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WEEK IN REVIEW

HOUSE

The House of Representatives amended Senate amendments to **H.3002** providing for the taxation and revised regulation of video poker machines and other such coin-operated devices. The legislation, as amended by the House, retains the \$125 maximum payout per individual, per day, per location as provided under current law. The legislation, as amended by the House, also revises licensure fees and application and renewal procedures; specifies record-keeping requirements for video poker operators; taxes net machine income at 30%; provides for an additional tax on net machine income for machines that are in an establishment located within 500 feet of another establishment in the same structure with the same owner; prohibits casinos; provides that a license may not be issued for a machine located on a watercraft or vessel plying the territorial waters of the state; restricts activities which may be conducted at sites with video poker; places limits on advertisement; limits hours of operation; prohibits a business with video poker machines and other such devices from deriving the primary portion of its proceeds from the machines; establishes computer monitoring of machines; provides for background investigations of license applicants; establishes limitations for the location of licensed video poker machines; and provides that counties and municipalities may determine, by ordinance, the zoning of machine locations, so long as such local provisions are not less restrictive than those provided under state legislation. The bill also provides for a statewide referendum conducted on November 2, 1999, to determine whether or not video game machine payouts will continue to be allowed in the State. The legislation imposes a one-time surcharge on video poker machines and other such games with a free play feature, funds from which are to be used to defray the cost of conducting the referendum. The House approved an amendment which prohibits anyone under the age of 21 to play machines or receive payouts. The House approved an amendment which provides that machines may be played only with a microprocessing card, or "smart card," according to regulations promulgated by the Department of Revenue. The House approved an amendment which provides that no more than one licensed establishment may be located at a single address and no more than five machines may be located at the establishment located at an address. The House approved an amendment which provides that each machine must have a warning label affixed to it notifying players that gambling can be addictive, and providing a phone number which may be called for help with gambling addictions. The proceeds from the \$400 cost of each warning label must be deposited in a Gambler's Addiction Fund to provide counseling services. The House approved an amendment to the bill which provides that no municipality or county may limit the number of machines within its limits. The amendment authorizes counties and municipalities to impose, by ordinance, a license fee on machines in an amount not to exceed 30% of the \$3,600 license fee imposed by the state. Revenues of this fee produced by a rate in excess of ten percent must be used for law enforcement purposes.

House members were appointed to a Conference Committee to address differences with the Senate on **H.3002**.

The House concurred in Senate amendments to **S.379**, which, as amended, provides for the state to issue bonds to fund capital improvements for the state's public schools, certain state-supported institutions of higher learning, and select state agencies. Upon concurrence in Senate amendments, the bill was ordered enrolled for ratification. When the House last considered the bill, Representatives amended the legislation so as to eliminate the Senate's provision for funding public school facilities projects through state-issued bonds, and replace

the funding mechanism with a "pay as you go" plan under which future state revenues would be committed to the funding of public school building projects. The Senate subsequently amended the legislation so as to restore the language of the State School Facilities Bond Act. The Senate amendments also provided for issuance of additional bonds to fund capital projects at certain state-supported institutions of higher learning, other educational institutions, and select state agencies. The House approved this Senate-amended version which provides that state bonds may be issued under specific terms and conditions, with proceeds to be allocated to school districts, and used by school districts, for permanent school facilities and fixed equipment. The bill also authorizes state capital improvement bonds to be issued and used by specified colleges, technical colleges, universities, and state agencies. The bill sets \$750 million as the maximum principal amount of bonds that may be issued for public school facilities, except that this limitation does not apply to any state school facilities bonds issued for the purpose of refunding prior issues of these bonds. The bill states that it is the General Assembly's intent that not more than \$250 million of the public school facility bonds will be issued in Fiscal Year 1999-2000. The bill provides that the authority to issue the public school facility bonds expires four years from the effective date of the bill. The payment of the principal and interest on these bonds will be allocated annually by the General Assembly from tax revenues. The bill requires that the public school facility bonds be allocated in the manner and for the purposes provided in the School Facilities Assistance Act (specifically, §59-144-100 and 59-144-30 of the SC Code of Laws.). The bill also authorizes the issuance of over \$299 million in state capital improvement bonds to fund projects and equipment at state colleges and universities and other state educational institutions; to pay for school buses and maintenance vehicles for public education, and to fund projects for other state agencies.

