**Thursday, March 4, 2010**

**(Statewide Session)**

~~Indicates Matter Stricken~~

## Indicates New Matter

The Senate assembled at 11:00 A.M., the hour to which it stood adjourned, and was called to order by the PRESIDENT.

A quorum being present, the proceedings were opened with a devotion by the Chaplain as follows:

In Proverbs we are reminded:

“How much better to get wisdom than gold, to choose understanding rather than silver.” (Proverbs 16:16)

Good friends, let us bow in prayer:

Holy God, the gifts of wisdom and understanding are so important and precious. They are qualities that have always had the power to make a profound difference in the world. Thus, O Lord, we ask that You grant new portions of these very gifts to each of these Senators and to their staff members. After all, the needs and the challenges which still confront these leaders are formidable. May these Senators join together and rise to the occasion, accomplishing great good for every South Carolinian. This we humbly pray in Your name, O Lord.

Amen.

The PRESIDENT called for Petitions, Memorials, Presentments of Grand Juries and such like papers.

**MESSAGE FROM THE GOVERNOR**

The following appointment was transmitted by the Honorable Mark C. Sanford:

**Local Appointment**

Initial Appointment, Dillon County Board of Voter Registration, with the term to commence March 15, 2010, and to expire March 15, 2012

At-Large:

Alton Glenn Greene III, P. O. Box 38, Latta, SC 29565 *VICE* Joseph U. Moffett

**Doctor of the Day**

Senator FAIR introduced Dr. Ted Watson of Anderson, S.C., Doctor of the Day.

**Leave of Absence**

On motion of Senator HUTTO, at 12:20 P.M., Senator SHEHEEN was granted a leave of absence for the balance of the day.

**Leave of Absence**

On motion of Senator HUTTO, at 12:20 P.M., Senator WILLIAMS was granted a leave of absence for the balance of the day.

**CO-SPONSORS ADDED**

The following co-sponsors were added to the respective Bills:

S. 591 Sen. Malloy

S. 1147 Sens. Knotts, Alexander

S. 1180 Sen. Knotts

S. 1205 Sen. Bryant

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

S. 1253 -- Senator Mulvaney: A BILL TO AMEND SECTION 59-25-330, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ALTERNATIVE TEACHER CERTIFICATION, SO AS TO PROVIDE THAT A PERSON WHO HOLDS A BACHELOR'S DEGREE FROM A REGIONALLY OR NATIONALLY ACCREDITED COLLEGE OR UNIVERSITY, AMONG OTHER CONDITIONS, MEETS STATE REQUIREMENTS FOR ALTERNATIVE TEACHER CERTIFICATION.

l:\council\bills\agm\19921bh10.docx

Read the first time and referred to the Committee on Education.

S. 1254 -- Senators Mulvaney, Bright, Bryant, Davis, S. Martin and Shoopman: A BILL TO AMEND SECTION 8-13-750, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE EMPLOYMENT, PROMOTION, OR DISCIPLINE OF A PUBLIC OFFICIAL'S FAMILY MEMBER, SO AS TO PROHIBIT FAMILY MEMBERS OF THE GENERAL ASSEMBLY FROM SEEKING A PUBLIC OFFICE THAT IS FILLED EITHER BY AN ELECTION, APPOINTMENT, OR APPROVAL OF THE GENERAL ASSEMBLY.

l:\council\bills\ms\7281zw09.docx

Read the first time and referred to the Committee on Judiciary.

S. 1255 -- Senators Mulvaney, Bright, Bryant, Davis, S. Martin, Shoopman and Rose: A BILL TO AMEND SECTION 8-13-700, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE USE OF OFFICIAL POSITION OR OFFICE FOR FINANCIAL GAIN, SO AS TO PROHIBIT A MEMBER OF THE GENERAL ASSEMBLY WHO IS EMPLOYED BY A STATE AGENCY OR DEPARTMENT EITHER DIRECTLY OR AS AN INDEPENDENT CONTRACTOR FROM VOTING ON LEGISLATION PERTAINING TO HIS EMPLOYER AGENCY OR DEPARTMENT, INCLUDING THE SECTION OF THE ANNUAL APPROPRIATIONS BILL IN WHICH THAT AGENCY'S OR DEPARTMENT'S FUNDING IS CONTAINED, AND TO PROVIDE THAT LEGISLATIVE ACTION TO INCREASE THE BENEFITS OR COMPENSATION OF THE MEMBERS OF THE GENERAL ASSEMBLY SHALL REQUIRE A TWO-THIRDS VOTE OF MEMBERS PRESENT AND VOTING.

l:\council\bills\ms\7282zw09.docx

Read the first time and referred to the Committee on Judiciary.

