

SCSL Digital Collections

Legislative update

Item Type	Text
Publisher	South Carolina State Library
Rights	Copyright status undetermined. For more information contact, South Carolina State Library, 1500 Senate Street, Columbia, South Carolina 29201.
Download date	2024-10-07 05:05:33
Link to Item	http://hdl.handle.net/10827/9905



South Carolina House of Representatives

*Jim -
John*

Legislative Update

*A4R
8, L33
v. 8/4
Copy 2*

Robert J. Sheheen, Speaker of the House

Vol. 8

February 5, 1991

No. 4

CONTENTS

House Week in Review.....	2
Bills Introduced.....	3
Special Report: Real Estate Appraisers.....	17

Printed by the Legislative Council

S. C. STATE LIBRARY
FEB 12 1991
STATE DOCUMENTS

OFFICE OF RESEARCH
Room 324, Blatt Building, P.O. Box 11867, Columbia, S.C. 29211, (803)734-3230

Legislative Update, February 5, 1991

House Week in Review

House and Senate members gathered last week to hear Gov. Campbell's State of the State address, delayed from its original date because of the outbreak of war in the Persian Gulf.

House members also gave second and third reading approval to several significant bills. These include H.3071, the marital rape bill, which was given second reading in the House on Tuesday. The bill received final House approval and was sent to the Senate on Wednesday after proponents defeated an attempt to table the bill by a 5-90 vote.

The House also gave second reading approval to H.3127, a joint resolution which would change the convening date of the General Assembly from the second Tuesday in January to the second Tuesday in February. The legislation also would require the Senate, like the House, to meet in an organizational session following its election. The House voted 73-31 to give the joint resolution a second reading Wednesday.

On Thursday, H.3069 was given second reading approval. This bill would allow the political parties to hold presidential preference primary elections. After considerable debate, the House also voted to change its "no cup of coffee" rule -- the House rule (12.2 C) which precluded House members from accepting anything of value from a lobbyist, except campaign contributions or food and beverages served at a social function to which the entire House, standing committee or subcommittee, or county delegation is invited. House members voted to change the rule to allow the acceptance of food and beverage if its value does not exceed \$25 for each occasion. By a vote of 50-51, the House refused to table the rule change. It then voted 54-53 for its adoption.

The General Assembly also agreed to hold judicial elections on February 6 at noon.

Legislative Update, February 5, 1991

Bills Introduced

The following bills were introduced in the House of Representatives last week. Not all the bills introduced in the House are featured here. These bill summaries are arranged according to the standing committee assignment the bill received.

Agriculture, Natural Resources and Environmental Affairs

Freshwater Wetlands Protection (H.3414, Rep. Sturkie). This legislation, aimed at protecting and conserving the state's freshwater wetlands, outlines the steps the state should take to achieve this goal. Under this legislation, the General Assembly would declare it is the policy of the state to achieve a goal of no overall net loss of regulated wetlands, based on function and value. This would be accomplished through a program of wetland classification and mitigation.

Among the specific state policies outlined in the bill are:

- Achievement of an interim goal of no overall net loss of the state's remaining wetland base and achievement of a long-term goal of increasing the quantity and quality of the state's wetland resource base. Under these provisions, the state's remaining wetland base would be defined both in terms of acreage and wetland function.
- Protection, and where possible, restoration or enhancement of the freshwater resources of the state.

The bill recommends the following initiatives:

- State agencies would be encouraged to adopt the "no net loss" goal for all wetland activities, to identify and manage wetlands on their own properties, and to restore previously impacted areas;
- Local governments also would be encouraged to preserve wetland acreage through identification and potential alternations; the education of constituents of the wetlands' value; by encouraging the development of wetland trust funds, and

Legislative Update, February 5, 1991

encouraging incentives such as transfer of development rights, cluster development and planned unit development.

Under this bill, a single state agency would be identified to inventory all wetland acreage in the state. Conservation plans for the state's most significant wetland resources and systems would be identified to help developers identify areas to be protected. Agencies and land trusts should target the purchase of wetlands, in addition to encouraging donations or preservation by landowners.

