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## HOUSE WEEK IN REVIEW

The House of Representatives returned **S.297**, the **South Carolina Conservation Bank Act**, to the Senate with amendments. This bill establishes the South Carolina Conservation Bank as an ongoing funding source governed by a twelve member board and created to acquire interests in real property from willing sellers in order to protect wildlife habitats, forestlands, farmlands, open space, parks, historical sites, and healthy streams, rivers, bays, and estuaries; for recreational purposes, for scientific study, for aesthetic appreciation, for protection of critical water resources, to maintain the State’s position as an attractive location for visitors and new industry, and to preserve the opportunities of future generations to benefit from the existence of the State’s outstanding natural and historical sites. The Conservation Bank is established to encourage cooperation and innovative partnerships among landowners, state agencies, local governments, and nonprofit organizations to ensure the orderly development of the State.

The bill provides for the Board’s appointed and *ex officio* membership, terms of service, and meetings. The Governor is authorized to appoint three board members from the state at large. Three members are appointed by the President Pro Tempore of the Senate, one each from the first, second, and fifth congressional districts. Three members are appointed by the Speaker of the House of Representatives, one each from the third, fourth, and sixth congressional districts. *Ex officio* members would be board chairs of the Department of Natural Resources and the South Carolina Forestry Commission, and the director of the South Carolina Department of Parks, Recreation, and Tourism. Board members serve four-year terms under a staggered schedule. Members shall serve without compensation, but may receive the mileage, subsistence, and per diem allowed by law for members of state boards, committees, and commissions. The board shall elect a chairman and other officers as necessary from its membership. The bill establishes conditions for when board members must recuse themselves from board decisions. In order to operate the Bank, the bill requires the Board to hire an executive director and authorizes the Board to hire staff, to contract for certain services, and to enter into cooperative agreements with other state agencies.

The bill creates the South Carolina Conservation Bank Trust Fund, separate from all other funds, to receive and hold revenues of the Bank. The trust fund is authorized to receive funding from any sources that the General Assembly may provide by law; and from governmental grants and private gifts and bequests. Effective July 1, 2003, twenty‑five cents of the one dollar thirty cent state deed recording fee must be credited to the South Carolina Conservation Bank Trust Fund. The Department of Public Safety is authorized to issue “Conserve South Carolina” special motor vehicle license plates which may have an emblem, a seal, logo, or other symbol of the South Carolina Conservation Bank. The portion of the biennial fee remaining after production costs are met is to be deposited in the Trust Fund. However, in a fiscal year when the General Assembly in the annual general appropriations act provides less appropriations than what was provided for the previous year to at least one-half of the state agencies or departments or in any year when the Budget and Control Board orders across the board cuts to state agencies and departments, no further transfer of deed recording fees or other appropriated funds, state or local, may be credited to the trust fund for the fiscal year or balance of the fiscal year. Under such circumstances, existing balances in the trust fund may be used as provided.

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

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

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

The board shall evaluate each proposal according to conservation criteria listed in the bill, financial criteria listed in the bill, and the extent to which the proposal provides public access for hunting, fishing, outdoor recreational activities and other forms of public access. The board shall award grants or loans on the basis of how well proposals meet these three criteria.

The bill specifies the information that must be supplied by applicant for a grant or loan. Under the bill, an applicant is required to demonstrate that it is able to complete the project, indicate the total number of acres and describe the lands it has preserved in the State.

The board only may authorize grants or loans to purchase interests in lands at fair market value. In no cases may funds from the trust fund be used to acquire interests in lands at a price that exceeds the fair market value of the interest being acquired. However, trust funds may be used to acquire interests in land at below fair market value, but only if the owner of the interest consents and in writing to sell at below fair market value.

The Board is required, upon awarding a grant or loan, to set forth specified findings including but not limited to findings regarding the application/applicant which are relevant to the award and how the application/applicant satisfies the provisions and intentions of the bill.