S. 1256 -- Senators Lourie, Alexander, Anderson, Bright, Bryant, Campbell, Campsen, Cleary, Coleman, Courson, Cromer, Davis, Elliott, Fair, Ford, Grooms, Hayes, Hutto, Jackson, Knotts, Land, Leatherman, Leventis, Malloy, L. Martin, S. Martin, Massey, Matthews, McConnell, McGill, Mulvaney, Nicholson, O'Dell, Peeler, Pinckney, Rankin, Reese, Rose, Ryberg, Scott, Setzler, Sheheen, Shoopman, Thomas, Verdin and Williams: A SENATE RESOLUTION TO HONOR AND RECOGNIZE DR. STEPHEN W. HEFNER, SUPERINTENDENT OF RICHLAND SCHOOL DISTRICT TWO, UPON THE OCCASION OF HIS RETIREMENT, AND TO WISH HIM CONTINUED SUCCESS IN ALL HIS FUTURE ENDEAVORS.

l:\council\bills\gm\24460sd10.docx

The Senate Resolution was adopted.

S. 1257 -- Senator Rose: A BILL TO AMEND CHAPTER 5, TITLE 43 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATE DIRECTORY OF NEW HIRES AND NEW HIRE REPORTING PROGRAM, SO AS TO REPEAL SECTION 43-5-598; TO AMEND SECTION 63-17-1210, RELATING TO THE STATE DIRECTORY OF NEW HIRES AND THE NEW HIRE REPORTING PROGRAM, SO AS TO DEFINE CERTAIN TERMS, TO REQUIRE THAT BY JULY 1, 2010, THE CHILD SUPPORT ENFORCEMENT DIVISION OF THE DEPARTMENT OF SOCIAL SERVICES CREATE AN EMPLOYER NEW HIRE REPORTING PROGRAM AND A STATE DIRECTORY OF NEW HIRES, TO REQUIRE EMPLOYERS TO REPORT THE EMPLOYMENT OF ALL NEW HIRES WHO RESIDE OR WORK IN SOUTH CAROLINA TO THE STATE DIRECTORY WITHIN TWENTY CALENDAR DAYS OF HIRING, TO REQUIRE THAT THE REPORT MUST CONTAIN THE EMPLOYER'S NAME, ADDRESS, AND FEDERAL IDENTIFICATION NUMBER, AND THE NEW HIRES NAME, ADDRESS, AND SOCIAL SECURITY NUMBER, TO EXEMPT EMPLOYERS FROM HAVING TO FILE REPORTS ON EMPLOYEES OF FEDERAL OR STATE AGENCIES WHO PERFORM INTELLIGENCE OR COUNTERINTELLIGENCE FUNCTIONS, TO PERMIT AN EMPLOYER WITH EMPLOYEES IN MORE THAN ONE STATE TO SELECT A SINGLE STATE FROM WHICH TO TRANSMIT NEW HIRE REPORTS, TO REQUIRE THAT NEW HIRE REPORTS BE MADE ON W-4 FORMS OR AN EQUIVALENT FORM, TO REQUIRE THAT EMPLOYERS WHO FAIL TO FILE REPORTS ARE SUBJECT TO A TWENTY-FIVE DOLLAR FINE FOR THE SECOND AND SUBSEQUENT OFFENSE, AND A FIVE HUNDRED DOLLAR FINE FOR EVERY OFFENSE WHERE THE EMPLOYER CONSPIRED WITH THE NEW HIRE NOT TO REPORT THE HIRING OF THE NEW EMPLOYEE, TO PROVIDE THAT THE DEPARTMENT OF SOCIAL SERVICES ENTER THE NEW HIRE REPORTS FILED BY EMPLOYERS INTO STATE DIRECTORY OF NEW HIRES WITHIN FIVE BUSINESS DAYS OF RECEIPT FROM THE EMPLOYER, TO REQUIRE THAT BY OCTOBER 1, 2010, THE DEPARTMENT OF SOCIAL SERVICES MUST CONDUCT AUTOMATED COMPARISONS OF SOCIAL SECURITY NUMBERS REPORTED BY EMPLOYERS WITH SOCIAL SECURITY NUMBERS IN THE RECORDS OF THE STATE CASE REGISTRY, TO REQUIRE THAT WHEN THE COMPARISON REVEALS A MATCH, THE DEPARTMENT OF SOCIAL SERVICES MUST, WITHIN TWO DAYS, NOTIFY THE