

**CORRECTIONS AND PUBLIC SAFETY SUBCOMMITTEE
SUMMARY OF HOUSE PROVISIO CHANGES
FOR FY 2009-10**

SECTION 48 - D10 - STATE LAW ENFORCEMENT DIVISION

- 48.20** **ADD** (Alcohol Laws) **HOU:** ADD new proviso to direct SLED to convene a working group of state and local law enforcement officials to develop recommendations for improving enforcement of state statutes that relate to the sale, purchase and possession of alcoholic beverages. Require SLED, by November 1st, to publish on its homepage the group's recommendations to strengthen and improve: (1) enforcement of the laws; (2) cooperation between state and local agencies regarding the laws; (3) statewide support of SLED in enforcing the laws; (4) and use of alcohol related fees collected by SLED. Sponsor: Rep. Funderburk.

48.20. (SLED: Alcohol Laws) The department shall convene a working group of state and local law enforcement officials to develop recommendations for improving the enforcement of state statutes relating to the selling, purchasing, and possession of alcohol beverages. By November 1, SLED must publish on its homepage the recommendations of the working group for strengthening and improving: 1) the enforcement of these laws, 2) the cooperation between state and local agencies regarding these laws, 3) the statewide support of SLED in enforcing these laws, and 4) the use of alcohol related fees collected by SLED.

SECTION 51 - N04 - DEPARTMENT OF CORRECTIONS

- 51.27** **AMEND** (Work Release Transportation Fee) Authorizes the department to charge a \$1 per day transportation fee to work release program participants when such transportation is provided by the department. Directs that monies collected be credited to the department and used solely to fund transportation for work release participants and for work release program vehicle replacement.

WMC: AMEND proviso to change the authorized transportation fee from "\$1" to "\$4." *There are 450 work release participants at seven centers and 53 vehicles drove 914,000 miles last year at 45 cents per mile.* Fiscal Impact: OSB indicates the department estimates a savings to the general fund of approximately \$107,640. The increase in fees would be used to offset costs currently covered by General Funds and other funds would increase by a similar amount. Requested by Department of Corrections.

HOU: ADOPT proviso as amended.

51.27. (CORR: Work Release Transportation Fee) The South Carolina Department of Corrections is authorized to charge a ~~\$1.00~~ \$4.00 per-day transportation fee to participants in the work release program only when such transportation is provided by the department. Monies collected shall be credited to the South Carolina Department of Corrections, and utilized solely to fund transportation of work release participants and vehicle replacement for the work release program.

- 51.31** **ADD** (Inmate Barbering Program) **WMC:** ADD new proviso to exempt inmate barbers in the Inmate Barbering Program from the licensing requirements of Section 40-7-30 [BARBERS AND BARBERING LICENSURE REQUIREMENT]. *Prior to 1997 inmate barbers were exempt from this statute. This exemption will prevent the need to expend funds to hire barbers outside the prison system.* Fiscal Impact: The department states the estimated recurring cost to bring in licensed barbers would be \$840,000. Requested by Department of Corrections.

HOU: ADOPT new proviso.

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51.31. (CORR: Inmate Barbering Program) Inmate barbers in the Inmate Barbering Program at the Department of Corrections, shall not be subject to the licensing requirement of Section 40-7-30 of the 1976 Code.

- 51.32 ADD** (Executed Inmate Autopsy) **WMC:** ADD new proviso to direct that superseding Section 17-7-10 [CORONERS OR SOLICITORS SHALL ORDER AUTOPSIES; AUTOPSY TO BE ORDERED UPON DEATH OF PERSONS IN PENAL INSTITUTIONS] to the extent necessary, as well as any other conflicting provisions of law, an autopsy shall not be conducted when an inmate is executed by the Department of Corrections pursuant to a valid Supreme Court order. *An autopsy for an executed inmate is not needed.* Fiscal Impact: OSB states the department indicates a savings of \$895 per autopsy. Requested by Department of Corrections.
HOU: ADOPT new proviso.

