

NO. 24

JOURNAL
of the
HOUSE OF REPRESENTATIVES
of the
STATE OF SOUTH CAROLINA



REGULAR SESSION BEGINNING TUESDAY, JANUARY 13, 2015

WEDNESDAY, FEBRUARY 18, 2015
(STATEWIDE SESSION)

Wednesday, February 18, 2015
(Statewide Session)

~~Indicates Matter Stricken~~

Indicates New Matter

The House assembled at 10:00 a.m.

Deliberations were opened with prayer by Rev. Charles E. Seastrunk, Jr., as follows:

Our thought for today is from Jeremiah 33:3: "...thus says the Lord; call to me and I will answer you, and will tell you great and hidden things that you have not known."

Let us pray. Loving and gracious God, lead these Your people to heights unknown to them but known to you, as they discuss and debate the important items brought before this body today. Give them courage, strength, wisdom, and integrity to do what is right and pleasing to You, regardless of the outcome. Remove the tangled fears that make us want to hide. Bless our Nation, President, State, Governor, Speaker, staff, and all who labor in these Halls of Government. Protect our defenders of freedom, at home and abroad, as they protect us. Heal the wounds, those seen and those hidden, of our brave warriors who have suffered and sacrificed for us. Lord, in Your mercy, hear our prayers. Amen.

Pursuant to Rule 6.3, the House of Representatives was led in the Pledge of Allegiance to the Flag of the United States of America by the SPEAKER.

After corrections to the Journal of the proceedings of yesterday, the SPEAKER ordered it confirmed.

HOUSE RESOLUTION

The following was introduced:

H. 3673 -- Rep. Delleney: A HOUSE RESOLUTION TO AUTHORIZE THE SOUTH CAROLINA CHAPTER OF THE AMERICAN BOARD OF TRIAL ADVOCATES TO USE THE HOUSE CHAMBER ON SEPTEMBER 18, 2015, FOR THE ORGANIZATION'S JAMES OTIS LECTURE, IN ACCORDANCE WITH THE BUILDING POLICY AS ADMINISTERED BY THE CLERK OF THE HOUSE.

Be it resolved by the House of Representatives:

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That the South Carolina Chapter of the American Board of Trial Advocates be allowed the use of the House Chamber on September 18, 2015, for the organization's James Otis Lecture, in accordance with the building policy as administered by the Clerk of the House. If the General Assembly is in statewide session on this day or if the House chamber is otherwise unavailable, the House chamber may not be used on this date.

The Resolution was adopted.

HOUSE RESOLUTION

The following was introduced:

H. 3676 -- Reps. Finlay, Alexander, Allison, Anderson, Anthony, Atwater, Bales, Ballentine, Bamberg, Bannister, Bedingfield, Bernstein, Bingham, Bowers, Bradley, Brannon, G. A. Brown, R. L. Brown, Burns, Chumley, Clary, Clemmons, Clyburn, Cobb-Hunter, Cole, Collins, Corley, H. A. Crawford, Crosby, Daning, Delleney, Dillard, Douglas, Duckworth, Erickson, Felder, Forrester, Funderburk, Gagnon, Gambrell, George, Gilliard, Goldfinch, Govan, Hamilton, Hardee, Hardwick, Hart, Hayes, Henderson, Henegan, Herbkersman, Hicks, Hill, Hiott, Hixon, Hodges, Horne, Hosey, Howard, Huggins, Jefferson, Johnson, Kennedy, King, Kirby, Knight, Limehouse, Loftis, Long, Lowe, Lucas, Mack, McCoy, McEachern, McKnight, M. S. McLeod, W. J. McLeod, Merrill, Mitchell, D. C. Moss, V. S. Moss, Murphy, Nanney, Neal, Newton, Norman, Norrell, Ott, Parks, Pitts, Pope, Putnam, Quinn, Ridgeway, Riley, Rivers, Robinson-Simpson, Rutherford, Ryhal, Sandifer, Simrill, G. M. Smith, G. R. Smith, J. E. Smith, Sottile, Southard, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Tinkler, Toole, Weeks, Wells, Whipper, White, Whitmire, Williams, Willis and Yow: A HOUSE RESOLUTION TO RECOGNIZE AND HONOR WILLIAM EVANS FEW FOR HIS REMARKABLE ACHIEVEMENTS IN BOY SCOUTS AND TO CONGRATULATE HIM UPON ACHIEVING THE HONORED RANK OF EAGLE SCOUT, THE HIGHEST AWARD IN SCOUTING.

The Resolution was adopted.

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HOUSE RESOLUTION

The following was introduced:

H. 3677 -- Reps. Finlay, Alexander, Allison, Anderson, Anthony, Atwater, Bales, Ballentine, Bamberg, Bannister, Bedingfield, Bernstein, Bingham, Bowers, Bradley, Brannon, G. A. Brown, R. L. Brown, Burns, Chumley, Clary, Clemmons, Clyburn, Cobb-Hunter, Cole, Collins, Corley, H. A. Crawford, Crosby, Daning, Delleney, Dillard, Douglas, Duckworth, Erickson, Felder, Forrester, Funderburk, Gagnon, Gambrell, George, Gilliard, Goldfinch, Govan, Hamilton, Hardee, Hardwick, Hart, Hayes, Henderson, Henegan, Herbkersman, Hicks, Hill, Hiott, Hixon, Hodges, Horne, Hosey, Howard, Huggins, Jefferson, Johnson, Kennedy, King, Kirby, Knight, Limehouse, Loftis, Long, Lowe, Lucas, Mack, McCoy, McEachern, McKnight, M. S. McLeod, W. J. McLeod, Merrill, Mitchell, D. C. Moss, V. S. Moss, Murphy, Nanney, Neal, Newton, Norman, Norrell, Ott, Parks, Pitts, Pope, Putnam, Quinn, Ridgeway, Riley, Rivers, Robinson-Simpson, Rutherford, Ryhal, Sandifer, Simrill, G. M. Smith, G. R. Smith, J. E. Smith, Sottile, Southard, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Tinkler, Toole, Weeks, Wells, Whipper, White, Whitmire, Williams, Willis and Yow: A HOUSE RESOLUTION TO RECOGNIZE AND HONOR RICHARD OTIS KNEECE, JR., FOR HIS NOTEWORTHY ACHIEVEMENTS IN BOY SCOUTS AND TO CONGRATULATE HIM UPON ACHIEVING THE CELEBRATED RANK OF EAGLE SCOUT, THE HIGHEST AWARD IN SCOUTING.

The Resolution was adopted.

CONCURRENT RESOLUTION

The following was introduced:

H. 3674 -- Reps. George, Alexander, Allison, Anderson, Anthony, Atwater, Bales, Ballentine, Bamberg, Bannister, Bedingfield, Bernstein, Bingham, Bowers, Bradley, Brannon, G. A. Brown, R. L. Brown, Burns, Chumley, Clary, Clemmons, Clyburn, Cobb-Hunter, Cole, Collins, Corley, H. A. Crawford, Crosby, Daning, Delleney, Dillard, Douglas, Duckworth, Erickson, Felder, Finlay, Forrester, Funderburk, Gagnon, Gambrell, Gilliard, Goldfinch, Govan, Hamilton, Hardee, Hardwick, Hart, Hayes, Henderson, Henegan, Herbkersman, Hicks, Hill, Hiott, Hixon, Hodges, Horne, Hosey, Howard, Huggins, Jefferson, Johnson, Kennedy, King, Kirby, Knight, Limehouse, Loftis, Long, Lowe, Lucas,

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Mack, McCoy, McEachern, McKnight, M. S. McLeod, W. J. McLeod, Merrill, Mitchell, D. C. Moss, V. S. Moss, Murphy, Nanney, Neal, Newton, Norman, Norrell, Ott, Parks, Pitts, Pope, Putnam, Quinn, Ridgeway, Riley, Rivers, Robinson-Simpson, Rutherford, Ryhal, Sandifer, Simrill, G. M. Smith, G. R. Smith, J. E. Smith, Sottile, Southard, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Tinkler, Toole, Weeks, Wells, Whipper, White, Whitmire, Williams, Willis and Yow: A CONCURRENT RESOLUTION TO RECOGNIZE AND HONOR FAMILY-OWNED TAYLOR'S BARBER SHOP OF MARION COUNTY ON THE OCCASION OF ITS ONE HUNDREDTH ANNIVERSARY, AND TO WISH ITS FAMILY MEMBERS, EMPLOYEES, AND PATRONS MANY MORE YEARS OF MEANINGFUL SERVICE TO THE COMMUNITY.