EMPLOYER OF THE MATCH AND DIRECT THE EMPLOYER TO WITHHOLD FROM THE INCOME OF THE NEW HIRE AN AMOUNT EQUAL TO THE MONTHLY, OR OTHER PERIODIC CHILD SUPPORT OBLIGATION, INCLUDING PAST DUE CHILD SUPPORT OBLIGATIONS, TO PROVIDE THAT WITHIN THREE DAYS OF THE DATA BEING ENTERED INTO THE STATE DIRECTORY OF NEW HIRES THAT THE STATE DIRECTORY MUST FORWARD THE INFORMATION TO THE NATIONAL DIRECTORY OF NEW HIRES, TO PROVIDE THAT THE STATE DIRECTORY OF NEW HIRES MUST INCLUDE REPORTS RECEIVED FROM THE EMPLOYMENT SECURITY COMMISSION AND OTHER DEPARTMENTS, TO PROVIDE THAT THE INFORMATION MAINTAINED IN THE DIRECTORY OF NEW HIRES SHALL BE USED BY THE DEPARTMENT OF SOCIAL SERVICES TO LOCATE INDIVIDUALS FOR PURPOSES OF ESTABLISHING PATERNITY AND ESTABLISHING CHILD SUPPORT OBLIGATIONS AND IT MAY BE DISCLOSED TO A PUBLIC OR PRIVATE AGENCY THAT IS UNDER CONTRACT WITH THE DEPARTMENT OF SOCIAL SERVICES, TO PROVIDE THAT THE DEPARTMENT OF SOCIAL SERVICES SHALL HAVE ACCESS TO THE INFORMATION FOR THE PURPOSE OF VERIFYING ELIGIBILITY FOR CERTAIN STATE ADMINISTERED PROGRAMS, TO PROVIDE THAT THE EMPLOYMENT SECURITY COMMISSION SHALL HAVE ACCESS TO THE INFORMATION REPORTED BY EMPLOYERS FOR PURPOSES OF ADMINISTERING THE EMPLOYMENT SECURITY PROGRAM, TO PROVIDE THAT THE WORKERS' COMPENSATION COMMISSION SHALL HAVE ACCESS TO THE INFORMATION FOR THE PURPOSE OF ADMINISTERING THE WORKERS' COMPENSATION PROGRAM, TO PROVIDE THAT AN EMPLOYER WHO DISCLOSES THIS INFORMATION TO THE STATE DIRECTORY OF NEW HIRES IN GOOD FAITH SHALL BE EXEMPT FROM CIVIL OR CRIMINAL LIABILITY, TO REQUIRE THE DEPARTMENT OF SOCIAL SERVICES TO PROMULGATE REGULATIONS, AND TO PROVIDE THAT THIS PROVISION SHALL REMAIN IN EFFECT UNTIL THE FEDERAL PROGRAM MANDATING REPORTING NEW HIRES IS REPEALED; TO AMEND SECTION 63-3-530(A)(43), RELATING TO THE DEPARTMENT OF SOCIAL SERVICES' COLLECTION OF FINES, SO AS TO INCLUDE SECTION 63-17-1210 IN THE LIST OF FINES TO BE ENFORCED.

l:\s-jud\bills\rose\jud0047.pl.docx

Read the first time and referred to the Committee on Judiciary.

H. 4678 -- Reps. Gilliard, Barfield, Mack, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Govan, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, D. C. Moss, V. S. Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Norman, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A CONCURRENT RESOLUTION TO HONOR KALYN LEWIS AND AMY LEWIS, BOTH OF CHARLESTON COUNTY, FOR THEIR EXCEPTIONAL SPELLING PROWESS, TO CONGRATULATE KALYN FOR CAPTURING THE 2010 CHARLESTON COUNTY SCHOOL DISTRICT SPELLING BEE CHAMPIONSHIP TITLE AND EARNING THE RIGHT TO COMPETE IN THE SPELLBOUND! REGIONAL SPELLING BEE ON MARCH 11, 2010, AND TO CONGRATULATE AMY FOR EARNING FIRST RUNNER-UP HONORS IN THE DISTRICT SPELLING BEE.