51.32. (CORR: Executed Inmate Autopsy) Superseding Section 17-7-10 of the 1976 Code, to the extent necessary, as well as any conflicting other applicable provisions of law, whenever an inmate shall be executed by the Department of Corrections pursuant to a valid order of the Supreme Court of South Carolina, an autopsy shall not be conducted.

- 51.33 ADD** (Recoupment of Expenses Associated with Inmate Cremation) **WMC:** ADD new proviso to direct that superseding Section 24-3-570 [DISPOSITION OF BODY] as necessary, as well as any other conflicting provisions of law, if the department incurs expenses for cremating and disposing of an unclaimed deceased inmate, the costs associated the cremation, including transportation, may be recouped from the deceased inmate's E.H. Cooper account if the funds are available. *To offset expenses.* Fiscal Impact: The department indicates that based on 125 deaths per year at \$450 per cremation, \$56,250 would be recouped. Requested by Department of Corrections.
HOU: ADOPT new proviso.

51.33. (CORR: Recoupment of Expenses Associated with Inmate Cremation) Superseding Section 24-3-570 of the 1976 Code as necessary, as well as any other conflicting applicable provisions of law, if the Department of Corrections incurs expenses for cremating and disposing of an unclaimed deceased inmate, the department may recoup all associated costs of cremation, including transportation, through the deceased inmate's E.H. Cooper account, providing funds are available.

SECTION 52 - N08 - DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES

- 52.9 AMEND** (Offender Drug Testing Fee) Authorizes the department to charge offenders who challenge the findings of a drug test administered by the department a fee, not to exceed \$50, to have a drug test analyzed by a lab. Requires the fee to be waived if it is determined that the offender is indigent. Authorizes the department to retain the fee to offset the cost of the lab test and to carry forward unexpended funds to be used for the same purpose.
WMC: AMEND proviso to authorize the department to charge for all drug testing, not just those whose findings are challenged. Direct that the fee be retained to offset the cost of the drug testing rather than of the lab test. *The department suspended drug testing due to budget reductions. This amendment will allow offender drug testing to resume.* Fiscal Impact: BEA estimates the fee for three, stick-test methods would average \$1.50 and apply to 59,090 tests and estimates the independent lab fee would be set at \$15 and apply to 3,000 tests. Multiplying \$1.50 x 59,090 yields \$88,635, and multiplying \$15 x 3,000 yields \$45,000. This amendment

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would raise earmarked funds within the department by a combined total of \$133,635 in FY 09-10. Since fee proceeds do not apply to the General Fund there would be no impact on the General Fund. The department states over 14,000 offenders were tested last year for a total cost of \$127,153. Requested by Department of Probation, Parole, and Pardon Services.

HOU: ADOPT proviso as amended.

52.9. (DPPP: Offender Drug Testing Fee) The department may charge offenders a fee set by the department, not to exceed \$50, for the purpose of ~~having a drug test~~ testing analyzed by a lab for offenders challenging the findings of a drug test administered by the department. If it is determined that the offender is indigent, this ~~fee~~ fee must be waived. The fee shall be retained by the department to offset the cost of ~~the lab test~~ drug testing. All unexpended funds at year-end may be retained and carried forward by the department to be expended for the same purpose.

52.10 **ADD** (Public Service Employment Set-Up Fee) **WMC:** ADD new proviso to authorize the department to charge an adult offender placed under its jurisdiction, who is ordered to public service employment by the court, a \$25 Public Service Employment Set-Up fee and require the department retain the fee and use it for their supervision process. *To offset the cost of offender supervision.* Fiscal Impact: BEA indicates that based on a review by the department the new "Set-Up" fee would apply to 4,461 offenders in FY 09-10. Multiplying \$25 times 4,461 PSE clients would raise \$111,525 for the department. Since no proceeds go to the General Fund there would no impact on the General Fund. The department states 4,461 offenders were ordered to perform 200,000 hours of public service last year. Requested by Department of Probation, Parole, and Pardon Services.

HOU: ADOPT new proviso.