The Concurrent Resolution was agreed to and ordered sent to the Senate.

CONCURRENT RESOLUTION

The following was introduced:

H. 3675 -- Reps. George, Alexander, Allison, Anderson, Anthony, Atwater, Bales, Ballentine, Bamberg, Bannister, Bedingfield, Bernstein, Bingham, Bowers, Bradley, Brannon, G. A. Brown, R. L. Brown, Burns, Chumley, Clary, Clemmons, Clyburn, Cobb-Hunter, Cole, Collins, Corley, H. A. Crawford, Crosby, Daning, Delleney, Dillard, Douglas, Duckworth, Erickson, Felder, Finlay, Forrester, Funderburk, Gagnon, Gambrell, Gilliard, Goldfinch, Govan, Hamilton, Hardee, Hardwick, Hart, Hayes, Henderson, Henegan, Herbkersman, Hicks, Hill, Hiott, Hixon, Hodges, Horne, Hosey, Howard, Huggins, Jefferson, Johnson, Kennedy, King, Kirby, Knight, Limehouse, Loftis, Long, Lowe, Lucas, Mack, McCoy, McEachern, McKnight, M. S. McLeod, W. J. McLeod, Merrill, Mitchell, D. C. Moss, V. S. Moss, Murphy, Nanney, Neal, Newton, Norman, Norrell, Ott, Parks, Pitts, Pope, Putnam, Quinn, Ridgeway, Riley, Rivers, Robinson-Simpson, Rutherford, Ryhal, Sandifer, Simrill, G. M. Smith, G. R. Smith, J. E. Smith, Sottile, Southard, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Tinkler, Toole, Weeks, Wells, Whipper, White, Whitmire, Williams, Willis and Yow: A CONCURRENT RESOLUTION TO RECOGNIZE AND COMMEND DR. JOHN M. WHITTINGTON OF MARION FOR HIS OUTSTANDING COMMUNITY SERVICE TO THE PEOPLE OF SOUTH CAROLINA AND TO CONGRATULATE HIM ON

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RECEIVING THE 2015 MARION CHAMBER OF COMMERCE
COMMUNITY SERVICE AWARD.

The Concurrent Resolution was agreed to and ordered sent to the
Senate.

INTRODUCTION OF BILLS

The following Bills were introduced, read the first time, and referred
to appropriate committees:

H. 3678 -- Reps. G. R. Smith, Bedingfield, Erickson, Atwater, Willis,
Putnam, Burns, Taylor, Goldfinch, Nanney, Corley, Simrill, McCoy,
Chumley, Bales, Collins, Hamilton, Hill, Long and Thayer: A BILL TO
AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY
ADDING SECTION 12-6-517 SO AS TO REPLACE THE INCOME
TAX IMPOSED ON THE TAXABLE INCOME OF INDIVIDUALS,
ESTATES, TRUSTS, AND CERTAIN OTHER ENTITIES IN TAX
YEARS BEGINNING AFTER 2014 BY REDUCING THE RATE OF
TAXATION BY 1.4 PERCENT EACH YEAR UNTIL THE TAX
RATE FOR ALL BRACKETS IS ZERO PERCENT.

Referred to Committee on Ways and Means

H. 3679 -- Rep. Rutherford: A BILL TO AMEND THE CODE OF
LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 16-
11-460 SO AS TO PROVIDE THAT AN ORDER CONCERNING
IMMUNITY FROM PROSECUTION PURSUANT TO THE
PROTECTION OF PERSONS AND PROPERTY ACT IS
IMMEDIATELY APPEALABLE AND TO PROVIDE THAT A
DEFENDANT WHO DOES NOT APPEAL THE ORDER
IMMEDIATELY MAY APPEAL THE DENIAL AFTER
CONVICTION AND SENTENCING.

Referred to Committee on Judiciary

ACTING SPEAKER DUCKWORTH IN CHAIR

ACTING SPEAKER HIOTT IN CHAIR

SPEAKER IN CHAIR

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ROLL CALL

The roll call of the House of Representatives was taken resulting as follows:

Alexander	Allison	Anderson
Anthony	Atwater	Bales
Ballentine	Bannister	Bedingfield
Bernstein	Bowers	Bradley
Brannon	G. A. Brown	R. L. Brown
Burns	Chumley	Clary
Clemmons	Clyburn	Cobb-Hunter
Cole	Collins	Corley
Crosby	Daning	Delleney
Dillard	Duckworth	Erickson
Felder	Finlay	Forrester
Funderburk	Gagnon	Gambrell
George	Gilliard	Goldfinch
Hamilton	Hardee	Hardwick
Hayes	Henderson	Henegan
Hicks	Hill	Hiott
Hixon	Hodges	Hosey
Howard	Huggins	Jefferson
Johnson	King	Kirby
Limehouse	Loftis	Long
Lowe	Lucas	McCoy
McEachern	McKnight	W. J. McLeod
Mitchell	D. C. Moss	V. S. Moss
Murphy	Nanney	Newton
Ott	Parks	Putnam
Ridgeway	Riley	Rivers
Robinson-Simpson	Rutherford	Sandifer
G. M. Smith	G. R. Smith	Sottile
Southard	Spires	Stavrinakis
Stringer	Tallon	Taylor
Thayer	Tinkler	Toole
Weeks	Wells	Whipper
Williams	Yow	

Total Present--98

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STATEMENT OF ATTENDANCE

I came in after the roll call and was present for the Session on Wednesday, February 18.

Kenny Bingham	Heather Crawford
MaryGail Douglas	Chris Hart
William G. Herbkersman	Patsy Knight
David Mack	M.S. McLeod
James Merrill	Joseph Neal
Mandy Powers Norrell	Michael A. Pitts
Thomas "Tommy" Pope	Richard "Rick" Quinn
Gary Simrill	Brian White
William R. "Bill" Whitmire	Mark Willis
Jenny Horne	

Total Present--117

LEAVE OF ABSENCE

The SPEAKER granted Rep. RYHAL a leave of absence for the day due to medical reasons.

LEAVE OF ABSENCE

The SPEAKER granted Rep. J. E. SMITH a leave of absence for the day due to a trial in Charleston.

LEAVE OF ABSENCE

The SPEAKER granted Rep. BAMBERG a leave of absence for the day due to medical reasons.

LEAVE OF ABSENCE

The SPEAKER granted Rep. GOVAN a leave of absence for the day due to medical reasons.

LEAVE OF ABSENCE

The SPEAKER granted Rep. NORMAN a leave of absence for the day.

LEAVE OF ABSENCE

The SPEAKER granted Rep. WILLIS a temporary leave of absence.

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SPECIAL PRESENTATION

Rep. BALLENTINE and HUGGINS presented to the House the Dutch Fork High School Girls Tennis Team, coaches, and other school officials.

SPECIAL PRESENTATION

Rep. BALLENTINE and HUGGINS presented to the House the Dutch Fork High School Cheerleading Team, coaches, and other school officials.

CO-SPONSORS ADDED AND REMOVED

In accordance with House Rule 5.2 below:

"5.2 Every bill before presentation shall have its title endorsed; every report, its title at length; every petition, memorial, or other paper, its prayer or substance; and, in every instance, the name of the member presenting any paper shall be endorsed and the papers shall be presented by the member to the Speaker at the desk. A member may add his name to a bill or resolution or a co-sponsor of a bill or resolution may remove his name at any time prior to the bill or resolution receiving passage on second reading. The member or co-sponsor shall notify the Clerk of the House in writing of his desire to have his name added or removed from the bill or resolution. The Clerk of the House shall print the member's or co-sponsor's written notification in the House Journal. The removal or addition of a name does not apply to a bill or resolution sponsored by a committee."

