COMMITTEE REPORT

April 15, 2010

**H. 4546**

Introduced by Reps. Sandifer, Harrell, Bingham, Cato, Cooper, Duncan, Harrison, Howard, Ott, White, Branham, Hardwick, Crawford, Bowen, Skelton, Sottile, Hiott, Toole, Kelly, Forrester, Cole, Bannister, Bedingfield and Bowers

S. Printed 4/15/10--H. [SEC 4/20/10 2:46 PM]

Read the first time February 16, 2010.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Joint Resolution (H. 4546) to establish the Self‑directed Semi‑independent Agency Pilot Project so as to create certain professional and occupational licensing boards as separate and distinct individual, etc., respectfully

**REPORT:**

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

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

/SECTION 1. (A) There is established the Self‑directed Semi‑independent Agency Pilot Project. In accordance with the provisions of this joint resolution this pilot project establishes the professional and occupational licensing boards enumerated below as separate and distinct individual agencies to the extent provided for in this joint resolution and no longer under the Department of Labor, Licensing and Regulation as of January 1, 2011:

(1) South Carolina State Board of Accountancy;

(2) Board of Registration for Professional Engineers and Land Surveyors;

(3) South Carolina Board of Architectural Examiners;

(4) South Carolina Board of Medical Examiners;

(5) South Carolina Board of Pharmacy;

(6) South Carolina Real Estate Commission;

(7) South Carolina Board of Funeral Service; and

(8) South Carolina Real Estate Appraisers Board.

(B) Notwithstanding any other provision of law, each project agency shall become self‑directed and semi‑independent as specified in this joint resolution and must be administered by the Department of Labor, Licensing and Regulation only to the extent the project agency contracts with the department for these administrative services.

(C) A prospective professional or occupational licensing board listed in subsection (A) must not participate in the pilot project unless approved by both a chairman of a standing committee of the Senate designated by the President Pro Tempore of the Senate and a chairman of a standing committee of the House designated by the Speaker of the House.

(D) A professional or occupational licensing board seeking to participate in this pilot project must submit a report to the General Assembly, through the chairmen designated pursuant to subsection (C), and to the Governor that includes a description of the agency’s activities in the previous fiscal year. The report must be submitted by September 15, 2010, and include:

(1) an audit conducted under the procedures of Section 4(A);

(2) a financial report of the previous fiscal year;

(3) a description of any changes in licensing fees;

(4) a report on the number of examination candidates, licensees, certificate holders, and enforcement activities and any changes in those figures;

(5) a description of all new rules adopted or repealed;

(6) the total amount of per diem expenses and travel expenses paid for each member of the governing body of each project agency;

(7) a detailed report of all revenue received including, but not limited to, fees, fines, settlements, gifts, grants, donations, and all expenses incurred by the proposed project agency in the previous fiscal year;

(8) job descriptions and salaries for all proposed project agency personnel and the total amount of projected per diem expenses and travel expenses for all prospective project agency employees; and

(9) the prospective project agency’s operating plan and projected budget covering the initial two year period of the pilot project.

SECTION 2. In addition to the duties enumerated in the enabling legislation specifically applicable to each project agency, which has the following duties:

(1) A project agency shall adopt a budget annually using generally accepted accounting principles. The budget must be reviewed and approved only by the project agency’s governing board notwithstanding any other provision of law, including the general appropriations act. No costs may be incurred by the general revenue fund. A project agency must be responsible for all costs, both direct and indirect.

(2) A project agency shall keep financial and statistical information as necessary to disclose completely and accurately the financial condition and operation of the project agency.

SECTION 3. A project agency is vested with all authority conferred upon the Department of Labor, Licensing and Regulation in Section 40‑1‑50 and is responsible for all administrative, fiscal, investigative, inspection, clerical, secretarial, and license renewal operations and activities of the boards and commissions enumerated in Section 40‑1‑40. A project agency may fulfill these responsibilities through internal or external means, including, but not limited to, directly employed staff or by contract with the Department of Labor, Licensing and Regulation or a third party selected by the project agency.