The bill provides that land interest acquired by an eligible trust fund recipient may not be extinguished, sold, transferred, assigned, alienated, or converted to a purpose other than that set forth in the grant or loan award without following the procedures set forth in the legislation.

Interests in land acquired with trust funds must be managed and maintained in order to perpetuate the conservation, natural, historical, open space, and recreational uses or values for which they were originally acquired. Uses which are adverse to the original purposes for which the interests in land were acquired with trust funds are not permitted without securing a: (1) two‑thirds vote of the board, following a finding of fact that the land no longer exhibits the characteristics that qualified it for acquisition with funds from the fund; and (2) majority vote of the State Budget and Control Board.

Funds from the trust fund may not be used to acquire interests in lands or other interests in real property through the exercise of any power of eminent domain or condemnation proceeding. This provision may not be repealed, amended, or otherwise modified except by an affirmative two‑thirds vote of the total membership of both the House of Representatives and the Senate.

The provisions of this legislation must not be construed to eliminate or unreasonably restrict hunting, fishing, farming, forestry, timber management, or wildlife habitat management, as regulated by the laws of this State, upon lands for which interests in lands are obtained pursuant to this chapter. These and other traditional and compatible activities may be conducted, where appropriate, upon lands preserved with trust funds.

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

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

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

The House concurred in Senate amendments to **H.3107**, a bill dealing with **magistrates’ court jurisdiction**, and enrolled the bill for ratification. This bill provides that actions in the nature of interpleader arising from real estate contracts for the recovery of earnest money, in which the value of the money that is the subject of the action does not exceed the jurisdictional limit of the magistrates’ court, may be filed in magistrates’ court. The legislation makes provisions for pertinent legal forms and fees. Additionally, this bill provides that the failure of a competing claimant to recover in an interpleader action must not be considered a judgment claim against the claimant or used to impair the credit of a claimant.

The House did not concur in Senate amendments to **H.3141**, the **South Carolina Truth In Sentencing Act.** Under this legislation, a prisoner convicted of a crime and sentenced to the Department of Corrections is not eligible for early release, discharge, or community supervision until the prisoner has served 85% of the actual term of imprisonment imposed. This bill phases out parole, and offenders who commit their crimes after the effective date of this bill will not be eligible for parole release. Act 83 of 1995 provided Truth in Sentencing for only those offenses with maximum possible penalties of twenty years or more. **H.3141** extends the provisions of Truth in Sentencing to most other offenses. The legislation makes other revisions pertaining to corrections. Senate amendments added racial profiling provisions to the legislation under which agencies that enforce traffic laws must compile information, including race, or motorists stopped by law enforcement officers. Senate amendments added provisions revising penalties involving ice, crank, or crack cocaine.

The House approved and sent to the Senate joint resolution **H.3790** which proposes an amendment to provisions of the South Carolina Constitution relating to **qualifications of candidates for elected offices**. Under the proposed constitutional amendment, a candidate seeking elective office or a candidate for the Senate or House of Representatives must be a qualified elector of the district from which he is to be elected at the time he files for the office. Currently, a candidate for the Senate or House of Representatives must be a legal resident.

