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South Carolina House of Representatives

# Legislative Update

David H. Wilkins, Speaker of the House

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Vol.13

January 30, 1996

No. 3

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## Legislative Update--January 30, 1996

### WEEK IN REVIEW

#### HOUSE

Two elections affecting the House were held last week. Greenville Republican Dwight Loftis won the District 19 seat, replacing Michael Fair who was elected to the Senate. Also, Branchville Democrat Tom Rhoad was elected to the House Operations and Management Committee. Rhoad fills the vacancy left by Bill Riser who was appointed to the Rules Committee, replacing Tom Huff who resigned to run for the State Court of Appeals.

In floor action, Representatives concurred with a minor Senate amendment to H. 3225 asking Congress to restore the Tenth Amendment to the U.S. Constitution. This amendment declares that any powers which are not specifically vested in the federal government are vested to the states. The concurrent resolution calls for strengthening these states rights. Mostly symbolic, this measure carries no legal weight. Since the concurrent resolution has been adopted by both the House and Senate, it now will be sent to Congress.

Many bills received final approval last week. The House gave third reading to H. 3909 which protects design engineers from liability for employers' failure to comply with safety standards. H. 4054 provides that tech prep participants are covered by worker's compensation through the companies which train them. S. 654 provides for a voter referendum to allow Sunday alcohol sales in coastal counties which do not meet the current exemption for counties which collect over six million dollars in accommodations taxes. The measure was sent back to the Senate for concurrence in an amendment. Concurrence was received and the act is now up for ratification. H. 3628 sets up a five member panel to study the issue of minibottles versus liquor by the drink.

Other bills also receiving third reading last week included H. 3229 which makes it a felony for a person at least eighteen years old to solicit or coerce a person under eighteen years old to commit a violent crime or to deal drugs. S. 272 provides that a special election can be held during a general election if the special election would fall within sixty days of the general election. S. 771 requires candidates for all offices to file their statements of intention of candidacy between March 16th and 30th. Legislative candidates must file their statements to the state party executive committee. The measure also provides that filing for a special election opens at noon on the eleventh Tuesday after the vacancy occurs and closes seven days later. S. 641 allows a person just discharged from the military to register to vote until five o'clock on election day. H. 3566 enacts the "Juvenile Justice Code" by consolidating various legal provisions into a single article. H. 4284 prohibits a person who is incarcerated, or on probation or parole, from applying for a name change.

Several Agricultural Committee bills also received third reading. H. 3750 lengthens the hours for commercial shrimp trawling, and H. 4334 establishes requirements and penalties for commercial eel fishing. The House also adopted S. 275 which restricts the use of airboats on several Georgetown County rivers during waterfowl hunting season. H. 4033 eliminates the requirement that enforcement officers for the Department of Natural Resources have to live in a county to be hired to work in that county. However, they must move within fifteen miles of that county within three months after hiring. H. 4332, a bill requiring the use of approved bycatch devices in shrimp trawling, received second reading.

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Debate on H. 3772 was adjourned until later this month. The legislation proposes a voter referendum be held to determine the fate of a state-run lottery. An attempt to continue the joint resolution failed, as did one to adjourn debate until June 1st. Discussion then was postponed until January 31st. However, last week's voting indicated H. 3772 did not have at that time the two-thirds support of the House needed for passage.

Representatives also adjourned debate on H. 3174 until January 31st. The bill establishes the "Motorcycle Safety Education Program" to be offered through the state's technical schools. Also included in the measure are increases in several fees. These increases would be put in the "Motorcycle Safety Education Trust Fund." A beginner's permit for motorcyclists would be raised by three dollars (\$3) to five dollars and fifty cents (\$5.50). A motorcycle driver's license would cost fourteen dollars and fifty cents (\$14.50) rather than the current twelve dollars and fifty cents (\$12.50). Biennial registration fees would go up eight dollars (\$8) to eighteen dollars (\$18).

H. 4474, a bill restructuring the Department of Transportation, was placed on the contested calendar for second reading. The measure gives the Director greater flexibility in hiring/firing of employees, and encourages more privatization of the department's services.