CO-SPONSOR ADDED

Bill Number: H. 3078
Date: ADD:
02/18/15 G. R. SMITH

CO-SPONSOR ADDED

Bill Number: H. 3142
Date: ADD:
02/18/15 DILLARD

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CO-SPONSOR ADDED

Bill Number: H. 3163
Date: ADD:
02/18/15 HICKS

CO-SPONSOR ADDED

Bill Number: H. 3164
Date: ADD:
02/18/15 HICKS

CO-SPONSOR ADDED

Bill Number: H. 3177
Date: ADD:
02/18/15 PUTNAM

CO-SPONSOR ADDED

Bill Number: H. 3432
Date: ADD:
02/18/15 GILLIARD

CO-SPONSOR ADDED

Bill Number: H. 3579
Date: ADD:
02/18/15 TINKLER

CO-SPONSOR ADDED

Bill Number: H. 3577
Date: ADD:
02/18/15 HICKS

CO-SPONSOR ADDED

Bill Number: H. 3580
Date: ADD:
02/18/15 NEWTON

CO-SPONSOR ADDED

Bill Number: H. 3663
Date: ADD:
02/18/15 KNIGHT

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CO-SPONSORS ADDED

Bill Number: H. 3650
Date: ADD:
02/18/15 HICKS and G. R. SMITH

CO-SPONSOR REMOVED

Bill Number: H. 3661
Date: REMOVE:
02/18/15 SOTTILE

CO-SPONSOR REMOVED

Bill Number: H. 3508
Date: REMOVE:
02/18/15 GAGNON

CO-SPONSOR REMOVED

Bill Number: H. 3580
Date: REMOVE:
02/18/15 HICKS

ORDERED ENROLLED FOR RATIFICATION

The following Joint Resolution was read the third time, passed and, having received three readings in both Houses, it was ordered that the title be changed to that of an Act, and that they be enrolled for ratification:

S. 225 -- Senators Cromer and Setzler: A JOINT RESOLUTION TO SUSPEND PROVISIO 105.15 OF PART 1B OF THE 2014-2015 APPROPRIATIONS ACT, RELATING TO REIMBURSEMENT RATES PAID TO PHARMACIES PARTICIPATING IN THE STATE HEALTH PLAN BY CATAMARAN, THE CONTRACTED PHARMACY BENEFIT MANAGER FOR THE PLAN.

SENT TO THE SENATE

The following Bill was taken up, read the third time, and ordered sent to the Senate:

H. 3192 -- Reps. Newton, Cole, Anderson, Bales, G. A. Brown, R. L. Brown, Finlay, Felder, Funderburk, Hart, Knight, Lucas, Murphy, Norman, Norrell, Pope, Putnam, Rivers, Southard, Spires, Tallon, Taylor, Wells, Williams, Willis, Long, Douglas, Henderson,

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G. M. Smith, G. R. Smith, McCoy, Clary, M. S. McLeod and Thayer: A BILL TO AMEND SECTION 30-4-80, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PUBLIC NOTICE REQUIREMENTS OF PUBLIC MEETINGS, SO AS TO REQUIRE AN AGENDA FOR THE MEETINGS, AND TO PROVIDE FOR THE MANNER IN WHICH ITEMS MAY BE ADDED TO THE AGENDA.

LEAVE OF ABSENCE

The SPEAKER granted Rep. CLARY a leave of absence for the remainder of the day to attend a funeral.

H. 3191--AMENDED AND INTERRUPTED DEBATE

The following Bill was taken up:

H. 3191 -- Reps. Newton, Cole, Anderson, Bales, G. A. Brown, R. L. Brown, Finlay, Felder, Funderburk, Hart, Knight, Lucas, Murphy, Norman, Norrell, Pope, Putnam, Rivers, Southard, Spires, Tallon, Taylor, Wells, Williams, Willis, Long, Douglas, Henderson, G. M. Smith, G. R. Smith, McCoy and Clary: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1-23-665 SO AS TO CREATE THE OFFICE OF FREEDOM OF INFORMATION ACT REVIEW WITHIN THE ADMINISTRATIVE LAW COURT, TO PROVIDE FOR THE ADMINISTRATION, FUNCTIONS, AND RELATED PROCEDURES OF THE OFFICE, ITS HEARING OFFICERS, AND APPEALS FROM DECISIONS OF THE OFFICE; TO AMEND SECTION 30-4-30, RELATING TO THE RIGHT TO INSPECT OR COPY PUBLIC RECORDS, SO AS TO EXPAND THE RIGHT TO INCLUDE RECEIPT OF EXISTING ELECTRONIC TRANSMISSIONS OF PUBLIC RECORDS, TO REVISE THE MANNER IN WHICH RELATED FEES AND CHARGES MAY BE ESTABLISHED AND COLLECTED, TO REDUCE THE TIME IN WHICH A PUBLIC BODY MUST RESPOND WITH NOTICE OF ITS FINAL DETERMINATION CONCERNING A RECORDS REQUEST FROM FIFTEEN TO TEN DAYS, TO PROVIDE TWO SETS OF TIME LIMITS WITHIN WHICH RECORDS SUBSEQUENTLY MUST BE FURNISHED OR MADE AVAILABLE FOR INSPECTION OR COPYING BASED ON WHETHER THE DOCUMENTS ARE LESS OR MORE THAN TWO YEARS OLD, TO INCLUDE AMONG THOSE RECORDS THAT MUST BE AVAILABLE FOR COPYING AND INSPECTION WITHOUT

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WRITTEN REQUEST DURING NORMAL BUSINESS HOURS ALL DOCUMENTS PRODUCED BY THE PUBLIC BODY OR ITS AGENT THAT WERE DISTRIBUTED TO OR REVIEWED BY ANY MEMBER OF THE PUBLIC BODY DURING A PUBLIC MEETING FOR THE PRECEDING SIX-MONTH PERIOD, AND TO PROVIDE THAT A PUBLIC BODY MAY COMPLY WITH REQUIREMENTS FOR MAKING CERTAIN RECORDS AVAILABLE FOR COPYING AND INSPECTION WITHOUT WRITTEN REQUEST DURING NORMAL BUSINESS HOURS BY MAKING THE RECORDS AVAILABLE ON A PUBLICLY AVAILABLE INTERNET WEBSITE; TO AMEND SECTION 30-4-100, RELATING TO REMEDIES AVAILABLE FOR VIOLATIONS, SO AS TO INCLUDE HEARINGS BEFORE THE OFFICE OF FREEDOM OF INFORMATION ACT REVIEW TO SEEK SPECIFIC ENFORCEMENT, TO CHALLENGE THE REASONABLENESS OF FEES, AND TO SEEK RELIEF FROM UNDULY BURDENSOME, OVERLY BROAD, AND OTHERWISE IMPROPER REQUESTS TO PUBLIC BODIES; AND TO AMEND SECTION 30-4-110, RELATING TO PENALTIES FOR VIOLATIONS, SO AS TO REMOVE EXISTING CRIMINAL PENALTIES, TO PROVIDE A PRIVATE CAUSE OF ACTION FOR A VIOLATION, AND TO PROVIDE FOR THE AWARD OF DAMAGES AND ATTORNEY FEES.

The Committee on Judiciary proposed the following Amendment No. 1 to H. 3191 (COUNCIL\AGM\3191C002.AGM.AB15), which was tabled:

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

/ SECTION 1. Article 5, Chapter 23, Title 1 of the 1976 Code is amended by adding:

“Section 1-23-665. (A) There is created within the Administrative Law Court the Office of Freedom of Information Act Review. The Chief Judge of the Administrative Law Court shall serve as the Director of the Office of Freedom of Information Act Review. The hearing officers and staff must be appointed, hired, contracted, and supervised by the chief judge of the court, shall 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. All employees of the office shall serve at the discretion of the chief judge. The chief judge is

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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 Freedom of Information Act Review. 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, 1895.

(B) Notwithstanding another provision of law, the hearing officers shall conduct hearings in accordance with Chapter 23, Title 1, the Administrative Procedures Act, and the rules of procedure for the Office of Freedom of Information Act Review, at suitable locations as determined by the chief judge.

(C) The hearing officers are bound by the Code of Judicial Conduct, as contained in Rule 501 of the South Carolina Appellate Court Rules. The sole grounds for discipline and sanctions for hearing officers are those contained in the Code of Judicial Conduct in Rule 502, Rule 7 of the South Carolina Appellate Court Rules. The Commission on Judicial Conduct, under the authority of the Supreme Court, shall handle complaints against hearing officers for possible violations of the Code of Judicial Conduct in the same manner as complaints against other judges. Notwithstanding another provision of law, an administrative law judge or hearing officer, and the judge's or hearing officer's spouse or guest, may accept an invitation to, and attend, a judicial-related or bar-related function, or an activity devoted to the improvement of the law, the legal system, or the administration of justice.

(D) Appeals from decisions of the hearing officers must be filed with the ALC pursuant to the court's appellate rules of procedure. Recordings of all hearings must be made part of the record on appeal, along with all evidence introduced at hearings, and copies will be provided to parties to those appeals at no charge. The chief judge shall not hear any appeals from these decisions.