The legislation would establish a wetlands classification system under which all the state's wetlands would be classified. Once the legislation is enacted, no regulated activity could be undertaken in a regulated freshwater wetland unless a permit is first obtained through the designated state agency. The bill would not require permits for normal farming or ranching; normal silviculture; maintenance of currently serviceable structures, farm or stock ponds, drainage ditches or irrigation canals; construction of temporary sedimentation basins at construction sites; construction or maintenance of temporary roads for moving mining equipment; fish and wildlife harvesting devices including deer stands and duck blinds; normal maintenance and repair of functional rice fields and wildlife impoundments; activities associated with routine highway, road and bridge maintenance (This would include increasing the right-of-way or adding a lane if not more than five acres of regulated wetlands are involved); routine or emergency repair to utility systems or railroads; maintenance of gas or oil pipelines; maintenance of drinking water supplies; mosquito control activities; and recreational activities including hunting and fishing.

If an activity does not fall into the above exceptions, then a wetlands permit must be obtained. The bill outlines the application process for a permit, when a public hearing is required, and what criteria the state should use in deciding whether to permit the activity. The commission would require the applicant to submit a compensatory mitigation proposal to address the long and short term economic, environmental or natural resources benefits that may be lost by the plan. If no proposal is submitted, then the permit would be denied. The legislation also specifies the appeals process and penalties for violations. A State Wetlands Trust Fund would be created by this legislation.

Further, the bill would allow a refundable state tax credit against taxes levied against freshwater wetlands only (not to include saltwater wetlands), the amount of the credit to be determined by the acreage and what classification level the wetlands fall under. In the case of individual taxpayers, estate or trust funds, the maximum number of acres for credit is 250; for corporations, 1,000. The commission would be responsible for enrolling acreage under these provisions.

Legislative Update, February 5, 1991

If the taxpayer takes the credits and then breaches the provisions of this bill, the credits must be repaid with interest.

Education and Public Works

Veteran's Day Holiday (H.3362, Rep. Baxley). This bill would require state higher education institutions to include Veteran's Day as part of their holiday schedule.

Felony Code on Driver's License (H.3363, Rep. Waldrop). This legislation would require that the State Highway Department place a two-digit code on the driver's licenses of people who have been convicted of felonies. The code would identify the person as either having been convicted of a felony which is not considered a violent crime or convicted of a felony which is considered a violent crime. These codes would be known by law enforcement officers and other judicial officers. The application for a driver's license would be amended to include a question regarding whether the applicant has been convicted of a felony.

Those convicted of a felony would surrender their driver's licenses to the clerk of court so the licenses can be marked with the felony code. Additionally, the Departments of Corrections and Probation, Parole and Pardon Services would be required to report to the Highway Department the names of those under their jurisdiction who have been convicted of felonies, and whether or not they were violent crimes. The Highway Department would then code those driver's licenses the next time they were renewed.

If the conviction is overturned or pardoned, the person can apply to the Highway Department to have the code removed.

Call for Balanced Federal Budget Convention Repealed (H.3365, Rep. Kirsh). This joint resolution would repeal the 1976 joint resolution in which the General Assembly called on Congress to pass a federal balanced budget amendment or call a constitutional convention of the states in order to accomplish this purpose.

Textbook Appropriation (H.3383, Rep. Manly). This legislation would require that funds appropriated in the annual state budget for the purchase of school textbooks be used to purchase textbooks or materials adopted by the State Board of Education.

Legislative Update, February 5, 1991

Defacing License Plates (H.3385, Rep. Altman). If this legislation is enacted, it would be unlawful to place another license tag, lighting equipment, tag, sign or monogram above, around or upon a state motor vehicle license plate. The only exception would be the stickers the Highway Department issues for validating the plate.

License Plates for Retired Legislators (H.3391, Rep. Rudnick). This legislation would allow retired legislators to have special license plates designating them as retired members of the General Assembly. The annual fee for the plates would be the regular motor vehicle registration fee plus the personalized license fee. Only one plate would be issued per retired lawmaker, and it must be displayed on the legislator's vehicle. Those legislators who were expelled from the Legislature or who are under prosecution may not apply.

Reissuance of Legislative Tags (S.545, Sen. Drummond). Under this legislation, the Highway Department must issue, reissue or reassign legislative license plates as designated in writing by the clerks of the House and the Senate.

Judiciary

Retention of Judges (H.3340, Rep. Larry Martin). This joint resolution would change the State Constitution to allow the voters to decide whether judges would remain on the bench once their first term is up. Under this bill, voters would vote statewide whether to retain judges on the Supreme Court and Court of Appeals. Retaining circuit court judges for more than their first term would be decided by the voters in their respective judicial circuits. If the voters decide against retaining a judge, then the position is declared vacant and the General Assembly fills the spot. This proposal, if passed by the House and Senate, must be approved in a statewide referendum at the next general election.

