or the operator of a motor vehicle involved in an accident, and where a law enforcement officer has reasonable suspicion to believe that a person driving a motor vehicle while under the influence of alcohol, drugs, or a combination of both, or that alcohol, drugs, or a combination of both, was present at the scene of the accident, then a chemical test must be administered on all operators of motor vehicles who are involved in the accident and upon the decedent if he was not an operator of a motor vehicle.

S.410 APPLICATION OF STATE CONSTITUTIONAL BAN ON DUAL OFFICE HOLDING Sen. Grooms

This bill provides that for purposes of the prohibition against holding two offices of honor or profit provided in the Constitution of this State, the prohibition does not apply to: (1) officers in the militia; (2) notaries public; (3) delegates to a constitutional convention; (4) a law enforcement officer of one political subdivision who holds office in another political subdivision; (5) corrections officers. The bill also provides that the dual office holding provision does not apply to a municipal judge serving as attorney for another political subdivision, rather than for another city, as is currently provided.

H.4775 RECORD OF TESTIMONY BEFORE MAGISTRATES Rep. Lloyd

This bill provides that a magistrate must retain recorded testimony for at least thirty days. The bill provides that if the magistrate fails to maintain the record of this testimony, then an appellate court must grant the defendant a new trial upon an appeal of the magistrate's verdict.

purpose captive insurance company. The legislation establishes the Captive Insurance Regulatory and Supervision Fund for the purpose of providing the financial means for the Director of the South Carolina Department of Insurance to administer captive insurance laws and for reasonable expenses incurred in promoting the captive insurance industry in the State. The legislation revises provisions relating to the aggregate taxes paid by a captive insurance company.

S.982 INSURANCE REVISIONS Sen. Thomas

This bill provides for various revisions relating to the insurance industry.

H.4786 MERCHANT PLANTS Rep. Meacham-Richardson

This bill provides that no person shall give, sell, lease, assign, transfer, mortgage, pledge, hypothecate, or otherwise dispose of a certificate of environmental compatibility and public convenience and necessity or rights under the certificate issued by the Public Service Commission with respect to the operation of a major utility facility known as a "merchant plant".

WAYS AND MEANS

S.852 FEE IN LIEU OF TAXES SIMPLIFICATION ACT Sen. Leatherman

This bill increases from two years to five years the extension allowed for completion of a project in the investment period regarding fee in lieu of taxes. The bill also revises the filing requirements under the Fee in Lieu of Taxes Simplification Act by allowing the Department of Revenue, for good cause and under certain circumstances, to grant an extension of up to sixty days for filing returns.

H.4750 SCHOLARSHIP/TUITION TAX CREDIT ELIGIBILITY Rep. R. Brown

This bill deletes provisions that make a student ineligible for the tuition tax credit and ineligible for the LIFE Scholarship if the student has been convicted of an alcohol or drug-related offense which is not a felony.

H.4769 NURSING HOME FRANCHISE FEE Rep. J. Young

This bill repeals the 2002 joint resolution which requires that nursing homes pay certain franchise fees beginning February 1, 2002.

H.4774 GENERAL ASSEMBLY SPECIAL SESSION PAY Rep. Clyburn

This bill provides that members of the General Assembly may not receive special pay for extra or special legislative sessions in any year in which there are across the board reductions in state agency budgets.

H.4780 PARTICIPATION IN STATE HEALTH/DENTAL PLAN Rep. J.E. Smith

This bill provides that County First Steps Partnerships are eligible to participate in the State health and dental insurance plans.