The House amended, approved, and sent to the Senate **H.3678**, a bill pertaining to **temporary license plates**. Current law allows a forty-five day grace period for obtaining a permanent license plate. Because of this grace period, law enforcement officers have not been authorized to stop vehicles that do not have license plates. This legislation provides instead that a vehicle may not be operated without a permanent or temporary license plate. A person purchasing a vehicle or moving a foreign vehicle into the state must do one of the following: (1) Transfer a license plate from another vehicle; (2) Purchase a permanent license plate from the Division of Motor Vehicles; (3) Purchase a temporary license plate from the DMV ($5); (4) Purchase a temporary license plate from the county auditor’s office ($5); or (5) Obtain a temporary license plate from a car dealer. The bill establishes conditions and specifications for the temporary license plates issued by the authorized entities. All special license plates must display the date of expiration which must not extend beyond forty-five days from the vehicle’s date of purchase. A casual seller or a dealer of new or used vehicles who fraudulently issues a temporary license plate is guilty of a misdemeanor, and, upon conviction, must be fined $100 for each occurrence. While operating with a temporary license plate, the bill of sale, title, rental contract, or a copy thereof, must be maintained in the vehicle at all times to verify the vehicle’s date of purchase to a law enforcement officer. A person must replace a temporary license plate with a permanent license plate within forty-five days of purchasing the vehicle or moving a foreign vehicle into this State. A person who operates a vehicle in violation of this provision is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars. A person who transfers a license plate from one vehicle to a newly acquired vehicle must register the new vehicle within forty-five days of the purchase date. The bill of sale and registration which corresponds to the license plate must be maintained in the newly acquired vehicle at all times to verify its date of purchase to a law enforcement officer. Nothing in these provisions displaces the responsibility of a person to obtain the proper insurance before operating a vehicle. The House also amended the bill to provide that only one temporary license plate shall be issued to a purchaser of a vehicle for the vehicle he has purchased before it is registered permanently. This provision limiting the number of temporary license plates issued to a purchaser takes effect on July 1, 2003. The rest of the act takes effect upon approval by the Governor.

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

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

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

The House returned **S.856** to the Senate with amendments. This bill reestablishes the **special water recreational resources fund**. The bill provides that one percent of the proceeds from thirteen cents of the gasoline tax must be transmitted to the Department of Natural Resources (DNR) for this special fund, and that all balances in the fund must be carried forward annually so that no part of it reverts to any other fund. The bill provides that the fund must be apportioned based upon the number of registered boats or other watercraft in each county and expended by DNR to acquire, create, or improve “water recreational resources”. The bill provides that these funds may be used to promote activities that take place on the water for recreation provided that no more than ten percent of each annual allocation may be used for this purpose beginning July 1, 2003. The bill allows each county delegation to make recommendations to DNR for projects to acquire, create, or improve water recreational resources, and DNR must give these recommendations primary consideration over any other projects. The bill allows DNR to use up to one third of the funds for law enforcement, noxious aquatic weed control, and acquisition, and the bill requires that DNR must be reimbursed for design and engineering costs and administration of these provisions from funds collected under the provisions of the bill. The bill requires that revenue collected or funds remaining in the Water Recreational Resources Fund created by Act 1134 of 1968 must be transferred to the fund created under this bill, and any funds collected by the state treasury between January 7, 2002, and the effective date of this bill which would have been allocated to the Water Recreation Resource Fund created by Section 12-28-2730 must be allocated to the fund created by this bill. As amended by the House, the bill provides a procedure for the disposal of all surplus property owned by the Department.

The House amended and gave second reading to **H.3009**, the **Gambling Cruise Prohibition Act**. The legislation explicitly states that it is the purpose of this act to prohibit gambling activities on so‑called “cruises to nowhere.” The legislation provides that it is unlawful for a person to use any gambling device or engage in gambling aboard a vessel within the jurisdiction of this State. The legislation provides that it is unlawful for a person to use any gambling device or engage in gambling aboard a vessel that is on a voyage if: (a) the voyage begins and ends in this State; and (b) during the voyage the vessel does not make an intervening stop. The legislation provides that it is unlawful for a person to own, keep, operate, manage, or maintain any gambling device on a vessel within the jurisdiction of this State unless: (a) the vessel is engaged in a voyage that begins and ends in this State and makes an intervening stop; and (b) any gambling that occurs aboard the vessel occurs only outside the jurisdictional waters of this State. The legislation also prohibits the transportation of individuals to a “cruise to nowhere” style gambling cruise. Under the bill, an ‘intervening stop’ occurs when a vessel departs the jurisdictional waters of this State and sails into United States or international waters, and between the time the vessel departs the jurisdictional waters of this State and the time it returns to the jurisdictional waters of this State, the vessel docks at a port of call in another state or possession of the United States or foreign country and remains in that port for a period of time sufficient to allow passengers the opportunity to disembark the vessel for sightseeing, shopping, or other tourism‑related activities at that port. A person who engages in gambling that is unlawful under this act is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days. An individual who violate provisions pertaining to the operation or facilitation of a “cruise to nowhere” is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned for not more than one year.