(E) A hearing officer must issue an order containing findings of fact and conclusions of law. If a hearing officer determines that records are not subject to disclosure, such a determination shall constitute a finding of good faith on the part of the public body or public official, and shall act as a complete bar against the award of attorney's fees or other costs to the prevailing party should the hearing officer's determination be reversed on appeal. If a hearing officer determines that a record is subject to disclosure, the order must set forth in writing what information must be disclosed and when that disclosure must occur. If the decision

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of the hearing officer is not timely appealed to the ALC, a prevailing party may apply to the ALC to enforce the determination. If the decision is appealed to the ALC, and the administrative law judge upholds a decision ordering disclosure of information, the administrative law judge may enforce the hearing officer's determination as the court considers appropriate. If the administrative law judge rules that the determination must be enforced, the court may hold a person, the responsible officer, or the public official of a public body in civil contempt for failing to comply with the provisions of Section 30-4-30 or an order of the court relating to Section 30-4-30. The administrative law judge also may award attorney's fees pursuant to Section 30-4-100(c)."

SECTION 2. Section 1-23-500 of the 1976 Code is amended to read:

"Section 1-23-500. There is created the South Carolina Administrative Law Court, which is an agency and a court of record within the executive branch of the government of this State. The court shall consist of a total of six administrative law judges. The administrative law judges shall be part of the state employees retirement system. For purposes of Title 8, Chapter 13, the Administrative Law Court is considered part of the unified judicial system."

SECTION 3. Section 30-4-30 of the 1976 Code is amended to read:

"Section 30-4-30. (a)(1) Any A person has a right to inspect or, copy, or receive an electronic transmission of any public record of a public body, except as otherwise provided by Section 30-4-40, in accordance with reasonable rules concerning time and place of access. This right does not extend to individuals serving a sentence of imprisonment in a state or county correctional facility in this State, in any other state, or in a federal correctional facility; however, this must not be construed to prevent such persons from exercising their constitutionally protected rights, including, but not limited to, their right to call for evidence in their favor in a criminal prosecution.

(2) A public body is not required to create an electronic version of a public record when one does not exist to fulfill a records request.

(b) The public body may establish and collect fees not to exceed the actual cost of searching for or making copies of records. Fees charged by a public body must be uniform for copies of the same record or document a fee not to exceed one hundred dollars per hour to fulfill a records request. The public body also may charge a copy fee not to exceed the prevailing commercial rate for copies made to fulfill a request, but may impose no copy charge for documents provided electronically. The public body may impose a charge not to exceed the prevailing commercial rate for media, if any, on which public records

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provided to fulfill a records request are stored and given to the person making the request. However, Members of the General Assembly may receive copies of records or documents at no charge from public bodies when their request relates to their legislative duties. The records must be furnished at the lowest possible cost to the person requesting the records. Records must be provided in a form that is both convenient and practical for use by the person requesting copies of the records concerned, if it is equally convenient for the public body to provide the records in this form. Documents may be furnished when appropriate without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public. Fees may not be charged for examination and review to determine if the documents are subject to disclosure. Nothing in this chapter prevents the custodian of the public records from charging a reasonable hourly rate for making records available to the public nor requiring a reasonable deposit of these costs before searching for or making copies of the records. A deposit not to exceed twenty-five percent of the total cost for reproduction of the records may be required prior to the public body searching for or making copies of records.

(c) Each public body, upon written request for records made under this chapter, shall within ~~fifteen~~ ten days (excepting Saturdays, Sundays, and legal public holidays) of the receipt of any ~~such~~ request, notify the person making ~~such~~ the request of its determination and the reasons ~~therefor~~ for it; provided, however, that if the record is more than two years old at the date the request is made, the public body has twenty days (excepting Saturdays, Sundays, and legal public holidays) of the receipt to make this notification. Such a determination ~~shall~~ must constitute the final opinion of the public body as to the public availability of the requested public record and, if the request is granted, the record must be furnished or made available for inspection or copying no later than thirty calendar days from the date on which the request was granted, unless the records are more than twenty-four months old, in which case the public body has no later than thirty-five calendar days from the date on which the request was granted to fulfill the request. If a deposit as provided in subsection (b) is required by the public body, the record must be furnished or made available for inspection or copying no later than thirty calendar days from the date on which the deposit is received, unless the records are more than twenty-four months old, in which case the public body has no later than thirty-five calendar days from the date on which the deposit was received to fulfill the request. If written notification of

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the determination of the public body as to the availability of the requested public record is neither mailed nor personally delivered to the person requesting the document within the ~~fifteen~~ ten days (excepting Saturdays, Sundays, and legal public holidays) allowed ~~herein~~, the request must be considered approved.

(d) The following records of a public body must be made available for public inspection and copying during the hours of operations of the public body, unless the record is exempt pursuant to Section 30-4-40, without the requestor being required to make a written request to inspect or copy the records when the requestor appears in person:

(1) minutes of the meetings of the public body for the preceding six months;

(2) all reports identified in Section 30-4-50(A)(8) for at least the fourteen-day period before the current day; ~~and~~

(3) documents identifying persons confined in any jail, detention center, or prison for the preceding three months;

(4) documents identifying the cause of injury of a person, including, but not limited to, investigations or reports of suicides in any jail, detention center, or prison for the preceding three months; and

(5) all documents produced by the public body or its agent that were distributed to or reviewed by any member of the public body during a public meeting for the preceding six-month period.

(e) A public body complies with the provisions of subsection (d) by placing the records in a form that is both convenient and practical for use on a publicly available Internet website, provided that the public body also must produce documents pursuant to this section if requested to do so."

SECTION 4. Section 30-4-100 of the 1976 Code is amended to read:

"Section 30-4-100. (a) ~~Any~~ A citizen of the State may apply to the circuit court for ~~either or both~~ a declaratory judgment ~~and~~, injunctive relief, or both, to enforce the provisions of this chapter in appropriate cases ~~as long as such if the~~ application is made no later than one year ~~following after~~ the date ~~on which the~~ of the alleged violation ~~occurs~~ or one year after a public vote in public session, whichever comes later. The court may order equitable relief as it considers appropriate, and a violation of this chapter must be considered to be an irreparable injury for which no adequate remedy at law exists.

(b) A citizen of this State may file a request for hearing with the Office of Freedom of Information Act Review pursuant to Section 1-23-665 in the following instances:

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(1) to seek specific enforcement of a request made pursuant to Section 30-4-30 when the public body from which the records are requested fails to comply with the time limits provided in Section 30-4-30(c); and

(2) to challenge the reasonableness of a fee assessed pursuant to Section 30-4-30.

A determination of the Office of Freedom of Information Act Review may be appealed to the Administrative Law Court or enforced by an administrative law judge pursuant to Section 1-23-665.

(c) A public body may file a request for hearing with the Office of Freedom of Information Act Review pursuant to Section 1-23-665 to seek relief from unduly burdensome, overly broad, or otherwise improper requests.

(bd) If a person or entity seeking such relief under this section prevails, he or it may be awarded reasonable attorney fees and other costs of litigation. If such the person or entity prevails in part, the court may in its discretion award him or it, unless otherwise barred by a finding of good faith pursuant to Section 1-23-665(E), reasonable attorney fees or an appropriate portion thereof of them."

SECTION 5. Section 30-4-110 of the 1976 Code is amended to read:

"Section 30-4-110. Any person or group of persons who willfully violates the provisions of this chapter shall be deemed is guilty of a misdemeanor and, upon conviction shall be fined not more than one hundred dollars or imprisoned for not more than thirty days for the first offense, shall be fined not more than two hundred dollars or imprisoned for not more than sixty days for the second offense and shall be fined three hundred dollars or imprisoned for not more than ninety days for the third or subsequent offense. A person aggrieved by a violation of this chapter may bring a civil action in a court of competent jurisdiction within three years after the occurrence of the alleged violation. If the court finds that the public body has arbitrarily and capriciously violated the provisions of this chapter by refusal or delay in disclosing or providing copies of a public record, it may, in addition to any actual or compensatory damages, award punitive damages of five hundred dollars and reasonable attorney fees to the person seeking the right to inspect or receive a copy of a public record."

SECTION 6. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Rep. NEWTON explained the amendment.

[HJ]

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Rep. NEWTON moved to table the amendment, which was agreed to.