The Concurrent Resolution was adopted, ordered returned to the House.

**REPORTS OF STANDING COMMITTEE**

Senator KNOTTS from the Committee on Invitations polled out S. 1221 favorable:

S. 1221 -- Senator Knotts: A CONCURRENT RESOLUTION TO FIX WEDNESDAY, APRIL 14, 2010, AT NOON AS THE DATE AND TIME FOR THE HOUSE OF REPRESENTATIVES AND THE SENATE TO MEET IN JOINT SESSION IN THE HALL OF THE HOUSE OF REPRESENTATIVES FOR THE PURPOSE OF ELECTING MEMBERS OF THE BOARDS OF TRUSTEES FOR THE CITADEL, CLEMSON UNIVERSITY, COLLEGE OF CHARLESTON, COASTAL CAROLINA UNIVERSITY, FRANCIS MARION UNIVERSITY, LANDER UNIVERSITY, THE MEDICAL UNIVERSITY OF SOUTH CAROLINA, SOUTH CAROLINA STATE UNIVERSITY, THE UNIVERSITY OF SOUTH CAROLINA, WIL LOU GRAY OPPORTUNITY SCHOOL, AND WINTHROP UNIVERSITY TO SUCCEED THOSE MEMBERS WHOSE TERMS EXPIRE IN 2010, OR WHOSE POSITIONS OTHERWISE MUST BE FILLED; AND TO ESTABLISH A PROCEDURE REGARDING NOMINATIONS AND SECONDING SPEECHES FOR THE CANDIDATES FOR THESE OFFICES DURING THE JOINT SESSION.

**Poll of the Invitations Committee**

**Polled 11; Ayes 11; Nays 0; Not Voting 0**

**AYES**

Knotts Alexander O’Dell

McGill Reese Elliott

Ford Verdin Campsen

Cromer Malloy

**Total--11**

**NAYS**

**Total--0**

Ordered for consideration tomorrow.

Senator KNOTTS from the Committee on Invitations polled out H. 4605 favorable:

H. 4605 -- Rep. Huggins: A CONCURRENT RESOLUTION TO DECLARE TUESDAY, MARCH 2, 2010, SOUTH CAROLINA REALTOR DAY IN ORDER TO RECOGNIZE AND HONOR THE MANY OUTSTANDING REALTORS AND REAL ESTATE PROFESSIONALS IN OUR STATE.

**Poll of the Invitations Committee**

**Polled 11; Ayes 11; Nays 0; Not Voting 0**

**AYES**

Knotts Alexander O’Dell

McGill Reese Elliott

Ford Verdin Campsen

Cromer Malloy

**Total--11**

**NAYS**

**Total--0**

Ordered for consideration tomorrow.

**Message from the House**

Columbia, S.C., March 2, 2010

Mr. President and Senators:

The House respectfully informs your Honorable Body that it refuses to concur in the amendments proposed by the Senate to:

S. 454 -- Senators Peeler and Ford: A BILL TO AMEND CHAPTER 56, TITLE 40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATE BOARD OF PYROTECHNIC REGULATIONS, SO AS TO REVISE THE CHAPTER TITLE, TO PROVIDE STATE POLICY CONCERNING PYROTECHNICS, TO INCREASE THE STATE BOARD OF PYROTECHNIC SAFETY FROM SIX TO SEVEN MEMBERS, TO DEFINE TERMS, TO REQUIRE LICENSURE FOR THE MANUFACTURING, SALE, OR STORAGE OF FIREWORKS, TO AUTHORIZE THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, FIRE CHIEFS, AND LAW ENFORCEMENT OFFICERS TO INVESTIGATE COMPLAINTS, TO PROVIDE GROUNDS FOR DISCIPLINARY ACTION, TO REQUIRE LIABILITY INSURANCE, TO REQUIRE REPORTING OF FIRES AND EXPLOSIONS, TO PROVIDE CRIMINAL AND CIVIL PENALTIES FOR VIOLATIONS, AND TO FURTHER PROVIDE FOR THE LICENSURE AND REGULATION OF PERSONS HANDLING FIREWORKS.

Very respectfully,

Speaker of the House

Received as information.

