COMMITTEE AMENDMENT ADOPTED AND AMENDED

April 1, 2009

**H. 3378**

Introduced by Rep. Cooper

S. Printed 4/1/09--S.

Read the first time February 17, 2009.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 8‑11‑192 SO AS TO PROVIDE FOR THE TERMS AND CONDITIONS OF MANDATORY STATE AGENCY FURLOUGH PROGRAMS AND TO DELETE THE PROVISIONS OF PARAGRAPH 89.120, PART IB, OF ACT 310 OF 2008, RELATING TO STATE AGENCY FURLOUGHS.

Amend Title To Conform

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

SECTION 1. Article 1, Chapter 11, Title 8 of the 1976 Code is amended by adding:

“Section 8‑11‑192. In a fiscal year in which the general funds appropriated for a state agency are less than the general funds appropriated for that agency in the prior fiscal year, or in a fiscal year in which an agency that is funded by other funds projects other funds collections to be less than in the prior fiscal year, or whenever the General Assembly or the State Budget and Control Board implements a midyear across‑the‑board budget reduction, agency heads may institute employee furlough programs of not more than ten working days in the fiscal year in which the deficit is projected to occur.

The furlough program must be:

(1) inclusive of all employees in an agency or within a designated department or program regardless of source of funds or place of work, including all classified and unclassified employees in the designated area; or

(2) based upon pay band for classified employees and based upon pay rate for unclassified employees within the agency or designated department respectively.

If the state agency will incur costs for overtime under the federal Fair Labor Standards Act, law enforcement employees and correctional employees may be exempted from a mandatory furlough. Employees who provide direct patient or client care and front‑line employees who deliver direct customer services may be exempted from a mandatory furlough. The mandatory furlough must include the agency head. Constitutional officers are exempt from mandatory furlough. Scheduling of furlough days, or portions of days, shall be at the discretion of the agency head, but under no circumstances should the agency close completely.

During this furlough, affected employees shall be entitled to participate in the same state benefits as otherwise available to them except for receiving their salaries. As to those benefits that require employer and employee contributions, including but not limited to contributions to the South Carolina Retirement System or the optional retirement program, the state agencies, institutions, and departments are responsible for making both employer and employee contributions if coverage would otherwise be interrupted; and as to those benefits which require only employee contributions, the employee remains solely responsible for making those contributions.

Placement of an employee on furlough under this provision does not constitute a grievance or appeal under the State Employee Grievance Procedure Act.

In the event the reduction for the state agency, institution, or department is due solely to the General Assembly transferring or deleting a program, this section does not apply. The implementation of a furlough program authorized by this section shall be on an agency‑by‑agency basis. Agencies may allocate the employee’s reduction in pay over the balance of the fiscal year for payroll purposes regardless of the pay period within which the furlough occurs. In the event that an agency implements both a voluntary furlough program and a mandatory furlough program during the fiscal year, furlough days taken voluntarily shall count toward furlough days required by the mandatory furlough.

The State Budget and Control Board shall promulgate guidelines and policies, as necessary, to implement the provisions of this section. State agencies shall report information regarding furloughs to the Office of Human Resources of the State Budget and Control Board.

The Office of Human Resources of the State Budget and Control Board must provide consultation and guidance to each state agency implementing a furlough or reduction in force regarding the long term career development of its employees and the potential financial benefit of implementing a furlough program or reduction in force.

The provisions of this section do not apply to employees of those state agencies or institutions covered by Section 8‑11‑193, and Section 8‑11‑193, rather than this section continues to apply to those employees in the manner provided by law.”

SECTION 2. Paragraph 89.120, Part IB, of Act 310 of 2008, as added by Act 414 of 2008, is deleted.

SECTION 3. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