Rep. NEWTON proposed the following Amendment No. 2 to H. 3191 (COUNCIL\AGM3191C006.AGM.AB15), which was adopted:

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

/ SECTION 1. Article 5, Chapter 23, Title 1 of the 1976 Code is amended by adding:

“Section 1-23-665. (A) There is created within the Administrative Law Court the Office of Freedom of Information Act Review. The Chief Judge of the Administrative Law Court shall serve as the Director of the Office of Freedom of Information Act Review. The hearing officers and staff must be appointed, hired, contracted, and supervised by the chief judge of the court, shall 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. All employees of the office shall serve at the discretion 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 Freedom of Information Act Review. 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, 1895.

(B) Notwithstanding another provision of law, the hearing officers shall conduct hearings in accordance with Chapter 23, Title 1, the Administrative Procedures Act, and the rules of procedure for the Office of Freedom of Information Act Review, at suitable locations as determined by the chief judge.

(C) The hearing officers are bound by the Code of Judicial Conduct, as contained in Rule 501 of the South Carolina Appellate Court Rules. The sole grounds for discipline and sanctions for hearing officers are those contained in the Code of Judicial Conduct in Rule 502, Rule 7 of the South Carolina Appellate Court Rules. The Commission on Judicial Conduct, under the authority of the Supreme Court, shall handle complaints against hearing officers for possible violations of the Code of Judicial Conduct in the same manner as complaints against other judges. Notwithstanding another provision of law, an administrative law judge or hearing officer, and the judge’s or hearing officer’s spouse or

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guest, may accept an invitation to, and attend, a judicial-related or bar-related function, or an activity devoted to the improvement of the law, the legal system, or the administration of justice.

(D) Appeals from decisions of the hearing officers must be filed with the ALC pursuant to the court's appellate rules of procedure. Recordings of all hearings must be made part of the record on appeal, along with all evidence introduced at hearings, and copies will be provided to parties to those appeals at no charge. The chief judge shall not hear any appeals from these decisions.

(E) A hearing officer must issue an order containing findings of fact and conclusions of law. If a hearing officer determines that records are not subject to disclosure, such a determination shall constitute a finding of good faith on the part of the public body or public official, and shall act as a complete bar against the award of attorney's fees or other costs to the prevailing party should the hearing officer's determination be reversed on appeal. If a hearing officer determines that a record is subject to disclosure, the order must set forth in writing what information must be disclosed and when that disclosure must occur. If the decision of the hearing officer is not timely appealed to the ALC, a prevailing party may apply to the ALC to enforce the determination. If the decision is appealed to the ALC, and the administrative law judge upholds a decision ordering disclosure of information, the administrative law judge may enforce the hearing officer's determination as the court considers appropriate. If the administrative law judge rules that the determination must be enforced, the court may hold a person, the responsible officer, or the public official of a public body in civil contempt for failing to comply with the provisions of Section 30-4-30 or an order of the court relating to Section 30-4-30. The administrative law judge also may award attorney's fees pursuant to Section 30-4-100(c)."

SECTION 2. Section 1-23-500 of the 1976 Code is amended to read:

"Section 1-23-500. There is created the South Carolina Administrative Law Court, which is an agency and a court of record within the executive branch of the government of this State. The court shall consist of a total of six administrative law judges. The administrative law judges shall be part of the state employees retirement system. For purposes of Title 8, Chapter 13, the Administrative Law Court is considered part of the unified judicial system."

SECTION 3. Section 30-4-30 of the 1976 Code is amended to read:

"Section 30-4-30. (a)(1) Any A person has a right to inspect ~~or~~ copy, or receive an electronic transmission of any public record of a public body, except as otherwise provided by Section 30-4-40, in

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accordance with reasonable rules concerning time and place of access. This right does not extend to individuals serving a sentence of imprisonment in a state or county correctional facility in this State, in any other state, or in a federal correctional facility; however, this must not be construed to prevent such persons from exercising their constitutionally protected rights, including, but not limited to, their right to call for evidence in their favor in a criminal prosecution.

(2) A public body is not required to create an electronic version of a public record when one does not exist to fulfill a records request.

(b) The public body may establish and collect fees not to exceed the actual cost of searching for or making copies of records as provided for in this section. The public body may establish and collect reasonable fees not to exceed the actual cost of the search, retrieval, and redaction of records. The public body must develop a fee schedule to be posted on line. The fee for the search, retrieval, or redaction of records shall not exceed the prorated hourly salary of the lowest paid employee who, in the reasonable discretion of the custodian of the records, has the necessary skill and training to perform the request. Fees charged by a public body must be uniform for copies of the same record or document and may not exceed the prevailing commercial rate for the producing of copies. Copy charges may not apply to records that are transmitted in an electronic format. However, members of the General Assembly may receive copies of records or documents at no charge from public bodies when their request relates to their legislative duties. The records must be furnished at the lowest possible cost to the person requesting the records. Records must be provided in a form that is both convenient and practical for use by the person requesting copies of the records concerned, if it is equally convenient for the public body to provide the records in this form. Documents may be furnished when appropriate without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public. Fees may not be charged for examination and review to determine if the documents are subject to disclosure. Nothing in this chapter prevents the custodian of the public records from charging a reasonable hourly rate for making records available to the public nor requiring a reasonable deposit of these costs before searching for or making copies of the records. A deposit not to exceed twenty-five percent of the total cost for reproduction of the records may be required prior to the public body searching for or making copies of records.

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(c) Each public body, upon written request for records made under this chapter, shall within ~~fifteen~~ ten days (excepting Saturdays, Sundays, and legal public holidays) of the receipt of any ~~such~~ request, notify the person making ~~such~~ the request of its determination and the reasons ~~therefor~~ for it; provided, however, that if the record is more than two years old at the date the request is made, the public body has twenty days (excepting Saturdays, Sundays, and legal public holidays) of the receipt to make this notification. Such a determination ~~shall~~ must constitute the final opinion of the public body as to the public availability of the requested public record and, if the request is granted, the record must be furnished or made available for inspection or copying no later than thirty calendar days from the date on which the request was granted, unless the records are more than twenty-four months old, in which case the public body has no later than thirty-five calendar days from the date on which the request was granted to fulfill the request. If a deposit as provided in subsection (b) is required by the public body, the record must be furnished or made available for inspection or copying no later than thirty calendar days from the date on which the deposit is received, unless the records are more than twenty-four months old, in which case the public body has no later than thirty-five calendar days from the date on which the deposit was received to fulfill the request. If written notification of the determination of the public body as to the availability of the requested public record is neither mailed nor personally delivered to the person requesting the document within the ~~fifteen~~ ten days (excepting Saturdays, Sundays, and legal public holidays) allowed ~~herein~~, the request must be considered approved.

(d) The following records of a public body must be made available for public inspection and copying during the hours of operations of the public body, unless the record is exempt pursuant to Section 30-4-40, without the requestor being required to make a written request to inspect or copy the records when the requestor appears in person:

- (1) minutes of the meetings of the public body for the preceding six months;
- (2) all reports identified in Section 30-4-50(A)(8) for at least the fourteen-day period before the current day; ~~and~~
- (3) documents identifying persons confined in any jail, detention center, or prison for the preceding three months; and
- (4) all documents produced by the public body or its agent that were distributed to or reviewed by any member of the public body during a public meeting for the preceding six-month period.

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(e) A public body complies with the provisions of subsection (d) by placing the records in a form that is both convenient and practical for use on a publicly available Internet website, provided that the public body also must produce documents pursuant to this section if requested to do so.”

SECTION 4. Section 30-4-100 of the 1976 Code is amended to read:

“Section 30-4-100. (a) ~~Any~~ A citizen of the State may apply to the circuit court for ~~either or both~~ a declaratory judgment ~~and~~, injunctive relief, ~~or both~~, to enforce the provisions of this chapter in appropriate cases ~~as long as such~~ if the application is made no later than one year ~~following after~~ the date ~~on which the~~ of the alleged violation ~~occurs~~ or one year after a public vote in public session, whichever comes later. The court may order equitable relief as it considers appropriate, and a violation of this chapter must be considered to be an irreparable injury for which no adequate remedy at law exists.

(b) A citizen of this State may file a request for hearing with the Office of Freedom of Information Act Review pursuant to Section 1-23-665 in the following instances:

(1) to seek specific enforcement of a request made pursuant to Section 30-4-30 when the public body from which the records are requested fails to comply with the time limits provided in Section 30-4-30(c); and

(2) to challenge the reasonableness of a fee assessed pursuant to Section 30-4-30.