A couple of joint resolutions were recommitted to the Education Committee. H. 3512 disapproves the repeal of parent-oriented education programs by the Department of Education. H. 3968 concerns whether relocatable classrooms meet building codes.

### SENATE

The Senate gave third reading to S. 918 concerning Sunday work prohibitions. The bill exempts counties collecting over nine hundred thousand dollars (\$900,000) in accommodations taxes from having to hold a voter referendum to determine the fate of Blue Laws in these counties. Such a referendum to be held on a county by county basis is already scheduled for the 1996 general election. Most counties which have already suspended Blue Laws are exempted from having to hold public referendums, however, Greenville County was not. Currently only Greenville County would be affected by S. 918 and exempted from having to hold the referendum.

Another measure which received third reading was S. 656. This bill provides that if a legislator resigns or is expelled, he must repay compensation already received. The legislation was proposed in response to former Greenville Senator Theo Mitchell's departure from the General Assembly last year.

Several bills received second reading in the Senate last week. H. 3751 allows South Carolina's pharmacies to provide one refill of prescriptions on file at another pharmacy in this state. S. 823 allows municipal court judges to order whatever restitution they deem appropriate in addition to imposing fines and sentences. S. 95 prohibits a person convicted of a violent crime from participating in a work release program. S. 62 provides that a prisoner who attempts an escape cannot serve the rest of his sentence in a minimum security facility.

Senators recommitted S. 2 to the Senate Finance Committee. This joint resolution calls for a voter referendum to determine whether South Carolina should hold a state-run lottery. Another bill met a similar fate. H. 3740, which revises reporting requirements for the Migrant and Seasonal Farm Workers Commission, has been sent back to the Agriculture and Natural Resources Committee.

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### EXECUTIVE BRANCH

Governor David Beasley spoke of his 1996 agenda last Wednesday night at the Koger Center, focusing on education and tax relief. Beasley endorsed charter schools, building new schools, and providing scholarships for South Carolina's needy students. The Governor also asked for an additional \$100 million dollar bond to replace the majority of our state's aging school bus fleet. He proposed \$20 million dollars be spent on telecommunications linking every public school with the best teachers available and introducing students to technology required to make South Carolina competitive in business. In addition, Beasley suggested doubling enrollment at the Governor's School for Science and Math, and spending \$6 million dollars to expand the Governor's School for the Arts to a year-round program.

Beasley asked the Legislature for an additional \$114.2 million dollars in increased property tax relief, so that a homeowner would be exempted from paying taxes on the first \$125,000 of a home's value. In his speech, the Governor suggested using an additional \$10 million dollars to increase the income tax exemption for parents of children under six years old and another \$4.6 million dollars to increase the income tax exemption for the elderly. Other tax relief proposals Beasley suggested would affect business and industry in South Carolina. The Governor targeted \$10 million dollars equalize the manufacturers' equipment depreciation tax break, and \$4.6 million dollars to phase out soft drink taxes paid by manufacturers.

To improve South Carolina's roads, Beasley proposed that the state keep half of the "C-funds" used for local paving projects and spend that money instead on state road maintenance. The Governor also asked that agencies dealing with families and children, such as the Department of Social Services, remain open until 7:00 p.m. on weekdays and open on Saturday mornings for greater convenience to clients and accessibility to services.

## Legislative Update--January 30, 1996

### COMMITTEE ACTION

#### AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

Several bills were reported favorably by Committee members last week. These included H. 3750 lengthening hours for commercial shrimp trawlers, H. 4334 providing requirements and penalties for commercial eel fishing, and S. 275 prohibiting the use of airboats on several Georgetown County rivers during waterfowl hunting season. Committee members also supported H. 4332 requiring the use of approved bycatch device in shrimp trawls. That bill received second reading in the House last week.