Judges Enabling Legislation (H.3341, Rep. Larry Martin). This bill would outline in the statutes what process would be followed if the preceding constitutional amendment is approved by the General Assembly and the voters. The only difference between the two is that this bill states that Family Court judges also would go through the retention election.

Legislative Update, February 5, 1991

Grand Jury Revisions (H.3345, Rep. Wilkins). This is the bill, promoted by Attorney General Medlock, which would expand the responsibilities of the statewide grand jury to include investigations into public corruption. As stated by the legislation, "The General Assembly further finds that there is a need to enhance the grand jury system to improve the ability of the state to detect and eliminate public corruption. Crimes involving public corruption transpire at times in a single county, but often transpire or have significance in more than one county of this state. The General Assembly believes that a state grand jury, possessing considerably broader investigative authority than individual county grand juries, should be available to investigate public corruption in South Carolina."

This bill would give the statewide grand jury the jurisdiction to investigate not just crimes involving drugs or obscenity, but also "any crime arising out of or in connection with a crime involving narcotics, dangerous drugs or controlled substances, including but not limited to money laundering, obstruction of justice, perjury or subordination of perjury. In addition, the legislation would give the statewide grand jury the authority to investigate "any crime, statutory, common law or other, involving public corruption," and crimes involving elections laws.

Among other changes outlined in this bill, the chief of SLED, in addition to the attorney general, would have to think impaneling the grand jury was necessary before the attorney general could petition the chief justice to do so.

Protective Custody for the Mentally Ill (H.3348, Rep. Fair). This legislation would allow a law enforcement officer to take a mentally ill person into protective custody if the officer has reason to believe that the person could cause "serious harm if not immediately hospitalized." This action would only take place if the immediacy of the situation does not allow the officer to obtain a probate court detention order. The sole reason for the protective custody would be to have the person examined by a doctor, and the officer must immediately transport the mentally ill person to this medical appointment. If the person has not been examined by a doctor after six hours, or if the examination does not reveal the need to further hospitalization, the person must be released immediately.

Kidnapping Changes (H.3350, Rep. Hodges). This legislation offers more detailed definitions to the various circumstances surrounding unlawful restraint and abduction. Under this bill, unlawful restraint, a felony punishable by up to 10 years in prison, is defined as restraining another person under circumstances which expose the person to a risk of serious physical injury. Unlawful restraint in the second degree is a misdemeanor punishable by up to three years in prison. However, this definition would not apply if the restrained person is a child less than 18-years-old, the person restraining the child is a relative whose sole

Legislative Update, February 5, 1991

purpose is to assume lawful control of the child.

The bill also defines first and second degree kidnapping. First degree kidnapping is a felony punishable by life in prison, but this offense would not apply if the kidnapper or an accomplice voluntarily releases the victim alive and free from serious injury in safe place prior to arrest, or if the victim is released without injury in connection with an agreement with the state. Second degree kidnapping, also a felony, would be punishable by up to 20 years in jail. However, second degree kidnapping would not apply if the abduction is not coupled with the intention to use or threaten deadly force, the abductor is a relative of the victim, and the abductor's sole purpose is to assume lawful control of the victim. Conspiracy to commit any of these crimes would carry the same sentence as if the crime has occurred.

Third Degree Sexual Exploitation (H.3368, Rep. Fair). This bill would create the offense of third degree sexual exploitation of a minor. This crime is defined as knowingly possessing material that depicts a minor engaging in sexual activity. This offense would be a felony punishable by up to five years in prison.

Felony and Misdemeanor Classification Bill (H.3400, Rep. Wilkins). This bill --over 200 pages long -- is the result of the work by the Sentencing Guidelines Commission, established in 1989 by the General Assembly to undertake the task of prescribing advisory sentencing guidelines for the General Sessions Court for all offenses for which a prison term of more than one year is allowed. This 17-member panel is made up of judges, legislators, solicitors and representatives from SLED, Corrections, the Attorney General's Office, the Appellate Defense Commission, Probation, Parole and Pardon Services, the State Bar Association and the USC Law School.