**SENATE INSISTS ON ITS AMENDMENTS**

**COMMITTEE OF CONFERENCE APPOINTED**

S. 454 -- Senators Peeler and Ford: A BILL TO AMEND CHAPTER 56, TITLE 40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATE BOARD OF PYROTECHNIC REGULATIONS, SO AS TO REVISE THE CHAPTER TITLE, TO PROVIDE STATE POLICY CONCERNING PYROTECHNICS, TO INCREASE THE STATE BOARD OF PYROTECHNIC SAFETY FROM SIX TO SEVEN MEMBERS, TO DEFINE TERMS, TO REQUIRE LICENSURE FOR THE MANUFACTURING, SALE, OR STORAGE OF FIREWORKS, TO AUTHORIZE THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, FIRE CHIEFS, AND LAW ENFORCEMENT OFFICERS TO INVESTIGATE COMPLAINTS, TO PROVIDE GROUNDS FOR DISCIPLINARY ACTION, TO REQUIRE LIABILITY INSURANCE, TO REQUIRE REPORTING OF FIRES AND EXPLOSIONS, TO PROVIDE CRIMINAL AND CIVIL PENALTIES FOR VIOLATIONS, AND TO FURTHER PROVIDE FOR THE LICENSURE AND REGULATION OF PERSONS HANDLING FIREWORKS.

On motion of Senator PEELER, the Senate insisted upon its amendments to S. 454 and asked for a Committee of Conference.

Whereupon, Senators PEELER, BRYANT and NICHOLSON were appointed to the Committee of Conference on the part of the Senate and a message was sent to the House accordingly.

**HOUSE CONCURRENCE**

S. 1209 -- Senator Courson: A CONCURRENT RESOLUTION TO AUTHORIZE PALMETTO GIRLS STATE TO USE THE CHAMBERS OF THE SENATE AND THE HOUSE OF REPRESENTATIVES ON FRIDAY, JUNE 18, 2010.

Returned with concurrence.

Received as information.

**THE SENATE PROCEEDED TO A CALL OF THE UNCONTESTED LOCAL AND STATEWIDE CALENDAR.**

**SECOND READING BILLS**

The following Bills and Joint Resolutions, having been read the second time, were ordered placed on the Third Reading Calendar:

S. 850 -- Senator McGill: A BILL TO AMEND SECTION 12‑6‑5060 OF THE 1976 CODE, RELATING TO THE DESIGNATION ON AN INCOME TAX RETURN OF A VOLUNTARY CONTRIBUTION TO CERTAIN FUNDS, TO PROVIDE THAT A TAXPAYER MAY CONTRIBUTE TO THE SOUTH CAROLINA FORESTRY COMMISSION FOR USE IN THE STATE FOREST SYSTEM.

S. 905 -- Senators Leatherman and Elliott: A BILL TO AMEND SECTION 2‑7‑71 OF THE 1976 CODE, RELATING TO TAX BILLS AND REVENUE IMPACT STATEMENTS, TO PROVIDE THAT THE REVENUE IMPACT STATEMENT MUST BE SIGNED BY THE CHIEF ECONOMIST OF THE OFFICE OF RESEARCH AND STATISTICS; AND TO AMEND SECTION 2‑7‑78, RELATING TO THE CERTIFICATION OF A REVENUE ESTIMATE, TO PROVIDE THAT THE REVENUE IMPACT MUST BE CERTIFIED BY THE CHIEF ECONOMIST OF THE OFFICE OF RESEARCH AND STATISTICS.

S. 1175 -- Senator Land: A BILL TO AMEND SECTION 9‑8‑20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ESTABLISHMENT OF THE RETIREMENT SYSTEM FOR JUDGES AND SOLICITORS OF THE STATE OF SOUTH CAROLINA, SO AS TO PROVIDE THAT A PERSON ASSUMING THE OFFICE OF ATTORNEY GENERAL OF THIS STATE AFTER 2010, MUST BE A MEMBER OF THAT RETIREMENT SYSTEM AND TO MAKE THE NECESSARY PROVISIONS FOR THE ATTORNEY GENERAL TO BECOME A MEMBER OF THE RETIREMENT SYSTEM FOR JUDGES AND SOLICITORS OF THE STATE OF SOUTH CAROLINA.