The House amended approved and sent to the Senate **H.3641**, the "South Carolina Development Impact Fee Act," which provides counties and municipalities with an additional source of revenue to address growth issues. The bill authorizes a qualifying county or municipality, under certain conditions, to impose a "development impact fee." As defined in the bill, a "development impact fee" or "impact fee" is a payment of money imposed as a condition of development approval to pay a proportionate share of the cost of system improvements needed to serve the people utilizing the improvements. Only a county or municipality which has a comprehensive plan in place may impose an impact fee. Before imposing an impact fee, such a county or municipality must prepare a report estimating the effect of impact fees on the availability of affordable housing. An impact fee may then be imposed through passage of an ordinance by a positive majority of the local governing body. A local government entity begins the process of adopting such an ordinance by directing the appropriate local planning commission (established under current law to undertake a continuing planning program for the growth, development, and redevelopment of the area within its jurisdiction) to conduct studies and recommend an impact fee ordinance. The local planning commission must recommend to the governmental entity a capital improvements plan, which the governmental entity may amend or alter. In general, the capital improvements plan identifies capital improvements for which development impact fees may be used as a funding source. A local government entity's ordinance authorizing the imposition of an impact fee must: establish a timely procedure for processing applications; include a description of acceptable levels of service for system improvements; and, provide for the termination of the impact fee. The amount of the development impact fee must be based on actual improvement costs or reasonable estimates of such costs supported by engineering studies. A governmental entity imposing an impact fee must publish an annual report describing the amount of all impact fees collected, appropriated, or spent during the preceding year by category of public facility and service area. The bill provides for computation and payment of the impact fees, which may not exceed a proportionate share of the costs incurred by the governmental entity in providing system improvements to serve the

new development. The bill also specifies structures and activities which are exempt from impact fees, and provides for administrative appeals, payment under protest, and mediation in the event of disagreement between the developer or fee payor and the governmental entity. The bill limits the use of revenues from impact fees to system improvements within, or for the benefit of, the service area for which the impact fee was imposed; any benefits enjoyed outside the service area must be incidental. The legislation allows a fee payor and developer to enter into an agreement with a governmental entity to provide for payments instead of impact fees for facilities or services. The bill also delineates circumstances under which an impact fee must be refunded, and provides the method for payment of any such refund. The bill also provides for the sharing of funds between the governmental entity and certain other units of government, such as a special purpose district, that have the responsibility of providing the service for which an impact fee may be imposed.

The House approved and enrolled for ratification **S.598** which revises the procedure for appeals in the South Carolina judicial system. Currently, all appeals are filed in the Supreme Court, which in turn transfers cases to the Court of Appeals. The bill repeals the current procedures for appeals, and, instead, provides that appeals may be taken in the manner provided by the South Carolina Appellate Court Rules. This bill makes other relevant changes regarding the Court of Appeals; samples of these changes include: requiring the Code Commissioner to note by annotation decisions of the Court of Appeals; requiring the Attorney General to report to the General Assembly cases argued, tried, or conducted by him in the Court of Appeals; designating the Court of Appeals as a court of justice; defining the jurisdiction of the Court of Appeals; changing references in statutes from “the Supreme Court” to “appellate court”; adding references in statutes to the “Court of Appeals”; repealing *South Carolina Code of Laws* § 4-8-540 relating to procedures for appeals to the Court of Appeals; repealing *South Carolina Code of Laws* § 5-37-150 relating to the costs of an appeal to the Supreme Court; and, repealing *South Carolina Code of Laws* § 7-4-90 relating to when the time to appeal commences in certain cases involving indigent persons. The bill does not alter current provisions under which the Supreme Court has exclusive appellate jurisdiction for cases concerning the death penalty, public utility rates, significant constitutional issues, public bond issues, and election issues.

The House amended, approved and sent to the Senate **H.3075** which requires the State Law Enforcement Division to develop and maintain a protocol manual to be used by contributing agencies in the administration of the sex offender registry. Currently, information collected for the sex offender registry is open to public inspection. However, an individual must request that a sheriff release information regarding a *specific person*. **H.3075** deletes this requirement and requires the sheriff to provide a listing of the sex offender registry for publication in a newspaper with general circulation within the county. The bill authorizes a sheriff to disclose information regarding persons listed on the sex offender registry so long as the sheriff believes the release of such information will deter criminal activity or enhance public safety. Currently, an individual requesting information contained in the sex offender registry must divulge his or her own name, and provide the name or address of the person or persons about whom the information is sought. Current law allows the information to be disclosed only to the person making the request. **H.3075** deletes these provisions.

The House approved and enrolled for ratification **S.324**. This bill amends *South Carolina Code of Laws* § 33-31-302, relating to the general powers of a nonprofit corporation under the South Carolina Nonprofit Corporation Act of 1994, so as to clarify that a nonprofit corporation may serve as a trustee of a trust in which it has a beneficial interest. This bill further provides that a nonprofit corporate trustee of a trust in which it has a beneficial interest is not conducting a trust business with regard to that trust.

The House approved and sent to the Senate **H.3392**. This bill amends *South Carolina Code of Laws* §23-11-110, relating to the qualifications necessary to offer as a candidate for sheriff, so as to provide that service as a coroner for ten years satisfies the same requirement as ten years service as a summary court judge.

The House returned **S.509** to the Senate with amendments. This joint resolution provides that an error in the records of the State Retirement System must be corrected within two years its commission, upon written certification of the error. The House approved several amendments to the legislation. The House approved an amendment which lowers from sixty-five to sixty-two the minimum age at which a former member of the General Assembly eligible for retirement benefits may opt to receive those General Assembly retirement benefits while employed in a position covered by either the South Carolina Retirement System or the South Carolina Police Officers' Retirement System. The House approved an amendment which establishes a State Retirement Study Committee to conduct a comprehensive study of new and existing retirement benefits for all state employees and report its findings to the General Assembly no later than October 15, 1999. The House approved an amendment includes under the South Carolina Police Officers' Retirement System employees of the Department of Corrections and The Department of Juvenile Justice who serve as peace officers. The House approved an amendment revising the procedure by which a state employee may receive an early retirement allowance.