A determination of the Office of Freedom of Information Act Review may be appealed to the Administrative Law Court or enforced by an administrative law judge pursuant to Section 1-23-665.

(c) A public body may file a request for hearing with the Office of Freedom of Information Act Review pursuant to Section 1-23-665 to seek relief from unduly burdensome, overly broad, or otherwise improper requests.

~~(b)~~ (d) If a person or entity seeking ~~such~~ relief under this section prevails, he ~~or it~~ may be awarded reasonable attorney fees and other costs of litigation. If ~~such~~ the person or entity prevails in part, the court may in its discretion award him ~~or it~~, unless otherwise barred by a finding of good faith pursuant to Section 1-23-665(E), reasonable attorney fees or an appropriate portion ~~thereof~~ of them.”

SECTION 5. Section 30-4-110 of the 1976 Code is amended to read:

“Section 30-4-110. ~~Any person or group of persons who willfully violates the provisions of this chapter shall be deemed is guilty of a misdemeanor and, upon conviction shall be fined not more than one~~

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~~hundred dollars or imprisoned for not more than thirty days for the first offense, shall be fined not more than two hundred dollars or imprisoned for not more than sixty days for the second offense and shall be fined three hundred dollars or imprisoned for not more than ninety days for the third or subsequent offense. A person aggrieved by a violation of this chapter may bring a civil action in a court of competent jurisdiction within three years after the occurrence of the alleged violation. If the court finds that the public body has arbitrarily and capriciously violated the provisions of this chapter by refusal or delay in disclosing or providing copies of a public record, it may, in addition to any actual or compensatory damages, award punitive damages of five hundred dollars and reasonable attorney fees to the person seeking the right to inspect or receive a copy of a public record.~~”

SECTION 6. This act takes effect upon approval by the Governor. /
Renumber sections to conform.
Amend title to conform.

Rep. NEWTON explained the amendment.
Rep. NEWTON spoke in favor of the amendment.
The amendment was then adopted.

Rep. HILL proposed the following Amendment No. 4 to H. 3191 (COUNCIL\MS\3191C002.MS.AHB15):

Amend the bill, as and if amended, SECTION 4, by deleting Section 30-4-100(c).
Renumber sections to conform.
Amend title to conform.

Rep. HILL explained the amendment.

Further proceedings were interrupted by expiration of time on the uncontested Calendar, the pending question being consideration of Amendment No. 4.

RECURRENCE TO THE MORNING HOUR

Rep. TAYLOR moved that the House recur to the morning hour, which was agreed to.

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H. 3191--AMENDED AND ORDERED TO THIRD READING

Debate was resumed on the following Bill, the pending question being the consideration of Amendment No. 4:

H. 3191 -- Reps. Newton, Cole, Anderson, Bales, G. A. Brown, R. L. Brown, Finlay, Felder, Funderburk, Hart, Knight, Lucas, Murphy, Norman, Norrell, Pope, Putnam, Rivers, Southard, Spires, Tallon, Taylor, Wells, Williams, Willis, Long, Douglas, Henderson, G. M. Smith, G. R. Smith, McCoy and Clary: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1-23-665 SO AS TO CREATE THE OFFICE OF FREEDOM OF INFORMATION ACT REVIEW WITHIN THE ADMINISTRATIVE LAW COURT, TO PROVIDE FOR THE ADMINISTRATION, FUNCTIONS, AND RELATED PROCEDURES OF THE OFFICE, ITS HEARING OFFICERS, AND APPEALS FROM DECISIONS OF THE OFFICE; TO AMEND SECTION 30-4-30, RELATING TO THE RIGHT TO INSPECT OR COPY PUBLIC RECORDS, SO AS TO EXPAND THE RIGHT TO INCLUDE RECEIPT OF EXISTING ELECTRONIC TRANSMISSIONS OF PUBLIC RECORDS, TO REVISE THE MANNER IN WHICH RELATED FEES AND CHARGES MAY BE ESTABLISHED AND COLLECTED, TO REDUCE THE TIME IN WHICH A PUBLIC BODY MUST RESPOND WITH NOTICE OF ITS FINAL DETERMINATION CONCERNING A RECORDS REQUEST FROM FIFTEEN TO TEN DAYS, TO PROVIDE TWO SETS OF TIME LIMITS WITHIN WHICH RECORDS SUBSEQUENTLY MUST BE FURNISHED OR MADE AVAILABLE FOR INSPECTION OR COPYING BASED ON WHETHER THE DOCUMENTS ARE LESS OR MORE THAN TWO YEARS OLD, TO INCLUDE AMONG THOSE RECORDS THAT MUST BE AVAILABLE FOR COPYING AND INSPECTION WITHOUT WRITTEN REQUEST DURING NORMAL BUSINESS HOURS ALL DOCUMENTS PRODUCED BY THE PUBLIC BODY OR ITS AGENT THAT WERE DISTRIBUTED TO OR REVIEWED BY ANY MEMBER OF THE PUBLIC BODY DURING A PUBLIC MEETING FOR THE PRECEDING SIX-MONTH PERIOD, AND TO PROVIDE THAT A PUBLIC BODY MAY COMPLY WITH REQUIREMENTS FOR MAKING CERTAIN RECORDS AVAILABLE FOR COPYING AND INSPECTION WITHOUT WRITTEN REQUEST DURING NORMAL BUSINESS HOURS BY MAKING THE RECORDS AVAILABLE ON A PUBLICLY AVAILABLE INTERNET

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WEBSITE; TO AMEND SECTION 30-4-100, RELATING TO REMEDIES AVAILABLE FOR VIOLATIONS, SO AS TO INCLUDE HEARINGS BEFORE THE OFFICE OF FREEDOM OF INFORMATION ACT REVIEW TO SEEK SPECIFIC ENFORCEMENT, TO CHALLENGE THE REASONABLENESS OF FEES, AND TO SEEK RELIEF FROM UNDULY BURDENSOME, OVERLY BROAD, AND OTHERWISE IMPROPER REQUESTS TO PUBLIC BODIES; AND TO AMEND SECTION 30-4-110, RELATING TO PENALTIES FOR VIOLATIONS, SO AS TO REMOVE EXISTING CRIMINAL PENALTIES, TO PROVIDE A PRIVATE CAUSE OF ACTION FOR A VIOLATION, AND TO PROVIDE FOR THE AWARD OF DAMAGES AND ATTORNEY FEES.

Rep. HILL proposed the following Amendment No. 4 to H. 3191 (COUNCIL\MS\3191C002.MS.AHB15), which was tabled:

Amend the bill, as and if amended, SECTION 4, by deleting Section 30-4-100(c).

Re-number sections to conform.

Amend title to conform.

Rep. HILL spoke in favor of the amendment.

Rep. TAYLOR moved to table the amendment, which was agreed to by a division vote of 68 to 2.

Reps. G. M. SMITH and PITTS proposed the following Amendment No. 5 to H. 3191 (COUNCIL\AGM\3191C007.AGM.AB15), which was adopted:

Amend the bill, as and if amended, Section 30-4-110, as contained in SECTION 5, by deleting the SECTION in its entirety and inserting:

/ SECTION 5. Section 30-4-110 of the 1976 Code is amended to read:

~~“Section 30-4-110. Any person or group of persons who willfully violates the provisions of this chapter shall be deemed is guilty of a misdemeanor and, upon conviction shall be fined not more than one hundred dollars or imprisoned for not more than thirty days for the first offense, shall be fined not more than two hundred dollars or imprisoned for not more than sixty days for the second offense and shall be fined three hundred dollars or imprisoned for not more than ninety days for the third or subsequent offense. A person aggrieved by a violation of this chapter may bring a civil action in a court of competent jurisdiction~~

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within one year after the occurrence of the alleged violation. If the court finds that the public body has arbitrarily and capriciously violated the provisions of this chapter by refusal or delay in disclosing or providing copies of a public record, it may, in addition to any actual or compensatory damages, a civil fine of five hundred dollars and reasonable attorney fees to the person seeking the right to inspect or receive a copy of a public record.” /

Renumber sections to conform.

Amend title to conform.

Rep. G. M. SMITH explained the amendment.

The amendment was then adopted.

LEAVE OF ABSENCE

The SPEAKER granted Rep. ATWATER a leave of absence for the remainder of the day due to a business commitment.

Rep. PITTS spoke against the Bill.

Rep. HILL spoke against the Bill.