52.10. (DPPP: Public Service Employment Set-Up Fee) In addition to any other fee, the department may charge an adult offender placed under the jurisdiction of the department, who is ordered to public service employment by the court, a twenty-five dollar Public Service Employment set-up fee. The fee must be retained by the department and applied to the department's supervision process.

SECTION 68A - U12 - DEPARTMENT OF TRANSPORTATION

68A.14 DELETE (Reopen Rest Areas) Directs the department to use the \$723,000 general fund appropriation designated for "Commercial Motor Vehicle Rest Areas" to reopen 7 non-facility parking areas for commercial vehicles only. Directs that the department in conjunction with DPS will determine the locations of the rest areas. Directs the department to post signs that restrict these parking areas to commercial vehicles and to post "no trespassing" signs to prohibit pedestrian entry. Directs the department to determine whether federal grants are available to supplement the funds appropriated for this purpose and if so to apply for such federal grant. Authorizes these funds to be carried forward and used for the same purpose.

WMC: DELETE proviso. Fiscal Impact: No impact on the General Fund. Requested by Department of Transportation.

HOU: ADOPT deletion of proviso.

~~**68A.14.** (DOT: Reopen Rest Areas) The Department of Transportation is directed to utilize the \$723,000 appropriated from the General Fund designated "Commercial Motor Vehicle Rest Areas" to reopen seven non-facility parking areas for commercial vehicles only.~~

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~~These locations will be determined by the Department of Transportation in conjunction with the Department of Public Safety.~~

~~The Department of Transportation shall post signs restricting these parking areas to commercial vehicles and shall post "no trespassing" signs to prohibit pedestrian entry into the areas.~~

~~The Department of Transportation is directed to ascertain whether federal grants are available in order to supplement the general funds appropriated for this purpose, and if so to make application for such federal grant.~~

~~Funds appropriated to reopen rest areas may be carried forward from the prior fiscal year and used for the same purpose in the current fiscal year.~~

SECTION 89 - X90 - GENERAL PROVISIONS

89.70 AMEND FURTHER (Assessment Audit) Requires the State Auditor, based on a random selection process, to periodically examine county treasurers, municipal treasurers, county clerks of court, magistrates, and municipal courts books, accounts, receipts, disbursements, vouchers, and any records deemed necessary to report whether the assessments, surcharges, fees, fines, forfeitures, escheatments, or other monetary penalties imposed or mandated by law in family, circuit, magistrates, and municipal courts are properly collected and remitted to the State. Directs that the audits are to also determine if the proper funds have been reported, retained, and collected for victim services according to state law. Directs the State Auditor to submit a copy of the audit report to the chairmen of the House Ways and Means, Senate Finance, House Judiciary, Senate Judiciary Committees and the Governor. Provides for the handling of any audit findings; funding of audits; submission of a municipality's annual audit report; the penalty for failure to properly file the report; and for annual training on the collection and distribution of the assessments, surcharges, fees, fines, forfeitures, escheatments, or other monetary penalties imposed or mandated by law.

WMC: AMEND proviso to delete reference to the State Auditor notifying the State Treasurer if any authority has "over reported or over retained crime victim funds." Direct the State Auditor to notify the State Office of Victim Assistance if he finds that any authority has not properly allocated revenue generated from court fines, fines, and assessments to the crime victim funds or has not properly expended crime victim funds. Authorize the State Office of Victim Assistance to conduct programmatic reviews on any entity that receives victim assistance funding to ensure that such funds are spent in accordance with the law. Require a local entity that receives victim assistance funding to submit their budget to the State Office of Victim Assistance within 30 days of the budget being approved by the local governing entity. Require the entity to cooperate and provide expenditure/program data requested by the State Office of Victim Assistance. Direct that if the State Office of Victim Assistance finds an error, the entity has 90 days to rectify the error. Direct that an error constitutes an entity spending victim assistance funding on unauthorized items. Direct the State Office of Victim Assistance to notify the State Treasurer if the entity does not rectify the error within 90 days. Direct the State Treasurer to withhold 25% of the entity's aid to subdivisions until the State Office of Victim Assistance notifies the State Treasurer that error has been rectified. Authorize the State Office of Victim Assistance to assess and collect a penalty of up to \$5,000 against the entity for improper expenditures in a fiscal year. Direct all penalties receive by the State Office of Victim Assistance to be credited to the general fund. Fiscal Impact: OSB states that the State Office of Victim Assistance and the State Auditor's Office indicates there will be no impact on the General Fund or other funds.