In its simplest form, the bill places approximately 700 criminal offenses with a maximum term of one year or more into different categories based on the seriousness of the offense. The bill specifies nine categories of offenses -- six felonies and three misdemeanors. Each of the categories carries a maximum term of imprisonment, for instance, Class A felonies would carry a maximum term of 30 years; Class B felonies, 25 years; Class C felonies, 20 years, etc. Under the misdemeanor category, Class A misdemeanors would carry maximum sentences of 3 years; Class-B misdemeanors, 2 years; Class C, 1 year.

Under this bill the current list of felony crimes would be deleted and replaced with the six new classes of felonies. Misdemeanors would fall into one of the three categories. In addition, a list of the more serious crimes would be exempt from the proposed classification system. These crimes were exempted because they either carried the death sentence or required high mandatory minimum sentences. Many of these crimes are drug offenses carrying a 25-year minimum sentence.

Legislative Update, February 5, 1991

Among the other provisions of this lengthy bill, two offenses would be added to the list of violent crimes -- first and second degree criminal sexual conduct with minors and assault with intent to commit criminal sexual conduct. The bill also would change some current misdemeanors to felonies and some felonies to misdemeanors. For crimes involving a dollar amount, the punishment would be based on a three-tiered classification according to the financial loss incurred.

Charleston and Berkeley County Legislative District Changes (H.3401, Rep. Gonzales). The purpose of this lengthy bill is to move a parcel of land from Berkeley to Charleston County following an annexation proceeding and to change the makeup of the House and Senate districts affected by the annexation. The annexation moves two people from House District 92 and Senatorial District 38 to House District 117 and Senatorial District 41.

Appearances Before DHEC Board (H.3403, Rep. Hallman). Under this bill, no public official or public employee could appear before the DHEC commission in a permitting, regulatory, rate or price fixing matter. Currently this restriction is placed on appearances before the Public Service Commission, Dairy Commission and Insurance Commission. The provisions that extend the prohibitions to legal associates of members of the General Assembly also apply in connection with the DHEC board restrictions.

Legislators' Financial Interests (H.3407, Rep. Meacham). This legislation would prohibit a legislator from voting on an issue that would substantially affect his financial interest.

Accountability in Government Act (H.3413, Rep. Wilkins). This lengthy ethics bill addresses five areas: campaign disclosure, lobbying and disclosure, financial disclosure, the administration of ethics, and rules of conduct.

Among the provisions of this bill:

Lobbyists and Lobbying

- No member of the General Assembly or former member may be legislatively elected or gubernatorially appointed to a civil office in this state until two years after his or her service in the General Assembly.
- Registration of lobbyists would be with the Secretary of State within 15 days of becoming a lobbyist. This registration must include a variety of information including subject matter of the lobbying. An annual registration form requiring specific information about lobbying activities is also required.

Legislative Update, February 5, 1991

- Lobbyists would file annually for each of their clients all contributions and expenditures initiated or paid on behalf of the client. The list must report all expenditures made in excess of \$50, who received the expenditure, and on whose behalf the expenditure was made. This report would be filed every six months. This registration would not apply to lobbyists who receive no compensation or anything of value for their lobbying activity.
- Lobbyists or their clients would be prohibited from giving, and public officials and employees would be prohibited from receiving, anything of value over \$50 or a loan. This would not apply to food and beverages worth less than \$25 per occasion, with a maximum of \$250 for each official per year. The lobbyist also would have to be physically present at the social function.
- Lobbyists would be prohibited from initiating legislation in order to solicit clients, or from serving as the treasurer for a candidate or committee. Lobbyists and their clients could not pay honoraria to state officials or employees, nor could they employ on retainer any member of the legislature, a state official or state employee, or firms in which these public officials or employees have a financial interest.
- Lobbyists would be prohibited from serving as a member of a state board or commission.
- The bill outlines the duties of the Secretary of State in regard to regulation of lobbyists. The Attorney General, with the assistance of SLED, would investigate all complaints about lobbyists, including those brought by the Secretary of State.
- Lobbying violations would be a misdemeanor punishable by a fine of not more than \$5,000 and/or not more than five years in jail. In addition, those convicted would be barred from lobbying for three years.

Campaign Practices and Reporting Requirements

- Candidates could have only one campaign committee.
- The bill specifics what information a candidate must file with the State Election Commission when organizing his or her campaign, including disclosure of who is on the committee. All candidates, non-candidates and other campaign committees must file campaign disclosure forms, statements of organization, statements of inactivity, and final reports with the State Election Commission. This information also would be required of committees formed to seek passage of a constitutional amendment.
- Additionally, a candidate must file a statement of financial interest for the preceding year with the State Ethics Commission.

