COMMITTEE REPORT

January 27, 2010

**S. 901**

Introduced by Senators McConnell, Elliott and Courson

S. Printed 1/27/10--S. [SEC 1/28/10 12:32 PM]

Read the first time January 12, 2010.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 901) to amend the Code of Laws of South Carolina, 1976, by adding Section 1‑3‑630, so as to define “emergency”, “full authority”, and, etc., respectfully

**REPORT:**

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

Amend the bill, as and if amended, by striking the bill in its entirety and inserting therein the following:

/ A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1-3-500, SO AS TO PROVIDE THAT WHEN THE GOVERNOR LEAVES THE STATE, HE MUST NOTIFY THE LIEUTENANT GOVERNOR, WHETHER OR NOT THE POWER OF THE GOVERNOR’S OFFICE IS TRANSFERRED TO THE LIEUTENANT GOVERNOR; AND BY ADDING SECTION 1‑3‑630, SO AS TO DEFINE “EMERGENCY”, “FULL AUTHORITY”, AND “TEMPORARY ABSENCE” IN ORDER TO CLARIFY WHEN A LIEUTENANT GOVERNOR HAS THE FULL AUTHORITY TO ACT IN AN EMERGENCY IN THE EVENT OF THE TEMPORARY ABSENCE OF THE GOVERNOR FROM THE STATE.

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

SECTION 1. The 1976 Code is amended by adding:

“Section 1-3-500. Whenever the Governor leaves the State, he must notify the Lieutenant Governor. This section applies whether or not the power of the Governor’s office is transferred to the Lieutenant Governor.”

SECTION 2. Chapter 3, Title 1 of the 1976 Code is amended by adding:

“Section 1‑3‑630. (A) For purposes of this section:

(1) ‘Emergency’ means:

(a) an unlawful assemblage, violence or threats of violence, or a public health emergency, as defined in Section 44‑4‑130, that warrants a gubernatorial proclamation of emergency as provided in Section 1‑3‑420; or

(b) an attack, as defined in Section 1‑9‑20(d); or

(c) a potentially destructive and life-threatening major flood, storm, nuclear accident, or other natural or man-made calamity affecting the health, welfare, and safety of the lives and property of the people of the State; or

(d) the necessary authority to conduct the affairs of the Office of the Governor that may be lost or abandoned during the temporary absence of a Governor including, but not limited to, the:

(i) veto power, and

(ii) authority to execute documents concerning extradition of fugitives from justice, and

(iii) authority to execute documents and exercise duties essential to the administration of criminal justice.

(2) ‘Full authority’ means the ability to exercise the Governor’s powers, responsibilities, obligations, and authorities as provided by general law and in the State Constitution without assuming the office of the Governor.

(3) ‘Temporary absence’ means that:

(a) the Governor is outside the boundaries of the State; and

(b) within a twelve-hour period, either by communicating in person or by telecommunications device, the Governor is not available or is unable to respond to:

(i) his staff, or

(ii) the Director of the South Carolina Law Enforcement Division or his designee.

(B) As provided in Article IV, Section 11 of the South Carolina Constitution, in the event of the temporary absence of the Governor from the State, the Lieutenant Governor has full authority to act in an emergency.

(C) Prior to assuming full authority to act in an emergency, the Lieutenant Governor must verify with the Governor’s staff and the Director of the South Carolina Law Enforcement Division or his designee that the Governor has not been in communication for a period of twelve or more hours and that attempts to contact the Governor have not received a response or indication of the Governor’s whereabouts or availability.

(D) After receiving this verification, the Lieutenant Governor must immediately file with the Office of the Secretary of State a proclamation declaring his full authority to act in the emergency. The proclamation is effective upon issuance and remains in full force and effect as provided by general law and the State Constitution.

(E) The powers that the Lieutenant Governor may exercise pursuant to Article IV, Section 11 of the South Carolina Constitution and this section in the temporary absence of the Governor cannot be restricted prior to the departure of the Governor from this State. The discretion of the Lieutenant Governor includes all of the gubernatorial powers which the Governor himself would possess were he present, limited by the terms of the constitutional provision itself, which require only that those powers may be exercised by the Lieutenant Governor during the temporary absence of the Governor and that those powers also must be of an emergency nature.”

SECTION 3. This act shall take effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

LARRY A. MARTIN for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1‑3‑630, SO AS TO DEFINE “EMERGENCY,” “FULL AUTHORITY,” AND “TEMPORARY ABSENCE” IN ORDER TO CLARIFY WHEN A LIEUTENANT GOVERNOR HAS THE FULL AUTHORITY TO ACT IN AN EMERGENCY IN THE EVENT OF THE TEMPORARY ABSENCE OF THE GOVERNOR FROM THE STATE.

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

SECTION 1. Chapter 3 of Title 1 of the 1976 Code is amended by adding:

“Section 1‑3‑630. (A) For purposes of this section:

(1) ‘Emergency’ means:

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(i) veto power, and

(ii) authority to execute documents concerning extradition of fugitives from justice, and

(iii) authority to execute documents and exercise duties essential to the administration of criminal justice.

(2) ‘Full authority’ means the ability to exercise the Governor’s powers, responsibilities, obligations, and authorities as provided by general law and in the State Constitution without assuming the office of the Governor.

(3) ‘Temporary absence’ means that:

(a) the Governor is outside the boundaries of the state; and

(b) within a twelve-hour period, either by communicating in person or by telecommunications device, the Governor is not available or is unable to respond to:

(i) his staff, or

(ii) the South Carolina Law Enforcement Division or any public officials or employees designated or assigned by the South Carolina Law Enforcement Division to protect or provide security for the Governor.

(B) As provided in Article IV, Section 11 of the South Carolina Constitution, in the event of the temporary absence of the Governor from the State, the Lieutenant Governor has full authority to act in an emergency.

(C) Prior to assuming full authority to act in an emergency, the Lieutenant Governor must verify with the Governor’s staff and the South Carolina Law Enforcement Division or any public officials or employees designated or assigned by the South Carolina Law Enforcement Division to protect or provide security for the Governor that the Governor has not been in communication for a period of twelve or more hours and that attempts to contact the Governor have not received a response or indication of the Governor’s whereabouts or availability.

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SECTION 2. This act shall take effect upon approval by the Governor.

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