The question then recurred to the passage of the Bill.

The yeas and nays were taken resulting as follows:

Yeas 90; Nays 16

Those who voted in the affirmative are:

Alexander	Allison	Anderson
Anthony	Bales	Ballentine
Bannister	Bernstein	Bingham
Bowers	Bradley	G. A. Brown
R. L. Brown	Burns	Clemmons
Clyburn	Cobb-Hunter	Cole
Collins	Crosby	Daning
Delleney	Dillard	Erickson
Felder	Finlay	Forrester
Funderburk	Gagnon	George
Gilliard	Hardwick	Hart
Hayes	Henderson	Henegan
Herbkersman	Hicks	Hiott
Hixon	Hodges	Howard
Huggins	Jefferson	King

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Kirby	Knight	Limehouse
Loftis	Long	Lowe
Lucas	Mack	McCoy
McEachern	McKnight	M. S. McLeod
W. J. McLeod	Merrill	D. C. Moss
V. S. Moss	Murphy	Neal
Newton	Norrell	Ott
Parks	Pope	Putnam
Ridgeway	Riley	Rivers
Rutherford	Sandifer	Simrill
G. M. Smith	Sottile	Southard
Spires	Stavrinakis	Stringer
Tallon	Taylor	Tinkler
Weeks	Wells	Whipper
Whitmire	Williams	Yow

Total--90

Those who voted in the negative are:

Bedingfield	Brannon	Chumley
Corley	H. A. Crawford	Duckworth
Gambrell	Goldfinch	Hardee
Hill	Hosey	Johnson
Nanney	Pitts	G. R. Smith
White		

Total--16

So, the Bill, as amended, was read the second time and ordered to third reading.

RECORD FOR VOTING

I was away from the Chambers attending a funeral and missed the vote on H. 3191. If I had been present, I would have voted in favor of the Bill.

Rep. Gary E. Clary

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S. 8--DEBATE ADJOURNED

The following Bill was taken up:

S. 8 -- Senators L. Martin, Campsen, Hembree and Setzler: A BILL TO RATIFY AN AMENDMENT TO SECTION 7, ARTICLE VI OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE CONSTITUTIONAL OFFICERS OF THIS STATE, TO PROVIDE THAT UPON THE EXPIRATION OF THE TERM OF THE ADJUTANT GENERAL SERVING IN OFFICE ON THE DATE OF THE RATIFICATION OF THIS PROVISION THE ADJUTANT GENERAL MUST BE APPOINTED BY THE GOVERNOR UPON THE ADVICE AND CONSENT OF THE SENATE FOR A TERM NOT COTERMINOUS WITH THE GOVERNOR, MAY BE REMOVED ONLY FOR CAUSE, AND THE GENERAL ASSEMBLY SHALL PROVIDE BY LAW FOR THE TERM, DUTIES, COMPENSATION, AND QUALIFICATIONS FOR OFFICE, THE PROCEDURES BY WHICH THE APPOINTMENT IS MADE, AND THE PROCEDURES BY WHICH THE ADJUTANT GENERAL MAY BE REMOVED FROM OFFICE; AND TO RATIFY AN AMENDMENT TO SECTION 4, ARTICLE XIII, RELATING TO THE ADJUTANT GENERAL AND HIS STAFF OFFICERS, TO UPDATE REFERENCES TO HIS TITLE AND PROVIDE THAT THE ADJUTANT GENERAL'S MILITARY RANK IS MAJOR GENERAL AS OPPOSED TO BRIGADIER GENERAL, AND TO PROVIDE THAT UPON THE EXPIRATION OF THE TERM OF THE ADJUTANT GENERAL SERVING IN OFFICE ON THE DATE OF THE RATIFICATION OF THIS PROVISION, HE MUST BE APPOINTED BY THE GOVERNOR IN THE MANNER REQUIRED BY SECTION 7, ARTICLE VI.

Rep. DELLENEY moved to adjourn debate on the Bill until Thursday, February 19, which was agreed to.

H. 3213--ORDERED TO THIRD READING

The following Bill was taken up:

H. 3213 -- Reps. George and McKnight: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56-1-227 SO AS TO PROVIDE THAT A LAW ENFORCEMENT OFFICER WHO SUSPECTS THAT A MOTOR VEHICLE ACCIDENT WAS THE RESULT OF A DRIVER'S LOSS

[HJ]

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OF CONSCIOUSNESS DUE TO A MEDICAL CONDITION MUST NOTIFY THE DEPARTMENT OF MOTOR VEHICLES OF THIS DETERMINATION AND TO PROVIDE THAT THE DEPARTMENT SHALL PROMULGATE REGULATIONS TO IMPLEMENT THE PROVISIONS CONTAINED IN THIS SECTION.

Rep. PUTNAM explained the Bill.

The yeas and nays were taken resulting as follows:

Yeas 102; Nays 0

Those who voted in the affirmative are:

Alexander	Allison	Anderson
Anthony	Bales	Bannister
Bedingfield	Bernstein	Bingham
Bowers	Bradley	Brannon
G. A. Brown	R. L. Brown	Burns
Chumley	Clemmons	Clyburn
Cobb-Hunter	Cole	Collins
Corley	H. A. Crawford	Crosby
Daning	Delleney	Duckworth
Erickson	Felder	Finlay
Forrester	Funderburk	Gagnon
Gambrell	George	Gilliard
Goldfinch	Hamilton	Hardee
Hardwick	Hart	Hayes
Henderson	Henegan	Herbkersman
Hicks	Hill	Hiott
Hixon	Hodges	Hosey
Howard	Huggins	Jefferson
Johnson	King	Kirby
Knight	Limehouse	Loftis
Long	Lowe	Lucas
Mack	McCoy	McEachern
McKnight	M. S. McLeod	W. J. McLeod
Merrill	D. C. Moss	V. S. Moss
Murphy	Nanney	Newton
Norrell	Ott	Pitts
Pope	Putnam	Ridgeway
Riley	Rivers	Sandifer
Simrill	G. M. Smith	G. R. Smith

[HJ]

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Sottile	Southard	Spires
Stringer	Tallon	Taylor
Thayer	Tinkler	Toole
Weeks	Wells	White
Whitmire	Williams	Yow

Total--102

Those who voted in the negative are:

Total--0

So, the Bill was read the second time and ordered to third reading.

Further proceedings were interrupted by expiration of time on the uncontested Calendar.

RECURRENCE TO THE MORNING HOUR

Rep. TAYLOR moved that the House recur to the morning hour, which was agreed to.

HOUSE RESOLUTION

The following was introduced:

H. 3680 -- Reps. Daning, Sottile, Alexander, Allison, Anderson, Anthony, Atwater, Bales, Ballentine, Bamberg, Bannister, Bedingfield, Bernstein, Bingham, Bowers, Bradley, Brannon, G. A. Brown, R. L. Brown, Burns, Chumley, Clary, Clemmons, Clyburn, Cobb-Hunter, Cole, Collins, Corley, H. A. Crawford, Crosby, Delleney, Dillard, Douglas, Duckworth, Erickson, Felder, Finlay, Forrester, Funderburk, Gagnon, Gambrell, George, Gilliard, Goldfinch, Govan, Hamilton, Hardee, Hardwick, Hart, Hayes, Henderson, Henegan, Herbkersman, Hicks, Hill, Hiott, Hixon, Hodges, Horne, Hosey, Howard, Huggins, Jefferson, Johnson, Kennedy, King, Kirby, Knight, Limehouse, Loftis, Long, Lowe, Lucas, Mack, McCoy, McEachern, McKnight, M. S. McLeod, W. J. McLeod, Merrill, Mitchell, D. C. Moss, V. S. Moss, Murphy, Nanney, Neal, Newton, Norman, Norrell, Ott, Parks, Pitts, Pope, Putnam, Quinn, Ridgeway, Riley, Rivers, Robinson-Simpson, Rutherford, Ryhal, Sandifer, Simrill, G. M. Smith, G. R. Smith, J. E. Smith, Southard, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Tinkler, Toole, Weeks, Wells, Whipper, White, Whitmire, Williams, Willis and Yow: A HOUSE RESOLUTION TO

[HJ]

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EXPRESS THE PROFOUND SORROW OF THE MEMBERS OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES UPON THE PASSING OF COLONEL ROBERT DONALD "BOB" MILLER, UNITED STATES MARINE CORPS, RETIRED, OF CHARLESTON COUNTY AND TO EXTEND THEIR DEEPEST SYMPATHY TO HIS LARGE AND LOVING FAMILY AND HIS MANY FRIENDS.