Legislative Update, February 5, 1991

- Under this bill, expenditures could be made for bona fide political expenses only. The candidate or his family could not receive payment from the campaign, except reimbursements. The bill prohibits committee funds from being used to defray the living expenses of the candidate or his family, unless they are directly related to the campaign or the elected office.
- Expenditures of more than \$25 must be made by check and must be accounted for by a written receipt.
- A campaign treasurer would be prohibited from withdrawing more than \$500 from the committee account to establish or replenish a petty cash fund, which could not total more than \$500. Petty cash expenditures would be limited to \$25 or less.
- Records would be required of total contributions, including the full name, address, occupation and employer of each contributor giving \$50 or more.
- Expenditures require the full name and mailing address of each person to whom an expenditure of more than \$50 is made, including the date, amount, purpose and beneficiary. The committee treasurer must retain all receipts, bills and canceled checks for at least four years.
- The State Election Commission would be required to develop a contribution and expenditure reporting form. These forms would include the reporting of all contributions. This includes the name, address, occupation and employer of those contributing \$100 or more; the total amount of all loans received and the balance owed. The legislation stipulates how these loans would be reported but the provisions include the name, address, occupation and employer of each lender or endorser.
- Dates and descriptions of all fund raisers would be required including the amount raised. Credit card expenses and candidate reimbursements must be itemized so that the purpose and recipient of the expenditures are identified.
- Contributions of \$1,000 or more received after the close of the preelection reporting period must be reported to the State Election Commission the Wednesday before the election.
- Surplus campaign funds may be used by the candidate to defray ordinary and necessary expenses incurred in connection with his duties, or they could be contributed to a charity, a political party, another candidate's campaign committee or may be transferred to another campaign. None of the surplus funds could be spent for personal use.
- Cash contributions in excess of \$50 would be prohibited. Also prohibited would be contributions from individuals exceeding \$2,000 or \$5,000 from an association, corporation, union or political committee.
- No legislator, legislative staff member, state or local government official could accept or solicit contributions in government buildings not considered a residence.

Legislative Update, February 5, 1991

State Ethics Commission

- Provisions in this bill specify the make-up, duties and powers of the State Ethics Commission. These prohibit any member of the commission from participating in a political campaign, nor could any member be a public official, employee, political party official, lobbyist or a member of the immediate family of any of these.
- The Ethics Commission could investigate and make recommendations in connection with the actions of legislators, judges, as well as state officials and other public employees.

Standards of Conduct and Financial Disclosure

- Public officials would be prohibited from using their position for financial gain. They could not receive or seek anything of value from a person who is seeking a contract or financial arrangement with the official's agency. In addition, no public official or employee could receive or seek anything of value from a lobbyist or a lobbyist's client, except for food and drink at a meeting with the lobbyist or client. Awards or mementoes would not be prohibited.
- No person could be a member of a government regulatory agency that regulates the business with which the person is associated with some exceptions provided by law.
- No public official or employee could appear before the state PSC, Insurance Commission, Tax Commission, Coastal Council, Procurement Review Panel, DHEC, Health and Human Service Finance Commission, Second Injury Fund, State Fund and all other boards or commission that regulate professions. Members or associates of the law firms, to which members of the General Assembly belong, also would be prohibited from appearing before these agencies.
- Under this bill, those required to file financial disclosure forms with the State Ethics Commission include legislators, statewide public officials, members of state boards and commissions, candidates for office that are legislatively elected, a person appointed to fill an unexpired term, county and city managers, the chief administrative officers of state agencies or institutions and their deputies, the chief administrative officers of all local governments, school board members, school superintendents, the chief purchasing officers all of state, county and municipal governments, all members of the judiciary from the Supreme Court to municipal court.
- The bill specifies what should be reported in the financial disclosure report. This reporting would extend to spouses who earn more than \$1,000 annually. All gifts, travel, and entertainment of spouse and dependent children would be reported, unless these items were totally independent of the official's work.