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HOU: AMEND FURTHER to include “non-profit organization” in addition to “any entity.” Specify that the authority to conduct programmatic reviews shall be based on referrals from the State Auditor or complaints of a specific nature received by the State Office of Victim Assistance. Delete the new requirement that the State Office of Victim Assistance notify the State Treasurer if the error is not rectified within 90 days and the directive for the State Treasurer to withhold 25% of the entity’s aid to subdivisions until the error is rectified. Authorize the State Office of Victim Assistance to assess and collect a penalty of the amount of the unauthorized expenditure plus \$5,000 for improper expenditures. Direct that if the penalty is not received by the State Office of Victim Assistance within 90 days, the political subdivision will deduct the amount of the penalty from the entity or non-profit organization’s subsequent fiscal year appropriation. Sponsor: Rep. Cobb-Hunter.

89.70. (GP: Assessment Audit) (1) Based upon a random selection process, the State Auditor shall periodically examine the books, accounts, receipts, disbursements, vouchers, and any records deemed necessary of the county treasurers, municipal treasurers, county clerks of court, magistrates, and municipal courts to report whether the assessments, surcharges, fees, fines, forfeitures, escheatments, or other monetary penalties imposed or mandated, or both, by law in family court, circuit court, magistrates court, and municipal court are properly collected and remitted to the State. In addition, the purpose of these audits is to determine if the proper amount of funds have been reported, retained, and allocated for victim services in accordance with state law. These audits must be performed in accordance with standard auditing practices to include the right to respond to findings before the publishing of the audit report. The State Auditor is directed to submit a copy of the completed audit report to the Chairmen of the House Ways & Means Committee, Senate Finance Committee, House Judiciary Committee, Senate Judiciary Committee, and the Governor. If the State Auditor finds that any authority has over remitted the state’s portion of the funds collected by the authority ~~or over reported or over retained crime victim funds~~, the State Auditor shall notify the State Treasurer to make the appropriate adjustment to the authority. If the State Auditor finds that any authority has under remitted, incorrectly reported, incorrectly retained, or incorrectly allocated the state or victim services portion of the funds collected by the authority, the State Auditor shall determine where the error was made. If the error is determined to have been made by the county or municipal treasurer’s office, the State Auditor shall notify ~~the State Office of Victim Assistance for the crime victim portion and~~ the chief administrator of the county or municipality of the findings and, if full payment has not been made by the county or municipality within ninety days of the audit notification, the State Treasurer is directed to adjust the authority’s aid to subdivisions funding in an amount equal to the amount determined by the State Auditor to be the state’s portion; or equal to the amount incorrectly reported, retained, or allocated pursuant to Sections 14-1-206(B)(D), 14-1-207(B)(D), 14-1-208(B)(D), and 14-1-211(B) of the 1976 Code. If the State Auditor finds that any authority has not properly allocated revenue generated from court fines, fines, and assessments to the crime victim funds or has not properly expended crime victim funds, the State Auditor shall notify the State Office of Victim Assistance. The State Office of Victim Assistance is authorized to conduct programmatic reviews on any entity or non-profit organization receiving victim assistance funding based on the referrals from the State Auditor or complaints of a specific nature received by the State Office of Victim Assistance to ensure that crime victim funds are expended in accordance with the law. Any local entity or non-profit organization who receives funding from victim assistance is required to submit their budget to the State Office of Victim Assistance within thirty days of the budget being approved by the local governing entity. In addition, any entity or non-profit organization receiving victim assistance funding must cooperate and provide expenditure/program data requested by the State Office of Victim Assistance. If the State Office of Victim Assistance finds

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an error, the entity or non-profit organization has ninety days to rectify the error. An error constitutes an entity or non-profit organization spending victim assistance funding on unauthorized items. If the entity or non-profit organization fails to rectify the error within ninety days, the State Office of Victim Assistance shall assess and collect a penalty of the amount of the unauthorized expenditure plus \$5,000 against the entity or non-profit organization for improper expenditures in a fiscal year. All penalties received by the State Office of Victim Assistance shall be credited to the General Fund of the State. If the penalty is not received by the State Office of Victim Assistance within ninety days, the political subdivision will deduct the amount of the penalty from the entity or non-profit organization's subsequent fiscal year appropriation.