Two other measures which were reported favorably by the committee are scheduled to be considered on the House floor this week. H. 4100 allows counties and municipalities to levy late fees for solid waste collection and disposal. If fees remain unpaid, the counties and municipalities can register a lien against the real estate. H. 4338 provides for Sunday hunting in game zones 1, 2, and 4.

#### EDUCATION AND PUBLIC WORKS

The Intermodal Transportation and Public Works Subcommittee approved R. 1897, proposed by the Department of Transportation. This regulates bus shelters with regard to construction standards, setback requirements, and guidelines for approval, permitting and removal.

The Primary and Secondary Education Subcommittee revisited H. 3388, the proposed Charter Schools Act. It was amended with an eye to proposals laid out in H. 4443, an alternate Charter Schools bill recently introduced at the request of the S.C. Chamber of Commerce. Both H. 3388 and H. 4443 encourage educational innovation by allowing for public chartered schools which are freed from certain statewide regulations, authorized to employ non-certified instructors, and designed to pursue specialized missions. The subcommittee focused on the differences in the two bills, reconciling them in certain instances. The subcommittee retained H. 3388's definition of a charter school, but expanded it so as to include "for-profit" in addition to "nonprofit" schools. H. 3388 was amended to import sections of H. 4443 relating to: (1) the responsibilities and authority of charter schools, (2) student rights and responsibilities, (3) a single appeal for denial of charter. Two provisions were deleted from H. 3388: (1) the requirement that non-certified teachers be supervised at all times by certified teachers, and (2) the option for school districts to refuse to renew a charter if they find it contrary to the best interests of the pupils in the district. Additionally, an amendment subjects non-certified employees to the criminal background check currently required of certified employees. The subcommittee also raised from twenty to twenty-five the percentage of non-certified teachers which a charter school may employ. The subcommittee will continue to examine H. 3388 on Tuesday, January 30.

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### JUDICIARY

Committee members reported favorably on several bills. S. 771 requires candidates for all offices to file their statements of intention of candidacy between March 16th and 30th. Legislative candidates must file their statements with the state party executive committee. Certification of names appearing on ballots must be made no later than April 9th. The measure also provides that filing for a special election opens at noon on the eleventh Tuesday after the vacancy occurs and closes at noon seven days later.

Other bills approved by the committee and adopted by the House include S. 272 providing that a special election may be held at the same time as a general election if the special election would be held within sixty days of a general election. S. 641 allows servicemen just discharged to register to vote until five o'clock on election day. H. 4284 prohibits a person who is incarcerated or on probation or parole from applying for a name change. H. 3229 makes it a felony for a person at least eighteen years old to solicit or coerce someone under eighteen years old to commit a violent crime or to deal drugs. H. 3566 enacts the "Juvenile Justice Code" by consolidating various provisions into a single article.

Four bills were reported favorably by committee members but procedural moves postponed their debate in the House until this week. S. 189 provides that candidates' names must be listed alphabetically on ballots in non-partisan elections. H. 3858 allows family court judges to suspend or restrict juvenile delinquents' drivers' licenses. H. 3732 revises the penalties for driving with a suspended or revoked license. H. 4398 requires retailers to keep records of the source of their new merchandise. The measure, which does not apply to charitable organizations selling merchandise, is an attempt to stop the fencing of stolen and illegal goods.

Debate was adjourned on S. 772 allowing absentee ballots to be opened earlier on election day, and on the tort reform bill, H. 3943. A term limits measure, H. 3118 was recommitted to the Constitutional Laws Subcommittee. The measure limits the term of a person appointed by the Governor or elected by the General Assembly to two successive full terms or twelve successive years.

### LABOR, COMMERCE, AND INDUSTRY

A Labor and Commerce Subcommittee amended and then reported favorably on H. 4369, a bill which would place South Carolina in compliance with a 1994 federal law which allows an individual receiving unemployment compensation the option of having income tax withheld from payments. H. 4369 allows such withholdings for both state and federal income taxes. The amendment adopted at the suggestion of the U.S. Department of Labor, specifies that other withholdings from unemployment compensation (i.e. for overpayments or for child support) take precedence over the new voluntary withholdings of income taxes.