SECTION 4. (A) Nothing in this joint resolution shall affect the duty of the State Auditor to audit a project agency. The State Auditor shall enter into a contract and schedule with each project agency to conduct audits, including financial reports and performance audits. Costs incurred in performing these audits must be reimbursed by the project agency.

(B) The Legislative Audit Council shall submit a performance and management report on the pilot project by September 15, 2014.

SECTION 5. A project agency annually shall submit to the to the Governor, the House Ways and Means Committee, the House Labor, Commerce and Industry Committee, the Senate Finance Committee and the Senate Labor, Commerce and Industry Committee a report that includes a description of the agency’s activities in the previous fiscal year. The report must be submitted by September fifteenth of the subsequent fiscal year and include:

(1) an audit conducted under the procedures of Section 4(A);

(2) a financial report of the previous fiscal year;

(3) a description of any changes in licensing fees;

(4) a report on the number of examination candidates, licensees, certificate holders, and enforcement activities and any changes in those figures;

(5) a description of all new rules adopted or repealed;

(6) the salary for all project agency personnel and the total amount of per diem expenses and travel expenses paid for all project agency employees;

(7) the total amount of per diem expenses and travel expenses paid for each member of the governing body of each project agency;

(8) each project agency’s operating plan and budget covering a two year period; and

(9) a detailed report of all revenue received including, but not limited to, fees, fines, settlements, gifts, grants, donations, and all expenses incurred by the project agency in the previous fiscal year.

SECTION 6. (A) Subject to the limitations, if any, in the applicable enabling legislation, each project agency may set the amount of fees, penalties, and fines by statute or regulation as necessary for the purpose of carrying out the functions of the project agency.

(B) All fees and funds collected by a project agency during the pilot project and any funds appropriated to the project agency must be placed on deposit with the State Treasurer and credited to a fund separate and distinct from the general fund of the State. No transfers may be made out of this fund to the Department of Labor, Licensing and Regulation except by a contractual agreement entered into by the project agency.

(C) On July 1, 2010, the Department of Labor, Licensing and Regulation shall deposit an amount equal to a project agency’s existing cash carry forward as of April 1, 2010.

SECTION 7. (A) If a board or commission no longer has status under this joint resolution as a self‑directed semi‑independent project agency either because of the expiration of this joint resolution or for any other reason, the board or commission is liable for any expenses or debts incurred by the board or commission during the time the board or commission participated in the pilot project. The project agency’s liability under this section includes liability for any lease entered into by the project agency. The State is not liable for any expense or debt covered by this subsection, and money from the general revenue fund may not be used to repay the expense or debt.

(B) If a board or commission no longer has status under this joint resolution as a self‑directed semi‑independent project agency either because of the expiration of this joint resolution or for any other reason, ownership of any property or other asset acquired by the board or commission during the time the board or commission participated in the pilot project must be transferred to the State.

SECTION 8. Employees of the project agencies are members of the South Carolina Retirement System pursuant to Chapter 1, Title 9, and transition to independent status has no effect on their membership.

SECTION 9. (A)The transfer of a project agency, as defined by this joint resolution, to semi‑independent status and the expiration of semi‑independent status does not cancel, suspend, or prevent any:

(1) debt owed to or by the project agency;

(2) fine, tax, penalty, or obligation of any party;

(3) contract or other obligation of any party; or

(4) action taken by the project agency in administration or enforcement of its duties.

(B) Each project agency shall continue to have and exercise the powers and duties allocated to it in its enabling legislation, except as specifically amended by this joint resolution.

(C) Title to all supplies, materials, records, equipment, books, and papers used by each project agency is transferred to each respective project agency. Nothing in this joint resolution has any effect on property already owned by the project agencies. At its sole option, each project agency may continue to occupy its current premises at the rates prescribed by the State Budget and Control Board for costs for the duration of the pilot project.

(D) Any fees collected prior to January 1, 2011, collected for examinations conducted after January 1, 2011, must be made available to the project agency.