The House amended, approved and sent to the Senate **H.3826**. The bill, as amended, provides that it is unlawful to sell, hold for sale, or distribute a package of cigarettes that violates federal law. Penalties are established for failure to comply. In addition to other penalties provided by law, the bill authorizes law enforcement to seize and destroy, or sell to the manufacturer, for export only, any illegal cigarette packages.

The House amended, approved and sent to the Senate **S.150** which pertains to special license plates. This bill authorizes the Department of Public Safety to issue a special license plate to a SC resident who is a member of the SC State National Guard. Current law authorizes these special plates for *retired* members of the SC National Guard. The bill also deletes the requirement that retired members of the SC National Guard must certify Guard membership before being issued a special plate. The bill provides for the design of these special plates, which would include a decal denoting the owner's National Guard branch and status (i.e., retired). The bill also creates a special license plate on behalf of the *H.L. Hunley* submarine, and provides for the design, fee, distribution, and use of revenue from these special plates. The bill also amends current law concerning motor vehicle registration and license fees by excluding trucks from the special twenty dollar fee set for handicapped persons or persons age sixty-five or older, and by excluding trucks from the twenty-four dollar registration fee which is currently provided for persons under age sixty-five. The bill also adds a section to the *SC Code* authorizing the Department of Public Safety to issue, under certain conditions, special motor vehicle license plates bearing the name, emblem, or seal of a 501(c)(3) organization. The bill requires a minimum number of prepaid applications which must precede production of the plates and requires a plan to market the plates. The bill prohibits referencing on these plates a college in this state without written authorization from the institution. The bill provides that funds collected from these plates may be used only to defray the costs of the program. Production and distribution guidelines are added to the bill for plates authorized by the General Assembly. The legislation includes provisions addressing "First in Golf," fraternity and sorority, Rotary International, Marine Corps League, Lions Club, and County Veterans Affairs Officers plates.

The House amended, adopted and sent to the Senate **H.3416**. This concurrent resolution establishes a Purple Heart Highway and provides for erecting appropriate markers as a

means of honoring combat-wounded veterans who have received the Purple Heart medal. The resolution requests that the Governor issue a specified proclamation and the resolution provides for an opening ceremony at the State House on George Washington's birthday, in the year 2000, and provides for subsequent ceremonies at the actual placement of signs or markers.

The House approved and enrolled for ratification **S.749**, a joint resolution which authorizes the Department of Revenue to extend individual income tax return and individual income tax payment due dates for military personnel serving in Operation Allied Force.

The House returned **S.177** to the Senate with amendments. The bill designates the "Spiritual" as the official music of the State. The amendment to **S.177** approved by the House briefly outlines the history of the "Spiritual" and its unique South Carolina heritage.

The House amended Senate amendments to **H.3960** and returned the bill to the Senate. The bill pertains to bait that may be used with trotlines, set hooks, and jugs.

SENATE

TUESDAY MAY 18, 1999

The following bills were read for the third time, and having received three readings in both Houses, it was ordered that the titles be changed to that of Acts and the Acts enrolled for ratification:

- **H.3118** relating to employer contributions to the Unemployment Compensation Fund
- **H.3888** pertaining to Commissioners of Municipal / Regional Housing Authorities

H.3535, a bill amending the Horizontal Property Act, was read for the third time and returned to the House with amendments.

The Senate gave third reading to **S.297** and ordered that the bill be sent to the House. This bill allows a person 21 years of age or older to possess an open container of alcohol in certain portions of a moving limousine or chartered bus.

The following bills were read for the second time with notice of general amendments:

- **H.3111** designating the spotted salamander as the official state amphibian
- **H.3836** 1) making numerous technical amendments, and 2) making consistent the language in the special sales tax provisions related to correction of errors, implementation dates, and distribution of funds

WEDNESDAY MAY 19, 1999

The House returned **H.3002** with amendments. For further information on the House amendments, see the House Floor portion of this week's *Legislative Update*. This bill passed the House to prohibit gambling cruises and was amended by the Senate to include provisions for the regulation and taxation of video poker machines and other such coin-operated devices. The Senate nonconcurred in the House amendments and a message was sent to the House accordingly.

H.3951 was read for the third time and ordered enrolled for ratification. This bill pertains to prohibited acts in establishments licensed to sell beer or wine. Specifically, the bill exempts from the prohibition on gambling or games of chance certain promotional games conducted in connection with the sale or promotion of a consumer product or service in which no entry fee or purchase is required of a participant.

H.3715, relating to the issuance of certificates of registration for building code enforcement officers, was read for the third time. It was ordered that the title be changed to that of an Act, and the Act be enrolled for ratification.