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### **MEDICAL, MILITARY, AND MUNICIPAL AFFAIRS**

The Health and Environmental Affairs Subcommittee gave a favorable report to R. 1900. The regulations proposed by the Department of Health and Environmental Control repeals regulations for inspection and permitting of convenience stores which sell only prepackaged food. The regulations targeted for repeal have become obsolete under last year's regulatory changes which consolidated health and sanitation provisions in accordance with U.S. Food and Drug Administration guidelines.

The Local Government and Corrections Affairs Subcommittee amended, then reported favorably on H. 4365. This bill allows a firefighter employed by a political subdivision to enroll in an emergency medical technician course regardless of whether or not his fire department has an ambulance. The amendment states that a firefighter who is certified as an emergency medical technician may perform any function consistent with the certification.

### **WAYS AND MEANS**

The full Ways and Means Committee did not meet last week so that subcommittees could hear budget requests from state agencies, boards, and commissions. The following is a brief overview of requests for new or increased funding:

**Budget and Control Board(B&C)- \$3.6 million dollars for additional state employee health benefits. This would fund additional dental benefits and cover an increasing number of state retirees.**

**Clemson PSA- \$1 million dollars for an ornamental horticultural and turf grass program. \$7 million dollars for a new building, and \$500,000 to renovate the Camp Long Leadership Center.**

**Commission for the Blind- \$300,000 to maximize matching federal funds for vocational rehabilitation.**

**Department of Alcohol and Other Drug Abuse Services(DAODAS)- \$400,000 for a pilot transition program for addicted children exiting the Department of Juvenile Justice(DJJ) and returning to their communities.**

**Department of Archives and History- \$9 million dollars for a new facility. \$104,000 to microfilm records.**

**Department of Disabilities and Special Needs(DDSN)- \$2.8 million dollars to increase family support services, and \$1.9 million dollars for community residential homes.**

**Department of Health and Environmental Control(DHEC)- \$7 million dollars for immunizations. \$1.9 million dollars for a computer system to consolidate**

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tracking of DHEC's 62 permits into a single system (17 tracking systems currently exist) and to provide the public with information about these permits.

Department of Mental Health(DMH)- Is not asking for new money, but to be allowed to keep \$3.8 million dollars in patient fees currently going to the General Fund.

Department of Social Services(DSS)- \$2 million dollars for welfare reform efforts.

Election Commission- \$1.4 million dollars for the 1996 General Election.

Health and Human Service Finance Commission- \$12 million dollars for emotionally disturbed children. \$5.5 million dollars for medicaid reform efforts.

Legislative Audit Council- \$45,000 to hire a certified public account (CPA). The Council does not currently have one on staff.

Legislative Council- \$300,000 to print code supplements.

Public Education- The subcommittee approved an increase of \$43.5 million dollars in spending. Members provided for an inflation factor of 3 1/2 per cent to fully fund the Education Funding Act(EFA). Costing \$37.8 million dollars, this increases the base student cost from \$1684 to \$1743 and provides teacher pay raises maintaining the Southeastern average of 3.4 per cent. Weighted pupil units increase by 5,000 to 765,000.

State Library- \$192,000 to replace computers and \$300,000 to eliminate fees in order to encourage greater use of the library.

State Museum- \$100,000 to expand their public information/marketing program. \$77,000 to incorporate Gibbes Planetarium into the museum and hire a director.

In addition to budget requests, the Criminal Justice Subcommittee held a public hearing on Wednesday, January 24th. Many corrections officers voiced their concerns about twelve hour shifts and the twelve per cent pay differential which officers at Perry Correctional Institution receive but officers at other facilities do not.

The first of three public hearings concerning Medicaid was held by the Health and Human Services Subcommittee on Thursday, January 25th. Several issues and suggestions emerged from the hearing. Most speakers wanted to maintain Medicaid spending at the current level, with emphasis on preventive measures such as immunizations and family planning clinics. Others suggested the Medicaid system implement a single, common application form requiring only a single assessment. Transitional Medicaid coverage and transportation as clients move from welfare to jobs were measures suggested as beneficial, as was increasing community services rather than relying on institutional care so much.