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

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

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

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

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

### 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 full Education and Public Works Committee did not meet this week.

#### JUDICIARY

The full Judiciary Committee met on Tuesday, February 19, and gave a favorable report on **H.4416**, the **South Carolina Omnibus Counter‑Terrorism and Homeland Defense Act of 2002**.

The legislation affords state law enforcement authorities with new means of **investigating potential terrorist threats**.

**Interception of Wire, Oral and Electronic Communications**

The bill authorizes a judge to order the interception of wire, oral or electronic communications by the State Law Enforcement Division (SLED) upon application by the Attorney General or Solicitors if such communication will provide evidence of the commission of a violent crime, of any offense related to terrorism or any offense related to bombs, destructive devices and weapons of mass destruction as provided by the bill.

Other investigative or law enforcement officers of governmental law enforcement agencies, government personnel and individuals operating under a government contract may assist SLED in conducting interceptions under the direct supervision of SLED.

All officers who are authorized to conduct interceptions must first undergo training provided by SLED in conducting such surveillance with emphasis on techniques for minimizing the interception of communications that fall outside of the scope of these provisions.

The legislation establishes conditions for such court orders for intercepting communications, time limits for investigations conducted under such an order, the manner in which extensions may be obtained, and procedures for operating under time-sensitive emergency conditions.

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

**Terrorism Identification and Prevention Provisions**

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

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

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

**Death Penalty for Violation of Anti-terrorist Law**

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

**Revisions to Weapons of Mass Destruction Statutes**

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

The bill provides that it is unlawful to threaten or attempt to threaten to cause damage, injury, sickness, disease or death or to cause damage or destruction to a building or other property by means of a destructive device.

The bill provides that it is unlawful for a person to knowingly harm or destroy a plot, land, a stream, pond, lake or body of water, a crop, plant or livestock, wildlife or fish by means of the direct or indirect use of a biological, chemical or nuclear weapon of mass destruction with the intent to cause economic or physical harm to a person or damage to property.

The bill provides that it is unlawful for a person to commit an offense using a biological attack, destructive device, weapon of mass destruction, biological or bacteriological weapon if committed incident to or to facilitate an act of terrorism or international terrorism.

The bill specifies those individuals who are exempt from certain restrictions including military and law enforcement officers engaged in lawful activity and persons engaged in lawful research, accepted agricultural, pest and weed control practices.

The bill requires notification by law enforcement of encounters of weapons of mass destruction to public health officials.

The bill provides that restitution be ordered for certain violations.

**Freedom of Information Act Provisions**

The legislation clarifies that a public agency may prohibit disclosure of law enforcement records that are also not subject to disclosure under federal law.

The legislation authorizes a public agency to prohibit disclosure of information relating to security plans and devices of public bodies except for amounts expended for the adoption, implementation, or installation of such security plans and devices.

The legislation authorizes DHEC to regulate the disclosure of certain chemical and industrial storage information subject to federal law and federal regulations to prevent the release of certain information which would increase the risk of acts of terrorism. The director of DHEC must notify the Attorney General and identify such information and promulgate regulations to regulate access to such information.

The legislation contains numerous provisions related to a **declared state of emergency**.

**Price Gouging and Misleading Solicitations Prohibitions**

The legislation establishes provisions prohibiting price gouging and willfully misleading solicitation of money for charitable purposes during a state of emergency declared by the Governor or a state of disaster declared by the President.

