~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 4, 2009

**H. 3161**

Introduced by Rep. Harrison

S. Printed 3/4/09--H. [SEC 3/6/09 2:02 PM]

Read the first time January 13, 2009.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3161) to amend Section 1‑23‑660, as amended, Code of Laws of South Carolina, 1976, relating to the Office of Motor Vehicle Hearings within the Administrative Law Court, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

JAMES H. HARRISON for Committee.

**A** **BILL**

TO AMEND SECTION 1‑23‑660, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE OFFICE OF MOTOR VEHICLE HEARINGS WITHIN THE ADMINISTRATIVE LAW COURT, SO AS TO REQUIRE THE OFFICE OF MOTOR VEHICLE HEARINGS TO EMPLOY CERTAIN PROFESSIONAL AND SUPPORT STAFF; AND TO AMEND SECTION 56‑5‑2952, AS AMENDED, RELATING TO THE FILING FEE TO REQUEST AN ADMINISTRATIVE HEARING, SO AS TO INCREASE THE FILING FEE FROM ONE HUNDRED FIFTY TO TWO HUNDRED FIFTY DOLLARS AND PROVIDE FOR THE DISTRIBUTION OF THE FILING FEE FUNDS COLLECTED.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 1‑23‑660(A) of the 1976 Code, as last amended by Act 279 of 2008, is further amended to read:

“(A) There is created within the Administrative Law Court the Office of Motor Vehicle Hearings. The Chief Judge of the Administrative Law Court shall serve as the Director of the Office of Motor Vehicle Hearings. The duties, functions, and responsibilities of all hearing officers and associated staff of the Department of Motor Vehicles are devolved upon the Administrative Law Court effective January 1, 2006. The hearing officers and staff positions, together with the appropriations relating to these positions, are transferred to the Office of Motor Vehicle Hearings of the Administrative Law Court on January 1, 2006. The hearing officers and staff ~~shall~~must be appointed, hired, contracted, and supervised by the chief judge of the court and shall continue to exercise their adjudicatory functions, duties, and responsibilities under the auspices of the Administrative Law Court as directed by the chief judge and shall perform such other functions and duties as the chief judge of the court prescribes. The Office of Motor Vehicle Hearings shall employ at least five hearing officers, an attorney to advise the hearing officers and support staff in the performance of their duties, and other support and supervisory staff as deemed necessary by the chief judge. All employees of the office shall serve at the will of the chief judge. The chief judge is solely responsible for the administration of the office, the assignment of cases, and the administrative duties and responsibilities of the hearing officers and staff. Notwithstanding another provision of law, the chief judge also has the authority to promulgate rules governing practice and procedures before the Office of Motor Vehicle Hearings. These rules are subject to review as are the rules of procedure promulgated by the Supreme Court pursuant to Article V of the South Carolina Constitution.”

SECTION 2. Section 56‑5‑2952 of the 1976 Code, as last amended by Act 279 of 2008, is further amended to read:

“Section 56‑5‑2952. The filing fee to request ~~any~~a contested case hearing before the Office of Motor Vehicle Hearings of the Administrative Law Court is ~~one~~two hundred fifty dollars, or as otherwise prescribed by the rules of procedure for the ~~Administrative Law Court~~Office of the Motor Vehicle Hearings. Funds generated from the collection of this fee ~~shall~~must be retained by the Administrative Law Court, provided, however, that these funds first must be used to meet the expenses of the Office of Motor Vehicle Hearings, including the salaries of its employees, as directed by the Chief Judge of the Administrative Law Court.”

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 4. This act takes effect upon approval by the Governor.

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