COMMITTEE REPORT

May 30, 2012

**H. 5104**

Introduced by Reps. McLeod and Harrison

S. Printed 5/30/12--S.

Read the first time April 25, 2012.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 5104) to amend the Code of Laws of South Carolina, 1976, by adding Chapter 2 to Title 2 so as to require all testimony given to a committee or subcommittee of the, etc., respectfully

**REPORT:**

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

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Title 2 of the 1976 Code is amended by adding:

“CHAPTER 2

Testimony before the General Assembly

Section 2-2-10. Testimony given to a committee or subcommittee of either house of the General Assembly may be under oath.

Section 2-2-20. A person who appears before a committee or subcommittee of either house of the General Assembly and willfully gives false, materially misleading, or materially incomplete testimony under oath is guilty of contempt of the General Assembly. A person who violates the provisions of this section must be punished as follows: (a) for a first offense, is guilty of a misdemeanor and must be fined not less than one hundred dollars or imprisoned not more than six months, or both; (b) for a second or subsequent offense, is guilty of a felony and must be fined in the discretion of the court or imprisoned not more than five years, or both.

Section 2-2-30. A person who appears before a committee or subcommittee of either house of the General Assembly must be given the benefit of any privilege which he may have claimed in court as a party to a civil or criminal action.

Section 2-2-40. When the majority of the committee or subcommittee believes that a person willfully gave false, materially misleading, or materially incomplete testimony to the committee or subcommittee under oath, the chair of the committee or subcommittee may refer the matter to the South Carolina Law Enforcement Division for an investigation. The South Carolina Law Enforcement Division may then refer the matter to the South Carolina Attorney General’s office for proper disposition or may cause charges to be filed.”

SECTION 2. This act takes effect upon approval by the Governor.

Renumber sections to conform.

Amend title to conform.

GEORGE E. CAMPSEN III for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

Minimal (Some additional costs expected but can be absorbed)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The Senate and the House of Representatives

The Legislature reports this bill will have no fiscal impact on the General Fund of the State or on federal and/or other funds.

Attorney General’s Office

The office reports there will be a minimal fiscal impact which can be absorbed by the agency.

Department of Corrections

The department indicates that this bill will have a minimal impact on the General Fund of the State, which the agency can absorb at their current level of funding.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 2 TO TITLE 2 SO AS TO REQUIRE ALL TESTIMONY GIVEN TO A COMMITTEE OR SUBCOMMITTEE OF THE GENERAL ASSEMBLY MUST BE UNDER OATH AND TO CREATE THE OFFENSES OF CONTEMPT OF THE GENERAL ASSEMBLY AND CRIMINAL CONTEMPT AND PROVIDE A PENALTY FOR A VIOLATION.

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

SECTION 1. Title 2 of the 1976 Code is amended by adding:

“CHAPTER 2

Testimony before the General Assembly

Section 2‑2‑10. All testimony given to a committee or subcommittee of either house of the General Assembly must be under oath.

Section 2‑2‑20. A person who appears before a committee or subcommittee of either house of the General Assembly, and wilfully gives false, materially misleading, or materially incomplete testimony under oath is guilty of contempt of the General Assembly. A person who is convicted of, or pleads guilty to, contempt of the General Assembly is guilty of a felony and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both.

Section 2‑2‑30. A person who appears before a committee or subcommittee of either house of the General Assembly must be given the benefit of any privilege which he may have claimed in court as a party to a civil action.

Section 2‑2‑40. When a person violates Section 2‑2‑20 it is the duty of the chair of the committee or subcommittee before which the false, misleading, or incomplete testimony was given, to notify the Attorney General of South Carolina who shall cause charges to be filed in the appropriate county.

Section 2‑2‑50. (A) A person is guilty of criminal contempt when, having been duly subpoenaed to attend as a witness before either house of the legislature or before any committee thereof, he:

(1) fails or refuses to attend without lawful excuse;

(2) refuses to be sworn;

(3) refuses to answer any material and proper question; or

(4) refuses, after reasonable notice, to produce books, papers, or documents in his possession or under his control which constitute material and proper evidence.

(B) A person who is convicted of, or pleads guilty to, criminal contempt as provided in this chapter is guilty of a felony and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both.”

SECTION 2. This act takes effect upon approval by the Governor.

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