Legislative Update, February 5, 1991

Information on Magistrates (S.62, Sen. Rose). This bill would require that 90 days prior magisterial appointments by the governor, the county governing boards would have to provide to the state Senators in the county delegation information regarding the number of full and part-time magistrates positions available, the number of work hours, salaries, and area of assignment of each magistrate. A majority of the senators representing the county would decide any item not provided by the county governing board. Also, the bill would require each magistrate's work hours, salary and work locations would remain the same throughout his or her term in office, unless a change is allowed by state statute or if two-thirds of the county governing board vote to change it. This change could not be made until after two years of the magistrate's term has passed and if a "material change in the conditions" warrant the change.

Prisoners and Workers' Compensation (S.231, Sen. Pope). This legislation would extend workers' compensation coverage to any county prisoner regardless of the length of his prison term. Currently, workers' compensation coverage extends only to county inmates serving sentences of 90 days or longer. The legislation also sets the average weekly wage for county inmates at \$40 per week for purposes of workers' compensation coverage. Further, the bill also would set for purposes of workers' compensation the average weekly wage for volunteer deputy sheriffs at 37.5 percent of the average weekly wage in the state. This is the same rate allowed for volunteer firemen.

Extension of Sine Die Adjournment (S.514, Sen. Holland). This legislation would allow the extension of mandatory adjournment to "a date on which both houses of General Assembly agree to adjourn by concurrent resolution" during years following the national census and reapportionment is considered. Under this legislation, during that time period between the regular mandatory adjournment date -- 5 p.m. of the first Thursday in June -- to the extended sine die adjournment date, no other legislation could be considered except reapportionment issues or those issues approved for consideration by two-thirds vote of those present and voting in each chamber.

Labor, Commerce and Industry

Manufactured Housing and Sprinkler Systems (H.3336, Rep. Rudnick). After July 1, 1991, this legislation would prohibit the sale or offer to sell any manufactured home unless a sprinkler system is installed.

Legislative Update, February 5, 1991

Eviction Rule to Show Cause (H.3339, Rep. Larry Martin). This legislation would change the process by which a rule to show cause for eviction would be served on a tenant. Under this bill, the rule to show cause would have to be left "affixed to the most conspicuous part of the premises." The current law requires process servers to follow the same procedure as when serving summons for actions pending in the Court of Common Pleas.

Continuing Education for Real Estate Brokers or Salesmen (H.3361, Rep. Baxley). This legislation would require real estate brokers and salesmen to complete six hours of course instruction, as prescribed by the Real Estate Commission, in order to renew their licenses. A salesman who is enrolled in a 30 hour course for qualification is not required to participate in the continuing education requirement for that year. Nor are inactive brokers or salesmen, unless they decide to become active again.

Private Security Business and Private Detectives (H.3380, Rep. Gregory). This legislation would make the required statutory changes to allow private detectives to register with SLED, instead of the current practice of being licensed by SLED.

Beer and Wine Sales at Gas Stations (H.3402, Rep. Haskins). Under this legislation, it would be unlawful for businesses that sell gas and also have beer and wine licenses to sell chilled alcoholic beverages to customers or to allow customers to buy less than six separate containers of beer. Violation of these provisions would be a misdemeanor punishable by not more than 30 days in jail or a fine of not more than \$200. If convicted, the beer and wine license of the gas station would be revoked.

Ways and Means

Free Tuition for Retirees (H.3351, Rep. Cromer). Under state law, South Carolina residents who are age 60 or older may attend classes for credit or audit free at any state supported institution of higher education if neither they nor their spouses are employed full time. In addition, the senior citizen must meet the appropriate admissions standards of the college, TEC school or university and can be admitted only on a space available basis. This bill would delete the provision in the law which prevents a retiree from attending the classes for free if his or her spouse still works full time. This bill would allow any citizen, 60 or older, to attend the free classes even if their spouses are still employed on a full time basis.

Legislative Update, February 5, 1991

S.C. Prepaid Postsecondary Education Expense Program (H.3364, Rep. Kirsh). The aim of this legislation is to set up a system to allow the advance payment of registration fees and dormitory residence costs at state higher education institutions in order to obtain a lower rate than the projected cost at the actual time of enrollment. Registration fees are defined as the semester charges imposed to attend a state postsecondary institution and all mandatory fees required as a condition for enrollment. The legislation stipulates that students who enter into the contracts must not pay any more for these services than what was paid for by the contract. The contract, however, must generate enough interest into order to pay for the projected cost of the registration and residency costs.