The following bills were read for the third time and ordered returned to the House with amendments:

- **H.3301** relating to appeals of adoption proceedings
- **H.3174** prohibiting a person from defrauding a campground
- **H.3717** relating to liquid petroleum gas dealers

The following bills were amended, read for the third time, and ordered returned to the House with amendments:

- **H.3835** pertaining to property taxes
- **H.3035** relating to the maximum amount of restitution that a municipal judge or magistrate may order
- **H.3581** relating to the authority for certain state financial institutions to engage in specified financial activity
- **H.3640** pertaining to the destruction of the criminal records of certain individuals

H.3904 was recalled from the Committee on Finance and read for the second time with notice of general amendments. This bill implements legislation for the amendment to Article X, Section 11 of the South Carolina Constitution to be ratified by the General Assembly authorizing the investment and reinvestment of endowment funds of state-supported institutions of higher learning.

H.3865, pertaining to credit unions, was read for the second time with notice of general amendments.

The Senate resumed its interrupted debate of **H.3276**, a bill pertaining to municipal charges to telecommunications providers, with the question being the third reading of the bill. Debate was interrupted by adjournment, with Senator Ravenel retaining the floor.

THURSDAY MAY 20, 1999

H.3789 was recalled from the Committee on Agriculture and Natural Resources and read for the second time. This bill establishes the "Tobacco Escrow Fund Act."

S.337 was amended and returned to the House with amendments. This bill pertains to the state's small loan industry and makes revisions regarding gross life coverage, the definition of "disability," credit life rates, portability, medical underwriting, disclosure requirements, incontestability, claims practices, electronic transactions, and non-filing insurance. The bill enhances consumer disclosure requirement, and the bill requires that it must be the consumer's choice to purchase insurance for less than the length of the loan.

S.277, pertaining to the use of urine and / or other adulterants for the purpose of defrauding a drug screening test, was amended and returned to the House with amendments. The Senate amendments provide that intent to defraud a drug screening test is presumed, if a heating element or any other device used to thwart a drug-screening test accompanies the sale, giving, or distribution, or marketing of urine. Under the amendments approved by the Senate, intent is also presumed if instructions which provide a method for thwarting a drug screening test accompany the sale, giving, distributing, or marketing of urine. The House returned **S.398**, pertaining to the licensing and regulation of professional engineers and land surveyors, with amendments. The Senate nonconcurred in the House amendments and a message was sent to the House accordingly.

H.3960, allowing nongame fish and bream to be used on certain trotlines, was returned from the House with amendments. The Senate concurred in the amendments and a message was sent to the House accordingly. It was ordered that the title be changed to that of an Act, and the Act be enrolled for ratification.

H.3337, relating to who exercises the powers of the Chief Administrative Law Judge in the event there is a vacancy in the office, was read for the third time. Having received three readings in both Houses, it was ordered that the title be changed to that of an Act, and the Act enrolled for ratification.

The following bills were read for the third time and ordered returned to the House with amendments:

- **H.3779** revising certain definitions used in the South Carolina Amusement Riders Safety Act
- **H.3928** clarifying a provision of the Patients' Insurance and Benefits Protection Act of 1998 which allows Health Maintenance Organizations (HMOs) to underwrite a point-of-service insurance option for certain employees

H.3547 was read for the third time, passed, and returned to the House with amendments. This bill increases the service charge for checks drawn with insufficient funds on deposit.

H.3620, the "South Carolina First Steps To Readiness Act" was amended, read for the third time, and ordered returned to the House with amendments. The Senate's amendment to the bill pertains to alternative schools. Under this amendment, the General Assembly would provide funding for eligible alternative schools. The amendment outlines requirements that alternative schools must meet in order to be eligible for funding from the General Assembly.

H.3798, which makes provisions for general and mechanical contractors, was read for the second time with notice of general amendments.

The Senate adopted a committee amendment to **H.4000** and gave the bill second reading. This bill enacts the "South Carolina Education Flexibility Partnership Act of 1999." The committee amendment adopted by the Senate rewrites the bill. The amendment provides for the State Board of Education to establish a task force to make recommendations 1) for pursuing statewide waivers for the six federal education programs, and 2) for establishing a state education flexibility program.

The Senate resumed its interrupted debate of **H.3276**, a bill pertaining to municipal charges to telecommunications providers, with the question being the third reading of the bill. Debate was interrupted by adjournment, with Senator Ravenel retaining the floor.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full Agriculture, Natural Resources, and Environmental Affairs Committee did not meet this week.

EDUCATION AND PUBLIC WORKS

The Education and Public Works Committee gave a favorable report to **H.3455**. This bill revises from ten years to five years the required minimum age for a person to apply to the Department of Public Safety for a special identification card.

The committee gave a favorable report to **H.3720**. This bill provides that if the SC Tuition Prepayment Program should be discontinued and all tuition prepayment contracts canceled, contributors are entitled to a refund of all payments plus interest on these contributions from the date payment is made at the rate of four percent per annum. The bill also requires that if the fund does not have sufficient monies to make such refunds, the deficiencies will be paid from the State general fund.

The committee gave a favorable recommendation with amendments to **S.311**. This bill provides that the School-to-Work Advisory Committee, an existing council whose purpose is to guide, encourage, and facilitate actions which enable the state school-to-work system to be implemented, must report to the House Education and Public Works Committee and to the Senate Education Committee by January 1, 2000, as to the progress made in establishing the school-to-work system. The report is to include difficulties encountered by the system as well as any actions required by the General Assembly to ensure success of the system. The bill prohibits use of state funds to continue the advisory council and provides that the council shall terminate on December 2, 2002. The committee amended this bill by changing from 12/1/2002 to 12/31/2004, the date that the council shall terminate.