### SLED Criminal Background Checks of Emergency Workers

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

**Leaves of Absence for State Workers Trained in Disaster Response**

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

**Tax Credits for Emergency Workers**

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

**Active Duty State Income Tax Exclusion**

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

**Free Admission to State Parks for Emergency Workers on September Eleventh**

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

**South Carolina 9/11 Scholarship Program**

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

**State Day of Remembrance**

The legislation designates September 11 of each year as a State Day of Remembrance.

**Moment of Silence**

The legislation revises the current mandatory moment of silence requirement by requiring all school districts to establish in every school under its jurisdiction the daily observance of one minute of silence for voluntary prayer, meditation, or other silent activity. During the one‑minute period of silence, the teacher responsible for each classroom shall ensure that all pupils remain seated and silent and make no distracting display to the end that each pupil, in the exercise of his individual choice, may pray, meditate, or engage in any other silent activity which does not interfere with, distract, or impede other pupils in the like exercise of individual choice.

**Display of National Mottos in Public Schools**

The principal in each public elementary and secondary school in this State shall display on an appropriately framed background with minimum dimensions of eleven inches by fourteen inches, the following national mottos of the United States of America in a prominent place inside the school under his supervision: ‘In God We Trust’ and ‘E Pluribus Unum’.

#### LABOR, COMMERCE AND INDUSTRY

The full Labor, Commerce and Industry Committee met on Tuesday, February 6, and reported out several bills.

The committee gave a report of favorable with amendments on **H.4013**, a bill pertaining to the **recovery of benefit overpayments by the** **Employment Security Commission**. The legislation provides the Commission with the option of imposing a benefit deduction penalty for fraudulent overpayments that is equal to not less than twice the weekly benefit amount. This option may be imposed in addition to, or as an alternative to the suspension of benefits. The legislation revises the recovery of benefit overpayments including provisions that increase the statute of limitations period from three to five years, authorize the Commission to waive repayments under certain conditions, and authorize the Commission to enter into reciprocal repayment agreements with other states.

The committee gave a report of favorable with amendments on **H.4014**, a bill **revising administrative provisions of the Employment Security Commission**. The bill authorizes the Commission to require certain reports from employers that are necessary for the Commission’s cooperative agreements with the United States Bureau of Labor Statistics. The bill provides clarification on the disclosure of certain information collected by the Commission. The bill makes various other revisions including those necessary to bring the statutes in conformity with the South Carolina Administrative Procedures Act.

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

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

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

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

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

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

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

**may employ or contract with a direct caregiver (defined in the bill) until after the direct caregiver has undergone a state criminal history check**. Pending the results of the criminal history check, a person temporarily may be employed or contract as a direct caregiver with a direct care entity. Also, a direct care entity must consider the information revealed by a criminal history check as a factor in evaluating a direct caregiver’s application to be employed by or contract with the entity. The bill requires that direct care entities shall furnish copies of personnel records of current or former direct caregivers to another direct care entity requesting this information, and a direct care entity releasing this information is presumed to be acting in good faith and is immune from civil and criminal liability. The provisions of the bill are effective July 1, 2002.

#### WAYS AND MEANS

The full Ways and Means Committee met during the week to debate and develop recommendations for the 2002-2003 State budget plan. The committee also approved House Resolution **H.4741** and made it a committee bill (**H.4766**). This resolution expresses the sense of the House of Representatives that **no permanent law should be included in the General Appropriations Bill for fiscal year 2002-2003**, when the bill is considered by the House beginning March 11, 2002.