If an error is determined to have been made at the magistrate, municipal, family, or circuit courts, the State Auditor shall notify the responsible office, their supervising authority, and the chief justice of the State. If full payment has not been made by the court within ninety days of the audit notification, the chief magistrate or municipal court or clerk of court shall remit an amount equal to the amount determined by the State Auditor to be the state's portion or the crime victim fund portion within ninety days of the audit notification.

(2) The State Auditor is further authorized to conduct these examinations and the local authority is required to participate in and cooperate fully with the examination. The State Auditor is authorized to subcontract with independent auditors on audits required in subsection (1). The State Auditor is encouraged to create an audit team to perform these audits. The State Treasurer is authorized to transfer the first \$10,900 received from the General Sessions Court pursuant to Section 14-1-206, the first \$136,600 received from the Magistrates Court pursuant to Section 14-1-207, and the first \$102,500 received from the Municipal Court pursuant to Section 14-1-208 for a total of \$250,000 dollars to the State Auditor's Office to fund these audits as required in subsection (1). A state agency or local governmental entity receiving assessments, surcharges, fees, fines, forfeitures, escheatments, or other monetary penalties imposed or mandated, or both, by law in family court, circuit court, magistrates court and municipal court is authorized to use any of their funds to assist the State Auditor's Office in funding these audits.

(3) Each municipality shall submit a copy of its annual audit report as provided in Section 5-7-240 of the 1976 Code without charge to both the State Treasurer's Office and the State Auditor's Office within thirty days of such report being made public. If a municipality fails to provide the copy of the annual audit within the above prescribed time period the State Treasurer's Office is authorized to withhold the municipality's aid to subdivision until the annual audit report is properly filed.

(4) The State Treasurer's Office and South Carolina Court Administration shall make available annually training on the collection and distribution of assessments, surcharges, fees, fines, forfeitures, escheatments, or other monetary penalties imposed or mandated, or both, by law in family court, circuit court, magistrates court and municipal court for the counties, municipalities, and court employees.

(5) The State Treasurer is authorized to transfer \$2,000 received from the General Sessions Court pursuant to Section 14-1-206, \$5,000 received from Magistrates Court pursuant to Section 14-1-207, and \$3,000 received from Municipal Court pursuant to Section 14-1-208 for a total of \$10,000 to fund annual training on the collection and distribution of assessments, surcharges, fees, fines, forfeitures, escheatments, or other monetary penalties imposed or mandated, or both, by law in family court, circuit court, magistrates court, and municipal court for the counties, municipalities, and court employees. The State Treasurer's Office and South Carolina Court Administration shall be responsible for the annual training prescribed by this section.

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- 89.99 DELETE** (Electricity Franchise Fee) Directs that the state shall not pay a franchise fee to any municipality or utility for electrical power provided to the state under "Stateline Accounts." Reaffirms that Act 440 of 1925 defined the parameters of the "Stateline Accounts."

WMC: DELETE proviso. *Codified in Act 329 of 2008 by adding Section 58-27-415.* Fiscal Impact: No impact on the General Fund.

HOU: ADOPT deletion of proviso.

89.99. (GP: Electricity Franchise Fee) ~~The State shall not pay a franchise fee to any municipality or utility with respect to electrical power provided to the State by a utility under the "Stateline Accounts." The "Stateline Accounts" referenced in this proviso are those State electrical power accounts that arose from the 1925 agreement validated, ratified and approved in Act No. 440 of 1925 (34 Stats. 852).~~

- 89.106 AMEND** (Offset Corrections Budget Reduction) Authorizes the Governor to transfer agency earmarked and restricted accounts designated as "special revenue funds" as defined in the Comptroller General's records from DMV to the Department of Corrections to offset any FY 08-09 budget deficit that has been officially recognized by the Budget and Control Board.