The committee gave a favorable recommendation with amendment to **S.535**. As passed by the Senate, this bill establishes the "SC First Steps to School Readiness" initiative, which is intended to improve early childhood development through community-identified necessary education services for children from prenatal development through age five. The purpose of the First Steps initiative is to develop and assist efforts by public and private entities at the state and community level to collaborate so as to focus and intensify services; use available resources efficiently; and eliminate duplication of efforts to serve young children and families.

The goals of the initiative are: increased prenatal/maternity care; provision of children services necessary to provide the protection, nutrition and health care needed to thrive from birth into the early years; access to support for parents who want to strengthen their families and promote optimal development of their preschool children; provision of high quality and appropriate preschool programs that promote normal growth and development; and mobilization of communities to provide enhanced services to families and young children to enable children to arrive at school healthy and ready to learn.

The bill creates the First Steps Trust Fund, an eleemosynary corporation, to oversee the initiative, and establishes an oversight Board consisting of fifteen gubernatorial appointees as well as *ex officio* members. The Governor (serving *ex officio*) will chair the Board. The Governor is authorized to employ a staff, and the bill provides duties and responsibilities for the staff and for the Board.

The bill provides eligibility requirements to become a First Steps Partnership, and establishes qualifying criteria and other requirements for three levels of grants that may be awarded to a partnership, ranging from level one development grants to level three implementation/management grants. The bill requires a funding match and provides for a standard fiscal accountability system for local partnerships. The bill also provides for the Board to conduct an annual review of partnerships, and provides for independent evaluation of the statewide and local initiatives every three years. The bill requires that state agencies, including the Department of Social Services and the Department of Health and Environmental Control, support the First Steps initiative.

The committee amended **S.535** by striking all after the enacting words and inserting the text of the House-passed First Steps legislation (**H.3620**). Thus, as amended by the Education and Public Works Committee, **S.535** establishes South Carolina First Steps to School Readiness, a statewide initiative which provides early childhood development and education services to ensure that all children arrive at school ready to learn. These services would include, but not be limited to: increasing prenatal and maternity care; providing parents with support that will strengthen families and promote development of their preschool children; promoting high quality preschool programs; and mobilizing communities to improve services which will enable every child to reach school healthy and ready to learn.

The initiative is to be administered by a Board of Trustees which is to be chaired by the Governor and must include the State Superintendent of Education, both of whom shall serve as *ex officio* voting members of the board. The Board is composed of eighteen members, to be appointed (six each) by the Governor, the President *Pro Tempore* of the Senate, and the Speaker of the House, with representation for parents, the business community, the medical community, early childhood educators, child care and development providers, and the field of transportation. The bill also provides a list of State Agencies and organizations which will be represented on the Board by non-voting, *ex-officio* members. The Board of Trustees is authorized to accept gifts, bequests and grants from any person or foundation. The Board of Trustees, using criteria provided in the legislation, is charged with disbursing funds in the form of grants to further the initiatives of county First Steps partnerships.

Under the legislation, the Board is directed to establish an Office of South Carolina First Steps to School Readiness within the State Department of Education. The Director of the Office is to be selected by the Superintendent of Education with the approval of the First Steps Board of Trustees. The bill provides for the responsibilities of the Office of South Carolina First Steps to School Readiness which include providing an annual report and other information to the Board of Trustees, providing technical assistance to county partnerships,

and conducting data collection to assess the degree to which the goals of the initiative have been met.

The bill authorizes each county's legislative delegation to collaborate with the Office of First Steps on creation of a county-wide First Steps governing/oversight board, whose prescribed membership includes, but is not limited to, eight members appointed by the county legislative delegation. The legislation specifies certain segments of the community and organizations which are to be represented in the county First Steps partnership boards. These county boards will oversee the initiative at the local level and will report to the statewide First Steps Board. The administrative costs of each county First Steps Partnership may not exceed eight percent of its grant allocation, unless prior approval is received from the First Steps Board of Trustees.

The First Steps Board of Trustees is authorized to disburse to county First Steps partnerships implementation grants which must be funded annually and may be awarded for up to three years. Implementation grants are renewable based upon criteria established by the Board of Trustees, including the results of performance audits. County First Steps partnerships are to provide an annual match of funds not less than twenty percent. The Board of Trustees may, however, decrease the percentage requirement for a county's match, based upon a county's ability to pay. Funds provided to county First Steps partnerships are not to be used for capital expenses. If, however, a county partnership demonstrates that capital expenditures are a priority need critical to the success of local initiatives, the county partnership may request assistance from the Human Services Facility Consolidation Board.

The legislation establishes the Human Services Facility Consolidation Board to assist state and local human service agencies with the funding and financing of capital projects when proposed projects provide for the consolidation or co-location of several different agencies. This Board would make recommendations to the Joint Bond Review Committee and to the State Budget and Control Board concerning capital project proposals which offer the greatest benefit to the public for ease of accessibility, convenience, and efficiency of service delivery and administration. Capital projects for the First Steps initiative may only be funded through this Board.