Highlights from the Committee’s budget recommendation for 2002-2003 include:

 **NON-RECURRING REVENUE** is generated from various sources, including but not limited to:

o Redirecting interest from over sixty state agency restricted accounts, generating approximately $55 million;

o Establishment of a tax amnesty program, which it is estimated will generate around $5 million;

o Reducing the state’s contribution to the employee retirement plan, and transferring various other agency funds to the General Fund (i.e., $10 million from Unclaimed Property Subfund and $5 million from the 911 Phone Surcharge Subfund of the State Treasurer’s Office), generating a total of approximately $73 million; over $29 million of these funds will be used to cover increases in state employee health insurance costs;

o Transferring $28.8 million from the unrestricted taxable proceeds portion of the principal of the Healthcare Tobacco Settlement Trust Fund, to be used to fund the Silvercard prescription drug program at $23.2 million and Medicaid at $5.6 million.

 **LOTTERY** - The Committee recommended that all of the $194.2 million in lottery revenue be considered non-recurring funds, to be expended as follows (figures are rounded):

o Education Accountability Act Increase $23.9 million

o K-12 Reading, Math, Science Program 27.5 million

o School Buses 35.0 million

o ETV Digitalization 18.5 million

o LIFE Scholarship Increase (Includes TEC Students) 42.0 million

o Palmetto Fellows Increase to $5,500 3.5 million

o Endowed Chairs at Research Universities 30.0 million

o Technology: Public four-year universities,

o two-year institutions, and state technical schools 13.7 million

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

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

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

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

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

**BILLS INTRODUCED IN THE HOUSE**

**THIS WEEK**

AGRICULTURE, NATURAL RESOURCES, AND

ENVIRONMENTAL AFFAIRS

# S.894 *HUNTING WILD TURKEY* Sen. Gregory

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

**S.987 *LAKE WARDENS IN CITY OF SPARTANBURG* Sen. Reese**

This bill authorizes the Commission of Public Works for the City of Spartanburg to establish a Safety and Security Department and to employ lake wardens. The bill provides for the powers, duties, and jurisdiction of lake wardens, who would be commissioned as constables, and requires that they must complete Criminal Justice Academy training requirements.

**H.4767 *LAWN SPRINKLER/IRRIGATION SYSTEMS* Rep. Gilham**

This bill provides that certain provisions prohibiting unprotected cross-connections between public water systems and other water systems, sewers, or waste lines, do not apply to a residential lawn sprinkler system or lawn irrigation system that is professionally installed and connected to a public water system.

**H.4768 *WET TEST RESULTS* Rep. White**

This bill provides that a whole effluent toxicity (WET) test result that deviates from water quality standards required by the Department of Health and Environmental Control does not in and of itself constitute a violation without evidence of other water quality standard deviations.

#### EDUCATION AND PUBLIC WORKS

**S.892 *WINTHROP BOARD OF TRUSTEES* Sen. Hayes**

This bill revises the manner in which Winthrop University Board members are elected or appointed. Revisions include, but are not limited to: a provision that of the seven members elected by the General Assembly, one member must be elected from each of the six congressional districts and one member must be elected by the General Assembly from the State at large. The bill also provides that these members, who must reside in the Congressional district which they represent, shall have their seat designated as the seat number corresponding to their Congressional District, with the at-large member designated as Seat Seven. The bill also revises the terms of the trustees.

**H.4773 *POSSESSION OF A DRIVER’S LICENSE* Rep. Gilham**

This bill provides that a person from another country, or his dependents, who is not a resident of South Carolina but is present in the State on a visitor visa and who owns property in South Carolina, may be issued a driver’s license.

#### JUDICIARY

### S.902 *VOTING PRECINCTS IN BEAUFORT COUNTY* Sen. Richardson

This bill revises voting precincts in Beaufort County, so as to redesignate certain precincts and map number on which lines of these precincts are delineated.