The program would be directed by a 9-member S.C. Prepaid Postsecondary Education Program Board. It will be the duty of the board to run the program in an actuarially sound manner and establish a comprehensive investment plan. It would also be up to the board to solicit from the IRS answers to questions regarding the program's tax status and from the Securities and Exchange Commission regarding the application of federal securities to the fund.

The advance payment contracts can be for registration and/or for dormitory residence. The board would seek help from the Attorney General's Office in establishing these contracts to include provisions outlined in the bill. Three plans would be set up -- for community colleges, universities and dormitory residences. Under the university plan, the student could prepay for undergraduate courses only. The contract amounts could be applied toward the costs of independent private colleges in South Carolina under circumstances stated in the bill. Once the contracts has been signed, refunds would be available only under limited circumstances as outlined in the legislation.

Under this bill, the state would be responsible for paying projected amounts contracted for if the fund does not produce the revenue as originally anticipated. However, if the state determines the program to be fiscally infeasible, the state could discontinue the program. Payments toward the prepayment plans could be made by payroll deduction for state and local government workers. Nothing in the bill would guarantee a student admission into the college with which he or she has entered into a prepayment contract.

Police Officers Retirement (H.3382, Rep. Kirsh). This bill would allow retiring members of the police officers retirement to use unused sick leave for additional retirement service credits. No more than 90 days of unused sick leave could be used, computed at the rate of 20 days of sick leave equaling one month of service. In addition, the retiring officer could not use the leave to qualify for retirement. These provisions would take effect after March 31, 1991.

Legislative Update, February 5, 1991

Homestead Exemption Adjustment (H.3396, Rep. Rudnick). This legislation would require that the Homestead Exemption be adjusted annually to offset increases in the consumer price index. The legislation cites the section of the IRS Code to be used to make the adjustment. These provisions would go into effect for the 1992 tax year and would be computed by the Comptroller General.

Legislative Discretionary Account (H.3397, Rep. Rudnick). This bill would set up within the State Highway Fund a separate Legislative Discretionary Account. This account would be credited with \$4,250,000 annually from taxes collected from the state gas tax and other taxes on motor fuels. Expenditures from the fund would be made by the Highway Department on the warrant of individual legislators and would be used for purposes are directed by the legislator. No single member of the General Assembly would be allowed expenditures from the fund in excess of \$25,000 each year.

Legislative Update, February 5, 1991

Special Report: Real Estate Appraisers

The licensing and certification of real estate appraisers is an issue that will be before the General Assembly this session. The following is a special report providing background on this issue and the committee bill to be introduced this week. Many thanks to Julie Huffstetler, research director of the House Labor, Commerce and Industry Committee, for submitting this report.

With faulty and fraudulent real estate appraisals blamed as a major cause of the Nation's savings and loan scandal, Congress included in its massive savings and loan reform law of 1989 a provision that required that all appraisals performed in connection with federally related transactions after July 1, 1991, be completed by appraisers licensed or certified by the state. South Carolina is one of only a handful of states who does not yet have a licensing and certification system for appraisers in place, but the House Labor, Commerce and Industry Committee will introduce legislation this week to do just that.

What happens if South Carolina does not pass the necessary implementing legislation and begin licensing and certifying appraisers by July 1, 1991? The effect on the state's economy would be devastating. Federal law states that after July 1, 1991, all appraisals performed in connection with federally related transactions must be prepared by a state certified or state licensed appraiser. Federally related transactions include a vast majority of transactions involving loans, including any transaction involving a FDIC insured lender. Likewise, the Federal Office of Management and Budget has required all agencies subject to its jurisdiction, including the Veterans' Administration and HUD, to determine which transactions (such as VAs and FHAs) should require the use of certified and licensed appraisers. The deadline for this determination is also July 1, 1991.

Legislative Update, February 5, 1991

South Carolina appraisers who did not go to another state for licensing or certification would essentially be out of business, as would the real estate profession, the banking community, and the homebuilding industry. In order for federally related transactions requiring a certified or licensed appraiser to take place in South Carolina, out-of-state licensed and certified appraisers would need to be employed to perform such appraisals, but this would mean higher costs that would be passed on to the consumer.

While the federal law does state that all federally related real estate appraisals must be prepared by a state certified or state licensed appraiser beginning July 1, 1991, there is a provision that would grant an extension until December 31, 1991, for states who have made substantial progress in establishing a program that complies with federal requirements. While South Carolina has requested, but not yet been granted, such an extension, the House LCI Committee legislation uses the December 31 date as the cut-off point for any person to engage in any real estate appraisal activity without being registered, licensed, or certified by the State.