The provisions of the First Steps initiative are to be repealed in six years unless reauthorized by the General Assembly.

The committee gave a favorable recommendation with amendment to **S.727**. As passed by the Senate, this bill provides for a system of alternative schools for specified students in grades 6-12. The bill provides that a school district may receive funding if it chooses to establish, maintain, and operate an alternative school either individually or through a cooperative agreement with other districts. The bill also repeals current law regarding competitive grants to fund alternative schools.

The committee amended this bill by striking all after the enacting words and inserting the text of the House-passed legislation concerning alternative schools (**H.3082**). As amended by the Education and Public Works Committee, **S.727** requires that, beginning with school year 1999-2000, school districts, acting individually or cooperatively, shall establish, maintain, and operate alternative school programs for certain students in grades 6-12 who have been expelled from school or who have been referred to the alternative school due to a documented record of disruptive behavior. Such alternative schools are designed to serve students who have disrupted a school environment or committed such serious offenses as violence, possession of weapons or controlled substances, or harassment or verbal abuse of

school personnel or other students. Such alternative schools must separate students from the general school population by operating on a separate site, in a separate building on an existing school campus, or at a time when the general school population is not in session. The bill specifies requirements and procedures which local school boards must follow in the operation of these schools. The legislation provides that all federal, state, and local per student funds shall follow a student who is transferred from a regularly assigned school to an alternative school to be used by the alternative school. The bill provides that alternative schools are also to receive funds specifically allocated for their needs by General Assembly to be included in the Education Finance Act. The bill authorizes the use of corporal punishment as a disciplinary method in the alternative schools. The schools and their employees would not be liable under the SC Tort Claims Act for making use of corporal punishment, except when such punishment is performed in a grossly negligent manner. The bill also allows individual school districts to decide what transportation services are to be provided for students attending alternative schools.

JUDICIARY

The full Judiciary Committee did not meet this week.

On May 11, the Judiciary Committee gave a favorable recommendation with amendment to **S.373**. The Judiciary Committee's amendment was not available in time to be included in last week's *Legislative Update* (May 18, 1999).

As introduced, **S.373** defines the term "resident" for voting purposes to mean a person's domicile. The bill defines the term "domicile" as person's fixed home where he or she has an intention of returning when absent. A person has only one domicile. Under this bill, a person has changed his or her domicile if that person (1) has abandoned his or her prior home, (2) established a new home, (3) has a present intention to make that place his or her home, (4) and has no present intention to leave that place. This bill allows a spouse to establish a separate domicile for voting purposes.

This bill establishes a procedure for the challenging of the qualifications of an elector. The bill requires any challenges of the qualifications of an elector to be made in writing to the board of registration in the county of registration. Under the bill, the board of registration must (within ten days of the challenge and after first giving notice to the elector and his challenger) hold a hearing, accept evidence, and rule upon whether the elector meets or fails to meet the qualifications. The bill includes a list of factors that the board may consider as proof of residence. The Judiciary Committee's proposed amendment deletes from this list of factors the residence of the spouse if married.

S.373 provides that written notification of a change in address submitted by an elector for registration or voting purposes is deemed given under oath. Penalties are established for fraudulently providing a change of address.

On May 11, the Judiciary Committee gave a favorable recommendation with amendment to **H.3786**. The Judiciary Committee's amendment was not available in time to be included in last week's *Legislative Update* (May 18, 1999).

H.3786 requires written certification of the names of all candidates to be placed on primary ballots. The written certification must contain a statement that each candidate certified meets or can meet the qualifications for the office for which he or she has filed. Under this bill, the State Election Commission must provide each party with an affidavit to be used to certify a candidate. If April ninth falls on a Saturday, the introduced version of this bill

extends the deadline to file the certification to twelve o'clock noon on the following Monday. However, the Judiciary Committee's proposed amendment only extends the deadline to Monday if April the ninth falls on a Sunday. This bill establishes penalties for (1) failure to file and (2) knowingly falsifying an affidavit.

Under the Judiciary Committee's proposed amendment to **H.3786**, each county election commission must provide a copy of each ballot style to be used for primary, general, and special elections in the absentee precinct in their county to the executive director of the State Election Commission not later than September 15 in the case of general elections and not later than 40 days prior to the date of the election in the case of special and primary elections.

In the event that absentee ballots will not be available in sufficient time to adequately effectuate absentee voting, the executive director is empowered under the proposed amendment to direct the county board of voter registration to provide blank ballots until the normal ballots are available.

The Judiciary Committee's proposed amendment outlines the arrangement of general election ballots. The proposed amendment requires that the names of candidates for office should conform as nearly as possible to this outline.

The Judiciary Committee's proposed amendment requires written certification of the nominees placed on general election ballots. The proposed amendment requires the written certification to contain a statement that each candidate certified meets or can meet the qualifications for the office for which he or she has filed. Under the proposed amendment any candidate who does not or can not meet the qualifications for the office for which he or she has filed may not be nominated and certified and such candidate may not be placed on a general election ballot. The proposed amendment requires political parties nominating candidates by primary or convention to verify the qualifications of those candidates prior to certification. Currently, the nominees must be certified no later than twelve o'clock noon on September first. Under the Judiciary Committee's proposed amendment the deadline would be August fifteenth.