H.4757 *HOUSING FEDERAL PRISONERS IN COUNTY DETENTION*

*FACILITIES* Rep. Harrison

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

**H.4759 *SECURITY OFFICERS* Rep. Harrison**

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

H.4762 *CHEMICAL TESTS FOR CERTAIN INDIVIDUALS INVOLVED IN*

*SERIOUS MOTOR VEHICLE ACCIDENTS* Rep. Rice

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

S.410 *APPLICATION OF STATE CONSTITUTIONAL BAN ON DUAL OFFICE*

*HOLDING* Sen. Grooms

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

### H.4775 *RECORD OF TESTIMONY BEFORE MAGISTRATES* Rep. Lloyd

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

H.4791 *DISCLOSURE OF PUBLIC BODY’S INCENTIVES TO ATTRACT*

*BUSINESS OR INDUSTRY INVESTMENT* Rep. Knotts

This bill provides that any public body or its authorized agent, that undertakes to attract business or industry to invest or locate in South Carolina by offering incentives that require the expenditure of public funds, the transfer of anything of value, or that reduces the rate or alters the method of taxation of the business or industry must disclose at the time any offer is accepted or rejected the fiscal impact of the offer on the public body and any governmental entity affected by the offer. The bill also provides that memoranda, correspondence, and documents relating to such offers or are not exempt from disclosure under the Freedom of Information Act after the offer is accepted by the industry or business to whom the offer was made.

#### LABOR, COMMERCE AND INDUSTRY

**H.4760 *INCLUSION OF STATE CONSTABLES UNDER WORKERS’***

***COMPENSATION* Rep. Simrill**

This bill revises the definition of “employee” for purposes of Workers’ Compensation, so as to include state constables. The bill revises provisions for Workers’ Compensation and the designated average weekly wage for certain categories of employees, so as to include provisions for volunteer state constables who serve without compensation.

H.4761 *TITLE INSURERS AND TITLE INSURANCE AGENTS* Rep. Simrill

This bill provides that a title insurer or title insurance agent licensed in this State may not pay, directly or indirectly, any portion of a premium or commission or other valuable consideration on account of any policy of title insurance to any person not licensed by this State as a title insurer or title insurance agent.

H.4771 *LICENSURE AND REGULATION OF ARCHITECTS* Rep. Keegan

This bill revises definitions used concerning the licensure and regulation of architects, so as to add the definition of “emeritus architect.” The legislation exempts emeritus architects from continuing education requirements unless returning to active practice. The bill includes the Canadian Architectural Certification Board as an accrediting body of schools or programs for architects. The bill authorizes the Board Of Architectural Examiners to establish the South Carolina Architecture Education And Research Fund. The legislation allocates revenue from renewal fees to the fund, and provides for the purposes of the fund.

S.668 *EMPLOYMENT SECURITY LAW REVISIONS* Sen. J. Verne Smith

This bill provides for various revisions relating to South Carolina Employment Security Law.

S.965 *CAPTIVE INSURANCE COMPANIES* Sen. Thomas

This bill provides for various revisions relating to captive insurance companies. This legislation establishes a new category, the special purpose captive insurance company. Requirements are established for the licensure and operation of a special purpose captive insurance company. The legislation establishes the Captive Insurance Regulatory and Supervision Fund for the purpose of providing the financial means for the Director of the South Carolina Department of Insurance to administer captive insurance laws and for reasonable expenses incurred in promoting the captive insurance industry in the State. The legislation revises provisions relating to the aggregate taxes paid by a captive insurance company.

S.982 *INSURANCE REVISIONS* Sen. Thomas

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

H.4786 *MERCHANT PLANTS* Rep. Meacham-Richardson

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

**WAYS AND MEANS**

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

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

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

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

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

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

**H.4774 *GENERAL ASSEMBLY SPECIAL SESSION PAY* Rep. Clyburn**

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

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

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

**H.4783 *PAYMENT OF PROPERTY TAXES/REGISTRATION AND***

***LICENSING OF MOTOR VEHICLE* Rep. Sharpe**

Current law provides that in order to register and license a vehicle, the applicant must present certain information, including proof that county and municipal taxes on the vehicle have been paid. This bill deletes that provision and provides that no vehicle shall be registered and licensed if the county treasurer certifies that property taxes due by the applicant to the treasurer on any motor vehicle have not been paid.

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