The only requirement an individual must currently meet to appraise property in South Carolina is possession of a real estate salesman's license. The House LCI Committee proposal establishes varying requirements for three different classifications of appraisers: registered, licensed, and certified.

A registered real estate appraiser cannot perform federally related transactions and is primarily a class of appraisers who are already brokers and who would like to continue to perform market analyses. This classification would also allow an individual who wishes to be licensed or certified as an appraiser to gain necessary experience. The only qualification for a registered appraiser is that he hold a real estate broker-in-charge, broker, or salesman license.

Federal law allows federal agencies and institutions in most instances to determine whether a certified appraiser is required to perform federally related transactions within their jurisdictions or whether such an appraisal can be performed by a licensed individual. However, the federal law does mandate that a certified appraiser be used in any federally related transaction of \$1 million or more.

In order to become a licensed real estate appraiser, an individual must have completed 75 hours of courses relating to real estate appraisal; have a minimum two years appraisal experience; and pass an examination. A "transitional" license may be issued to an applicant who passes the examination but who lacks either the educational or experience

Legislative Update, February 5, 1991

requirement, but not an applicant who lacks both. The applicant must meet the lacking requirement within two years or his license is automatically canceled.

An applicant may become certified as a real estate appraiser if he has completed 165 hours of courses relating to real estate appraisal; has a minimum two years appraisal experience; and passes an examination.

All appraisers must complete 10 hours of continuing education as a condition of annual renewal of their registration, license, or certification.

At a hearing on this legislation in January, members of the real estate, banking, and appraisal professions strongly urged its passage with the exception of a grandfathering provision contained in the original proposal that allowed for a waiver of exam requirements for any person who had held a broker license since July 1, 1965, and who had at least 20 years experience in appraisal activity.

Federal guidelines state that no individual or group is to be exempt from meeting the criteria established for licensing or certification or be otherwise "grandfathered" into the system. The House Labor, Commerce and Industry Committee removed this "grandfathering" provision before approving the bill.

The House LCI Committee's proposal does exempt from the state program appraisers who are salaried employees of federal, state, and local government agencies; real estate licensees who give an opinion as to the price of real estate without receiving a fee for that opinion; and registered foresters who issue appraisals of timber. However, these persons are not exempt from licensing or certification in order to perform federally related appraisals.

South Carolina's appraiser registration, licensing, and certification program would be run by a nine-member South Carolina Real Estate Appraisers Board. Seven of the nine board members will be appointed by the Governor with the advice and consent of the Senate. The Chairmen of the Senate and House LCI Committees, or their designees, will serve ex officio on the Board in order to ensure that the legislative intent of the General Assembly is carried out.

Among the Board's responsibilities will be the regulation of the issuance of registrations, licenses and certifications; investigating complaints; and disciplining appraisers by denying, suspending, revoking or otherwise restricting registrations, licenses or certifications or imposing other sanctions allowed in the legislation.

Legislative Update, February 5, 1991

While the Board is a separate entity from the Real Estate Commission, the Board will be housed under the Commission with the Real Estate Commissioner serving as the administrator and the Real Estate Commission supplying support staff for the Board in order to keep costs for establishing the appraiser regulation program to a minimum. However, a provision of the legislation would allow the Board to designate an independent staff in the future if sufficient funds are available and the Budget and Control Board gives its approval.

The federal legislation passed by Congress in 1989 set up the Appraisal Subcommittee, consisting of the heads of federal financial institutions, to oversee the implementation of licensing and certification programs in the states. The Appraisal Subcommittee has developed guidelines for the establishment of such programs. In addition, the Appraisal Foundation, a nonprofit professional appraiser organization, was given authority to set standards for appraisers. The Foundation's Appraisal Qualification Board has issued education, experience, and examination requirements that each state's appraisers must meet while the Foundation's Appraisal Standards Board has developed standards for the contents of a properly prepared appraisal and for the professional conduct of an appraiser.

South Carolina's proposed real estate appraiser legislation was crafted to meet each of these group's standards and guidelines. The Appraisal Subcommittee will monitor South Carolina's appraiser regulatory system once it is in place to ensure that its policies, practices, and procedures carry out the intent of the federal law.