Currently, the deadline for placing nominees by petition on a general election ballot is no later than twelve o'clock noon on August first. The Judiciary Committee's proposed amendment changes this deadline to July fifteenth. Currently, when a petition is submitted, the authority charged with accepting it must certify the results no later than twelve o'clock noon September first. The Judiciary Committee's proposed amendment changes this deadline to August fifteenth. The Judiciary Committee's proposed amendment also provides that the authority to whom a petition is submitted must verify that qualifications of each potential petition candidate prior to certification of that candidate to be placed on the ballot. The proposed amendment requires the written certification to contain a statement that each candidate certified meets or can meet the qualifications for the office for which he or she has filed. Under the proposed amendment any candidate who does not or can not meet the qualifications for the office sought may not be placed on the ballot.

Currently, a statement of candidacy must be filed no later than twelve o'clock noon on September first. Under the Judiciary Committee's proposed amendment, the deadline for filing a statement of candidacy would be August fifteenth.

Currently, September first is the deadline for submitting a question to the election commission for submission as a referendum to electors. Under the Judiciary Committee's proposed amendment, the deadline would be August fifteenth.

LABOR, COMMERCE AND INDUSTRY

The full Labor, Commerce and Industry Committee met on Wednesday, May 19, and reported out one bill. The Committee gave a report of favorable with amendment to **S.526** which confers upon the Employment Security Commission the powers which the Department of Revenue currently uses to collect outstanding debts. The bill authorizes a representative of the Employment Security Commission to levy upon and sell the real and personal property of an employer who defaults in any payment of contributions, interest, penalties, or employment security administrative contingency assessments. Currently, the ESC work through county officials, sheriffs, and tax collectors to collect such debts. The bill also provides that the ESC is authorized to contract out with a collection agency for collecting delinquent payments. The amendment approved by the committee provides that the ESC may also contract out with the Department of Revenue for collection.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full Medical, Military, and Public and Municipal Affairs Committee did not meet this week.

WAYS AND MEANS

The full Ways and Means Committee did not meet this week.

BILLS INTRODUCED IN THE HOUSE

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

S.116 LIMITS ON BLACK BASS AND DAILY CREEL LIMITS ON FISH

Sen. Mescher

Under this bill, it is unlawful to take or possess largemouth bass less than 12 inches in Lakes Marion and Moultrie, and certain portions of the Santee Cooper River. The bill also provides that it is unlawful to take or possess more than five large mouth bass in any one day from those waters. The bill amends *South Carolina Code of Laws* §50-13-210, relating to daily creel limits on fish, so as to conform its limits on black bass from Lakes Marion and Moultrie, and certain portions of the Santee Cooper River to the provisions of this bill. Penalties are established for failure to comply.

S.450 TROTLINE HOOKS USED IN LAKES MARION AND MOULTRIE

Sen. Grooms

This bill requires that trotline hooks used in Lakes Marion and Moultrie must be able to pass through a three-inch-long cylinder with an inside diameter of one-half inch.

S.671 MISSION STATEMENT OF THE DEPARTMENT OF NATURAL RESOURCES

Sen. Peeler

This is a joint resolution to approve the mission statement of the Department of Natural Resources submitted to the General Assembly pursuant to *South Carolina Code of Laws* § 30-10.

S.702 USE OF BAIT TO LURE BEARS Sen. Martin

This bill revises the prohibition on feeding or enticing with food any black bear so as to exempt the following people from the prohibition:

- those persons feeding bears maintained in protective captivity under permit
- persons licensed or otherwise authorized
- county or municipal animal personnel when relocating bears by baiting or enticement

This bill also establishes penalties for failure to comply with the prohibition against using bait to lure black bears.

H.4108 NON-GAME FISHING DEVICES Rep. Ott

The bill provides that the maximum number of set hooks for each license holder in the Congaree River is 50.

EDUCATION AND PUBLIC WORKS

H.4125 CLOSING COSTS INCURRED BY MOTOR VEHICLE DEALERS Rep. Wilkes

This bill provides for the recoupment of closing costs incurred by a motor vehicle dealer in connection with a sale under certain circumstances. The bill also provides for a uniform additional charge by a motor vehicle dealer to recoup its closing costs, and provides that the charge also applies to cash buyers. The charge is limited to ninety-nine dollars and fifty cents, and the buyer must be furnished a written disclosure of the amount and purpose of the charge.

H.4127 USE OF STATE-OWNED SCHOOL BUSES Rep. Stuart

This bill provides that a local school board may allow an individual to ride a state-owned school bus operated on State Department of Education approved routes on a space-available basis under certain circumstances, and may allow the use of state-owned school buses in conjunction with a non-school related activity or program under certain circumstances. The bill also provides that this provision must not be construed as a waiver or abrogation of the State's limited immunity from liability and suit under the State's Tort Claims Act. The bill also provides that the local school board shall indemnify the State against legal claims filed against the State due to negligent acts performed by or on behalf of employees of the school board pursuant to these provisions.