SECTION 10. Except as otherwise provided, this joint resolution takes effect July 1, 2010, and is repealed September 1, 2015, unless extended by action of the General Assembly./

Renumber sections to conform.

Amend title to conform.

WILLIAM E. SANDIFER for Committee.

**A** **JOINT RESOLUTION**

TO ESTABLISH THE SELF‑DIRECTED SEMI‑INDEPENDENT AGENCY PILOT PROJECT SO AS TO CREATE CERTAIN PROFESSIONAL AND OCCUPATIONAL LICENSING BOARDS AS SEPARATE AND DISTINCT INDIVIDUAL STATE AGENCIES TO THE EXTENT PROVIDED FOR IN THIS JOINT RESOLUTION AS OF JANUARY 1, 2011, TO PROVIDE FOR THEIR POWERS AND DUTIES WITH REGARD TO THEIR FISCAL, REGULATORY, AND OPERATIONAL RESPONSIBILITIES, AND TO PROVIDE THAT THIS JOINT RESOLUTION IS REPEALED JULY 1, 2015, UNLESS EXTENDED BY THE GENERAL ASSEMBLY.

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

SECTION 1. (A) There is established the Self‑directed Semi‑independent Agency Pilot Project. In accordance with the provisions of this joint resolution this pilot project establishes the professional and occupational licensing boards enumerated below as separate and distinct individual agencies to the extent provided for in this joint resolution and no longer under the Department of Labor, Licensing and Regulation as of January 1, 2011:

(1) South Carolina State Board of Accountancy;

(2) Board of Registration for Professional Engineers and Land Surveyors;

(3) South Carolina Board of Architectural Examiners;

(4) South Carolina Board of Medical Examiners;

(5) South Carolina Board of Pharmacy;

(6) South Carolina Real Estate Commission; and

(7) South Carolina Board of Funeral Service.

(B) Notwithstanding any other provision of law, each project agency shall become self‑directed and semi‑independent as specified in this joint resolution.

(C) A prospective professional or occupational licensing board listed in subsection (A) must not participate in the pilot project unless approved by both a chairman of a standing committee of the Senate designated by the President Pro Tempore of the Senate and a chairman of a standing committee of the House designated by the Speaker of the House.

(D) A professional or occupational licensing board seeking to participate in this pilot project must submit a report to the General Assembly and the Governor that includes a description of the agency’s activities in the previous fiscal year. The report must be submitted by September 15, 2010, and include:

(1) an audit conducted under the procedures of Section 4(A);

(2) a financial report of the previous fiscal year;

(3) a description of any changes in licensing fees;

(4) a report on the number of examination candidates, licensees, certificate holders, and enforcement activities and any changes in those figures;

(5) a description of all new rules adopted or repealed;

(6) the total amount of per diem expenses and travel expenses paid for each member of the governing body of each project agency;

(7) a detailed report of all revenue received including, but not limited to, fees, fines, settlements, gifts, grants, donations, and all expenses incurred by the proposed project agency in the previous fiscal year;

(8) job descriptions and salaries for all proposed project agency personnel and the total amount of projected per diem expenses and travel expenses for all prospective project agency employees; and

(9) the prospective project agency’s operating plan and projected budget covering the initial two year period of the pilot project.

SECTION 2. In addition to the duties enumerated in the enabling legislation specifically applicable to each project agency, which has the following duties:

(1) A project agency shall adopt a budget annually using generally accepted accounting principles. The budget must be reviewed and approved only by the project agency’s governing board notwithstanding any other provision of law, including the general appropriations act. No costs may be incurred by the general revenue fund. A project agency must be responsible for all costs, both direct and indirect.

(2) A project agency shall keep financial and statistical information as necessary to disclose completely and accurately the financial condition and operation of the project agency.

SECTION 3. To provide a reasonable period for each project agency to establish itself as semi independent and self directed after the conclusion of fiscal year 2010, each project agency is appropriated an amount equal to fifty percent of that agency’s appropriated amount for fiscal year 2010. This appropriation shall be repaid to the general revenue fund by the project agency as funds become available.