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### BILLS INTRODUCED

The following is a brief overview of some of the bills introduced last week in the House. Bill summaries are listed in numeric order according to committee assignment.

#### AGRICULTURE AND NATURAL RESOURCES

**H.4480 FOX-HUNTING-DOG-TRAINING Rep. Kirsh**

The measure authorizes the running of coyotes with dogs in order to train the dogs in a private enclosed fox-hunting-dog-training facility.

#### EDUCATION AND PUBLIC WORKS

**H. 4477 IMPOUNDING VEHICLES USED BY UNLICENSED DRIVERS Rep. Stille**

This bill allows for a motor vehicle to be impounded when driven by someone who does not have a license or whose license has been canceled, suspended, or revoked.

**H. 4481 SPECIAL LICENSE PLATES FOR GIRL SCOUTS Rep. Lee**

This bill creates special license plates for girl scouts with the standard thirty dollar biennial fee.

**H. 4505 SPECIAL LICENSE PLATE FEES FOR NATIONAL GUARD Rep. Klauber**

This bill eliminates the thirty dollar biennial fee paid in addition to the regular motor vehicle registration fee.

#### JUDICIARY

**H. 4479 INITIATIVE PETITION Rep. Vaughn**

This proposed amendment to the state constitution provides for a referendum to let voters decide whether they should be able to approve enactment or repeal of laws and constitutional amendments. Initiative petitions, which could not be vetoed by the governor, would not be allowed in order to elect candidates or to affect the judicial system.

**H. 4486 DEATH PENALTY Rep. Limehouse**

Concerning murder trials, this bill allows defendants to be executed when nine rather than all twelve petit jurors vote in favor of the death penalty.

**H. 4487 JURY SUMMONS Rep. Young-Brickell**

The Office of Court Administration will help the State Supreme Court develop a juror qualification form which will be mailed to prospective jurors along with their jury summons. The form will be used to determine whether a person has such disqualifications as a former conviction or being underage or a non-resident. The form does not need to be notarized, but it must be returned within ten days of receipt.

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### **H. 4488 ABORTION PROHIBITION Rep. Wofford**

This measure bans abortions except in cases where the mother's life is endangered or where the pregnancy is the result of rape or incest.

### **H. 4492 LOCAL TAX PROHIBITION Rep. Wilkins**

The bill prohibits a municipality, county, special purpose or public service district from imposing new taxes or fees or increasing existing ones on individuals, corporations, or other business entities without authorization from the General Assembly. However, the measure would not affect taxes or fees enacted before December 31, 1995.

### **H. 4494 FAILURE TO STOP FOR LAW ENFORCEMENT Rep. Simrill**

The proposed legislation makes failure to stop for a law enforcement vehicle a felony instead of a misdemeanor as it is now. The bill increases the penalty for this offense from the current fine of up to five hundred dollars (\$500) to one of up to one thousand dollars (\$1000). Current sentences range from ninety days to three years. The measure also increases the sentence to one to ten years, and the person loses his driver's license for one to ten years. The vehicle he was driving is forfeited to the sheriff or police chief where it is seized. If the vehicle's use was unauthorized, registered owners can petition the court within ten days to have the vehicle returned.

### **H. 4498 TRESPASSING ON RAILROAD TRACKS Rep. Harrison**

This measure makes it a misdemeanor to trespass on railroad tracks. Penalties for this offense range from a fine of not more than two hundred dollars (\$200) to imprisonment of not more than thirty days.

### **H. 4501 MEDICAL DELINQUENCIES Rep. Fleming**

Concerning the "Setoff Debt Collection Act," the proposed bill eliminates debts owed to county hospitals when the debtor and the hospital have arranged a payment plan which the debtor is fulfilling.

### **H. 4502 HOMOSEXUAL MARRIAGES Rep. Simrill**

The bill provides that a same sex marriage which is valid in another state is not legal in South Carolina.