JUDICIARY

H.4107 ELECTION SUPREME COURT JUSTICES AND COURT OF APPEALS JUDGES Rep. Altman

Currently, the General Assembly elects a Chief Justice and four associate justices of the South Carolina Supreme Court. Under this bill, the General Assembly would elect five justices, and the justices among themselves would elect the Chief Justice to serve for a term of four years. The bill allows the justice elected as the Chief Justice to be reelected. However, the bill provides that these provisions do not apply to the Chief Justice serving on the effective date of this Act during that Justice's tenure in office.

Currently, the Court of Appeals consists of a Chief Judge and eight associate judges. This bill provides that the nine judges may elect among themselves the Chief Judge to serve for a term of four years. The bill allows the judge elected as Chief Judge to be reelected. However, the bill provides that these provisions do not apply to the Chief Judge serving on the effective date of this Act during that Judge's tenure in office.

H.4109 DEATH BY HANGING FOR LITTERING Rep. Rodgers

This bill provides that a local governmental authority may punish a person convicted of littering by hanging him or her in a public square.

**S.297 ALCOHOLIC BEVERAGES IN LIMOUSINES OR CHARTERED BUSES
Sen. Wilson**

Under this bill, a passenger 21 years of age or older may possess an open container of alcohol in certain portions of a moving limousine or chartered bus.

**H.4124 COLLECTION OF DATA REGARDING TRAFFIC ENFORCEMENT
Rep. F. Smith**

This bill requires the Director of Public Safety to collect, correlate, and maintain certain statistical information regarding traffic law enforcement by certified law enforcement officers. Samples of this statistical information to be collected include:

- the number of drivers stopped and whether or not a warning or citation was issued
- identifying characteristics of the drivers stopped (including race, ethnicity, age, and gender)
- alleged traffic violation
- whether there was a search of the vehicle, personal effects, driver, or passengers
- legal basis for any searches
- whether contraband was found and the type and amount of contraband
- whether an arrest was made
- whether property was seized under the forfeiture laws
- whether officers making the stop encountered physical resistance from the driver or passenger
- whether injuries resulted from the stop
- whether the circumstances surrounding the stop were the subject of an investigation and the results of the investigation

The bill provides that the statistical traffic law enforcement information is subject to the Freedom of Information Act.

H.4134 LIMITATION ON LIABILITY FOR LANDOWNERS Rep. Inabinett

This bill pertains to the limitation on liability for landowners so as to encourage them to make their property available for recreational purposes. Currently, *South Carolina Code of Laws* §27-3-20 defines the term "persons" to mean individuals regardless of age. This bill amends the definition of the term "persons" to mean individuals regardless of age, maturity, or experience, who enter upon or use the land for recreational purposes. Under the bill, a landowner does not incur liability for an injury caused by a natural or artificial condition, structure, or personal property on the premises.

LABOR, COMMERCE AND INDUSTRY

No introduced bills were referred to the committee this week.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.4106 COLLECTION OF DATA REGARDING TRAFFIC LAW ENFORCEMENT

Rep. T. Brown

This bill requires the Department to collect, correlate, and maintain certain information regarding traffic law enforcement by officers of the highway patrol and of the state police. Samples of this information include:

- the number of drivers stopped and whether or not a warning or citation was issued
- identifying characteristics of the drivers stopped (including race, ethnicity, age, and gender)
- alleged traffic violation
- whether there was a search of the vehicle, personal effects, driver, or passengers
- legal basis for any searches
- whether contraband was found and the type and amount of contraband
- whether an arrest was made
- whether property was seized under the forfeiture laws
- whether officers making the stop encountered physical resistance from the driver or passenger
- whether injuries resulted from the stop
- whether the circumstances surrounding the stop were the subject of an investigation and the results of the investigation

The bill requires the Department to compile, annually publish, and make available to the public a report containing information regarding the formal and informal complaints made by members of the public against officers of the Highway Patrol and State Police. Under the bill, a complaint means a signed or anonymous report received by the Highway Patrol Division or State Police Officer or of an incident, pattern, or practice of conduct that deprives the person of rights, privileges, or immunities secured or protected by the State or by the United States Constitution or a law of the State.

WAYS AND MEANS

H.4126 SERVICE CREDIT IN STATE RETIREMENT SYSTEMS Rep. Maddox

This bill allows a member of the SC Retirement System, the SC Police Officers Retirement System, or the SC Retirement System for Judges and Solicitors to establish service credit for military service performed after 1975 upon making the payment required to establish federal civilian service. The bill provides that other limitations on establishing service credit for military service continue to apply.

The *Legislative Update* is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (www.lpittr.state.sc.us) and click on the "Quick Find Guide." On the next screen, click on "Legislative Updates." This will list all of the *Legislative Updates* by date. Click on the date you need.

SPECIAL NOTE: A cumulative index to the weekly issues of the *Legislative Update* has been added to the *Legislative Update* page on the Worldwide Web. Bills are listed in numerical order in this index. Each bill number is followed by a list of hypertext links (in chronological order) to every reference to that bill in any issue of the *Legislative Update* during the current session, 1999-2000. This is an easy way (just click on the links) to find summaries of bills introduced into the House and to follow the progress of a bill through House committees and on the floors of the House and Senate.