SECTION 4. (A) Nothing in this joint resolution shall affect the duty of the State Auditor to audit a project agency. The State Auditor shall enter into a contract and schedule with each project agency to conduct audits, including financial reports and performance audits. Costs incurred in performing these audits must be reimbursed by the project agency.

(B) The Legislative Audit Council shall submit a performance and management report on the pilot project by September 15, 2014.

SECTION 5. A project agency annually shall submit to the to the Governor, the House Ways and Means Committee, the House Labor, Commerce and Industry Committee, the Senate Finance Committee and the Senate Labor, Commerce and Industry Committee a report that includes a description of the agency’s activities in the previous fiscal year. The report must be submitted by September fifteenth of the subsequent fiscal year and include:

(1) an audit conducted under the procedures of Section 4(A);

(2) a financial report of the previous fiscal year;

(3) a description of any changes in licensing fees;

(4) a report on the number of examination candidates, licensees, certificate holders, and enforcement activities and any changes in those figures;

(5) a description of all new rules adopted or repealed;

(6) the salary for all project agency personnel and the total amount of per diem expenses and travel expenses paid for all project agency employees;

(7) the total amount of per diem expenses and travel expenses paid for each member of the governing body of each project agency;

(8) each project agency’s operating plan and budget covering a two year period; and

(9) a detailed report of all revenue received including, but not limited to, fees, fines, settlements, gifts, grants, donations, and all expenses incurred by the project agency in the previous fiscal year.

SECTION 6. (A) Subject to the limitations, if any, in the applicable enabling legislation, each project agency may set the amount of fees, penalties, and fines by statute or regulation as necessary for the purpose of carrying out the functions of the project agency.

(B) All fees and funds collected by a project agency during the pilot project and any funds appropriated to the project agency must be placed on deposit with the State Treasurer and credited to a fund separate and distinct from the general fund of the State.

SECTION 7. (A) If a board or commission no longer has status under this joint resolution as a self‑directed semi‑independent project agency either because of the expiration of this joint resolution or for any other reason, the board or commission is be liable for any expenses or debts incurred by the board or commission during the time the board or commission participated in the pilot project. The project agency’s liability under this section includes liability for any lease entered into by the project agency. The State is not liable for any expense or debt covered by this subsection, and money from the general revenue fund may not be used to repay the expense or debt.

(B) If a board or commission no longer has status under this joint resolution as a self‑directed semi‑independent project agency either because of the expiration of this joint resolution or for any other reason, ownership of any property or other asset acquired by the board or commission during the time the board or commission participated in the pilot project must be transferred to the State.

SECTION 8. Employees of the project agencies are members of the South Carolina Retirement System pursuant to Chapter 1, Title 9, and transition to independent status has no effect on their membership.

SECTION 9. (A)The transfer of a project agency, as defined by this joint resolution, to semi‑independent status and the expiration of semi‑independent status does not cancel, suspend, or prevent any:

(1) debt owed to or by the project agency;

(2) fine, tax, penalty, or obligation of any party;

(3) contract or other obligation of any party; or

(4) action taken by the project agency in administration or enforcement of its duties.

(B) Each project agency shall continue to have and exercise the powers and duties allocated to it in its enabling legislation, except as specifically amended by this joint resolution.

(C) Title to all supplies, materials, records, equipment, books, papers, used by each project agency is transferred to each respective project agency. Nothing in this joint resolution has any effect on property already owned by the project agencies. At its sole option, each project agency may continue to occupy its current premises at the rates prescribed by the State Budget and Control Board for costs for the duration of the pilot project.

(D) Any fees collected prior to January 1, 2011, collected for examinations conducted after January 1, 2011, must be made available to the project agency.

SECTION 10. Except as otherwise provided, this joint resolution takes effect upon approval of the Governor and is repealed September 1, 2015, unless extended by action of the General Assembly.

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