### **H. 4503 LOCAL SPENDING Rep. Davenport**

The proposed legislation requires local governments to allow sixty days for citizens to comment on local tax increases and annual county and municipal budgets.

### **H. 4504 SEWER TRANSFER Rep. Whatley**

This bill provides for a voter referendum to determine whether a municipality may assume the responsibilities of a public service sewer district if a majority of the district is located within the municipality's corporate boundaries.

### **S. 918 BLUE LAWS Sen. Jackson**

The effect of this bill is to exempt Greenville County from having to hold a voter referendum about Blue Laws during the General Election this fall. The measure exempts counties which collect over nine hundred thousand dollars (\$900,000) in accommodations taxes from having to hold the

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scheduled voter referendum on Blue Laws as required in this fall's General Election. Most counties which have suspended Blue Laws already are exempted, however, Greenville County is not. Currently only Greenville County would be affected by S. 918.

### **S. 1014 HUNLEY COMMISSION Sen. McConnell**

The measure establishes a nine member panel to negotiate with the federal government over ownership of the submerged Confederate submarine. The commission is charged with seeing that the Hunley remains on permanent display in South Carolina.

## **LABOR, COMMERCE, AND INDUSTRY**

### **H. 4489 "SAFE DRIVER'S RESPONSIBILITY ACT" Rep. Knotts**

This bill allows a licensed driver to receive a safe driving credit for each year in which he receives no points for driving violations. A maximum of four credits may be accumulated. For each year in which a driver maintains one safe driving credit, he shall pay not more than seventy-five percent of the recoupment fee; a two-credit driver pays fifty percent; a three-credit driver pays twenty-five percent; and, a four-credit driver is exempt from the fee. This bill also attaches the required liability portion of auto insurance directly to an insured's driver's license and not to the motor vehicle. Proof of liability insurance coverage would be required in order to obtain or renew a driver's license. A lapse in such coverage prompts suspension of the driver's license.

## **MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

### **H. 4493 INFECTIOUS WASTE LIMITS Rep. McTeer**

This measure expands the scope of the limits imposed upon amounts of infectious waste which may be burned each year. No longer would such limits apply only to commercial incinerator facilities; instead, limits would also apply to currently-exempted hospitals and other facilities which incinerate infectious waste on a non-profit basis.

## **WAYS AND MEANS**

### **H. 4478 TOBACCO PRODUCTS TAX Rep. Boan**

This bill allows a tax of five per cent (5%) of the manufacturer's price on all tobacco products, except cigarettes which remain taxed at three and one-half mills per cigarette. Distributors of all tobacco products filing timely tobacco tax returns and payments would receive a three and a half per cent (3 1/2 %) discount rather than the current two per cent (2%).

### **H. 4496 LEGISLATIVE COMPENSATION Rep. Stuart**

The proposed legislation provides that members of the General Assembly will receive their pay in five equal monthly installments. If more than one person holds the same position during an annual session, the total payment to both may not be more than an individual would receive.

### **H. 4497 CAPITAL REQUIREMENTS FOR INSURERS Rep. Cato**

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**This measure is necessary for continued accreditation of insurers in South Carolina. Current state statutory capital and surplus requirements are the same regardless of the risks these companies undertake. The bill enacts formulas which can be used by the Department of Insurance to trigger needed regulatory actions for insurers with weak or deteriorating finances.**

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FOOTNOTE

The Legislative Update is now on-line! Members and staff who are on the network may access the document by pressing "List Files (F5)," then typing "H:\UPDATE" and pressing "enter." All of the Legislative Updates will be listed. Using your up/down arrows, choose the Update corresponding to the week you need and press "enter."

The Legislative Update is also on the World Wide Web. Visit the South Carolina General Assembly Home Page ([WWW.LPITR.STATE.SC.US](http://WWW.LPITR.STATE.SC.US)) and click on the "Quick-Find Guide." On the next screen, click on "Reports." This will list all of the Legislative Updates by week. Click on the week you need.

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