The Resolution was adopted.

CONCURRENT RESOLUTION

The following was introduced:

H. 3681 -- Reps. Jefferson, Alexander, Allison, Anderson, Anthony, Atwater, Bales, Ballentine, Bamberg, Bannister, Bedingfield, Bernstein, Bingham, Bowers, Bradley, Brannon, G. A. Brown, R. L. Brown, Burns, Chumley, Clary, Clemmons, Clyburn, Cobb-Hunter, Cole, Collins, Corley, H. A. Crawford, Crosby, Daning, Delleney, Dillard, Douglas, Duckworth, Erickson, Felder, Finlay, Forrester, Funderburk, Gagnon, Gambrell, George, Gilliard, Goldfinch, Govan, Hamilton, Hardee, Hardwick, Hart, Hayes, Henderson, Henegan, Herbkersman, Hicks, Hill, Hiott, Hixon, Hodges, Horne, Hosey, Howard, Huggins, Johnson, Kennedy, King, Kirby, Knight, Limehouse, Loftis, Long, Lowe, Lucas, Mack, McCoy, McEachern, McKnight, M. S. McLeod, W. J. McLeod, Merrill, Mitchell, D. C. Moss, V. S. Moss, Murphy, Nanney, Neal, Newton, Norman, Norrell, Ott, Parks, Pitts, Pope, Putnam, Quinn, Ridgeway, Riley, Rivers, Robinson-Simpson, Rutherford, Ryhal, Sandifer, Simrill, G. M. Smith, G. R. Smith, J. E. Smith, Sottile, Southard, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Tinkler, Toole, Weeks, Wells, Whipper, White, Whitmire, Williams, Willis and Yow: A CONCURRENT RESOLUTION TO RECOGNIZE AND HONOR MRS. ETHEL GETHERS DAVIS OF BERKELEY COUNTY FOR HER LIFETIME OF SERVICE TO THE EDUCATION OF CHILDREN IN THE PALMETTO STATE.

The Concurrent Resolution was agreed to and ordered sent to the Senate.

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INTRODUCTION OF BILLS

The following Bills were introduced, read the first time, and referred to appropriate committees:

H. 3682 -- Reps. Finlay, Bannister, Newton, Cole and Delleney: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 4 TO TITLE 39 SO AS TO ENACT THE "BAD FAITH ASSERTION OF PATENT INFRINGEMENT ACT", TO PROVIDE THAT BAD FAITH ASSERTIONS OF PATENT INFRINGEMENTS ARE PROHIBITED, TO DEFINE TERMS, TO PROVIDE FOR A PRIVATE CAUSE OF ACTION IN STATE COURTS BY A RECIPIENT OF A BAD FAITH ASSERTION TO PATENT INFRINGEMENT, TO PROVIDE THAT ENFORCEMENT ACTIONS MAY BE BROUGHT BY THE ATTORNEY GENERAL AND WILFUL AND KNOWING VIOLATIONS MAY RESULT IN CIVIL PENALTIES OF NOT MORE THAN FIFTY THOUSAND DOLLARS FOR EACH VIOLATION, TO PROVIDE FOR THE FACTORS THAT A COURT MAY CONSIDER WHEN MAKING A BAD FAITH DETERMINATION, AND TO PROVIDE EXCEPTIONS.

Referred to Committee on Judiciary

H. 3683 -- Reps. Williams, Hosey, Gilliard and Mack: A BILL TO AMEND SECTION 25-1-350, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE GENERAL POWERS AND DUTIES OF THE ADJUTANT GENERAL, SO AS TO REQUIRE THE ADJUTANT GENERAL TO SUBMIT AN ANNUAL REPORT TO THE GENERAL ASSEMBLY.

Rep. WILLIAMS asked unanimous consent to have the Bill placed on the Calendar without reference.

Rep. BEDINGFIELD objected.

Referred to Committee on Medical, Military, Public and Municipal Affairs

H. 3684 -- Reps. King and Hart: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 17-1-43 SO AS TO PROVIDE FOR THE DESTRUCTION OF ARREST RECORDS OF PERSONS ARRESTED AS A RESULT OF MISTAKEN IDENTITY NOT LATER THAN ONE HUNDRED EIGHTY DAYS AFTER AN INVESTIGATION BY A LAW ENFORCEMENT OR PROSECUTION AGENCY REVEALS THAT

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THE PERSON WAS ARRESTED AS A RESULT OF MISTAKEN IDENTITY AND TO PROVIDE THAT THE LAW ENFORCEMENT OR PROSECUTION AGENCY MAY NOT CHARGE OR COLLECT A FEE FOR THE DESTRUCTION OF ARREST RECORDS UNDER THESE CIRCUMSTANCES.

Referred to Committee on Judiciary

H. 3685 -- Reps. D. C. Moss and Pitts: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 14-1-219 SO AS TO PROVIDE THAT A FIVE DOLLAR SURCHARGE IS IMPOSED UPON ALL MONETARY PENALTIES IMPOSED BY CERTAIN COURTS FOR OFFENSES IN WHICH AN ELECTRONIC TICKET OR CITATION WAS ISSUED, AND TO PROVIDE FOR THE DISTRIBUTION OF THE SURCHARGE.

Referred to Committee on Judiciary

H. 3686 -- Rep. Atwater: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 9 TO CHAPTER 1, TITLE 59 SO AS TO PROVIDE THAT BEGINNING WITH THE 2016-2017 SCHOOL YEAR, A PARENT RESIDING IN THIS STATE MAY ENROLL HIS DISABLED CHILD IN ANY SCHOOL DISTRICT OR PRIVATE SCHOOL IN THIS STATE THAT HE CONSIDERS BEST CAPABLE OF MEETING THE UNIQUE NEEDS OF HIS CHILD'S DISABILITY; TO PROVIDE THE CHILD MUST MEET OTHER ADMISSIONS CRITERIA OF THE SCHOOL; TO REQUIRE THE TRANSMITTAL OF ONE HUNDRED PERCENT OF THE BASE STUDENT COST FROM THE DISTRICT IN WHICH THE CHILD RESIDES TO THE DISTRICT OF THE SCHOOL HE ATTENDS OR THE PRIVATE SCHOOL THAT HE ATTENDS; TO PROVIDE THAT WHEN A CHILD ENROLLED IN A SCHOOL UNDER THE PROVISIONS OF THIS ACT MOVES FROM THE DISTRICT THAT TRANSMITTED FUNDS ON HIS BEHALF TO ANOTHER DISTRICT, THE DISTRICT INTO WHICH THE CHILD MOVES SHALL REIMBURSE THE DISTRICT FROM WHICH THE CHILD MOVED ON A PRO RATA BASIS TO BE CALCULATED BY THE DEPARTMENT OF EDUCATION; AND TO PROVIDE THE DEPARTMENT SHALL DEVELOP APPLICATION PROCEDURES FOR A PARENT SEEKING TO ENROLL HIS CHILD IN A SCHOOL PURSUANT TO THE ACT.

Referred to Committee on Education and Public Works

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H. 3687 -- Rep. Norrell: A BILL TO AMEND SECTION 4-1-170, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE JOINT DEVELOPMENT OF INDUSTRIAL PARKS, SO AS TO MODIFY THE CONDITIONS AND PARTIES FROM WHOM CONSENT MUST BE OBTAINED IN CERTAIN CIRCUMSTANCES.

Referred to Committee on Ways and Means

Rep. FELDER moved that the House do now adjourn, which was agreed to.

ADJOURNMENT

At 11:57 a.m. the House in accordance with the motion of Rep. FELDER adjourned to meet at 10:00 a.m. tomorrow.

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H. 3078	8	H. 3674	3
H. 3142	8	H. 3675	4
H. 3163	9	H. 3676	2
H. 3164	9	H. 3677	3
H. 3177	9	H. 3678	5
H. 3191	11, 12, 18, 23	H. 3679	5
H. 3191	24, 25	H. 3680	30
H. 3192	10	H. 3681	31
H. 3213	28	H. 3682	31
H. 3432	9	H. 3683	32
H. 3508	10	H. 3684	32
H. 3577	9	H. 3685	32
H. 3579	9	H. 3686	33
H. 3580	9, 10	H. 3687	33
H. 3650	10		
H. 3661	10	S. 8	27
H. 3663	9	S. 8	27
H. 3673	1	S. 225	10