WMC: AMEND proviso to change "2008-09" to "2009-10." Fiscal Impact: OSB indicates no impact on the General Fund. The cash balance of this subfund was \$14 million as of January 23, 2009.

HOU: ADOPT proviso as amended.

89.106. (GP: Offset Corrections Budget Reduction) The Governor shall be authorized to transfer agency earmarked and restricted accounts designated as "special revenue funds" as defined in the Comptroller General's records from the Department of Motor Vehicles to the Department of Corrections to offset any Fiscal Year ~~2008-09~~ 2009-10 budget deficit that has been officially recognized by the Budget and Control Board.

- 89.107 DELETE** (DMV Cash Surplus Transfer) Requires DMV to transfer \$10,000,000 from DMV Operating Subfund 3264 and Uninsured Motorist Fees and Fines Subfund 3595 to the Department of Education for school bus fuel. Authorize the department to transfer an equal amount of funds from any agency earmarked or restricted account designated as "special revenue funds" as defined by the Comptroller General's records for this purpose in order to provide maximum flexibility to maintain critical programs. Direct that any restrictions concerning specific use of these funds are lifted for the current fiscal year.

WMC: DELETE proviso. Fiscal Impact: No impact on the General Fund.

HOU: ADOPT deletion of proviso.

89.107. (GP: DMV Cash Surplus Transfer) ~~The Department of Motor Vehicles shall transfer \$10,000,000 from DMV Operating Subfund 3264 and Uninsured Motorist Fees and Fines Subfund 3595 to the Department of Education for school bus fuel.~~

~~In order to provide maximum flexibility to maintain critical programs, the department may, in lieu of the specific account identified above, opt to transfer an equal amount of funds from any agency earmarked or restricted account designated as "special revenue funds" as defined by the Comptroller General's records for this purpose. Any restrictions concerning specific utilization of these funds are lifted for the specified fiscal year.~~

- 89.113 ADD** (Fire Service Vehicles Allowed to Use "Offroad Diesel") **HOU:** ADD new proviso to exempt fire service vehicles operated by political subdivisions from the user fee on diesel fuel

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imposed by Chapter 28 of Title 12 [MOTOR FUELS SUBJECT TO USER FEES]. Authorize "offroad diesel" to be purchased to operate these vehicles. Sponsor: Rep. Gambrell.

89.113. (GP: Fire Service Vehicles Allowed to Use "Offroad Diesel") Fire service vehicles operated by political subdivisions of this State are exempt from the user fee on diesel fuel imposed pursuant to Chapter 28, Title 12 of the 1976 Code for fuel purchased in the current fiscal year. "Offroad diesel" may be purchased to operated these vehicles.

- 89.117 ADD** (Constitutional Officers' Security Detail) **HOU:** ADD new proviso to require agencies that provide a security detail to constitutional officers to submit a request for payment monthly and for the constitutional officer to make payment within 45 days of receipt of the bill. Sponsor: Rep. Edge.

89.117. (GP: Constitutional Officers' Security Detail) Agencies which provide a security detail to constitutional officers shall submit a request for payment on a monthly basis. Payment shall be made by the constitutional officer within forty-five days of receipt of the bill.

- 89.125 ADD** (Fines and Fees Report) **HOU:** ADD new proviso to require each state agency to provide and release to the public via their website, a report of all aggregate amounts of fines and fees the agency charges and collects. Direct agencies to use their appropriated and/or authorized funds for this purpose. Sponsors: Reps. Govan and Gunn.

89.125. (GP: Fines and Fees Report) Each state agency must provide and release to the public via the agency's website, a report of all aggregate amounts of fines and fees that are charged and collected by that state agency. Funds appropriated to and/or authorized for use by each state agency shall be used to accomplish this directive.