H. 4485 -- Reps. A.D. Young, Horne, Knight and Harrell: A JOINT RESOLUTION TO AUTHORIZE THE STATE BUDGET AND CONTROL BOARD TO TRANSFER OWNERSHIP OF SUMMERVILLE NATIONAL GUARD ARMORY IN SUMMERVILLE, SOUTH CAROLINA, TO THE TOWN OF SUMMERVILLE.

S. 1251 -- Judiciary Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE BOARD OF FUNERAL SERVICE, RELATING TO FUNERAL SERVICE PRACTICE ACT, DESIGNATED AS REGULATION DOCUMENT NUMBER 4068, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

**AMENDED, READ THE SECOND TIME**

H. 4416 -- Reps. Loftis, Hamilton, G.R. Smith, Dillard, Bannister, Bedingfield, Wylie, Nanney, Rice, Cato, Stringer and Allen: A BILL TO EXPAND THE AUTHORITY OF THE RENEWABLE WATER RESOURCES OF GREENVILLE COUNTY, ORIGINALLY CREATED AS THE GREATER GREENVILLE SEWER DISTRICT PURSUANT TO THE PROVISIONS OF ACT 362 OF 1925, TO USE THE BY‑PRODUCTS OF WASTE TREATMENT FACILITIES FOR ALTERNATE ENERGY PRODUCTION.

Senator FAIR asked unanimous consent to take the Bill up for immediate consideration.

There was no objection.

The Senate proceeded to a consideration of the Bill, the question being the second reading of the Bill.

Senator FAIR proposed the following amendment (MS\  
7743AHB10), which was adopted:

Amend the bill, as and if amended, by deleting SECTION 2 in its entirety, page 1, and inserting:

/ SECTION 2. The Board of Renewable Water Resources (board) is granted the additional authority to develop and implement processes to generate energy from alternate sources including, but not limited to, low‑head hydroelectric turbines, methane capture, and reuse, and other technologies that prove feasible. Renewable Water Resources has the further authority to sell wholesale electricity or other products it develops. /

Renumber sections to conform.

Amend title to conform.

Senator FAIR explained the amendment.

The amendment was adopted.

There being no further amendments, the Bill was read the second time, passed and ordered to a third reading.

**H. 4416--Ordered to a Third Reading**

On motion of Senator FAIR, H. 4416 was ordered to receive a third reading on Friday, March 5, 2010.

**COMMITTEE AMENDMENT ADOPTED**

**READ THE SECOND TIME**

S. 591 -- Senators Lourie and Malloy: A BILL TO AMEND SECTIONS 22‑3‑1330, 22‑3‑1340, 22‑3‑1370, 22‑3‑1400, AND 22‑3‑1410 OF THE 1976 CODE, ALL RELATING TO PROCEEDINGS IN CLAIM AND DELIVERY ACTIONS, TO ALLOW SERVICE OF PROCESS BY PERSONS OTHER THAN CONSTABLES.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the amendment proposed by the Committee on Judiciary.

The Committee on Judiciary proposed the following amendment (JUD0591.002), which was adopted:

Amend the bill, as and if amended, page 2, by striking line 21, in Section 22-3-1330(e), as contained in SECTION 1 and inserting therein the following:

/ provided in the South Carolina Rules of Civil Procedure and the South Carolina Rules of Magistrates Court.” /

Renumber sections to conform.

Amend title to conform.

Senator LARRY MARTIN explained the committee amendment.

The committee amendment was adopted.

There being no further amendments, the Bill was read the second time, passed and ordered to a third reading.

**COMMITTEE AMENDMENT AMENDED AND ADOPTED**

**READ THE SECOND TIME**

S. 718 -- Senators Campsen and Malloy: A BILL TO AMEND SECTION 22‑3‑550 OF THE 1976 CODE, RELATING TO ORDERING RESTITUTION IN MAGISTRATE’S COURT, TO PROVIDE A MAGISTRATE MAY ORDER RESTITUTION IN AN AMOUNT NOT TO EXCEED THE CIVIL JURISDICTIONAL AMOUNT FOR MAGISTRATES.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the amendment proposed by the Committee on Judiciary.

Senator HUTTO proposed the following amendment (JUD0718.002), which was adopted:

Amend the committee report, as and if amended, page [718-1], by striking lines 24 through 31, and inserting therein the following:

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

// A BILL

TO AMEND SECTION 22‑3‑550 OF THE 1976 CODE, RELATING TO ORDERING RESTITUTION IN MAGISTRATE’S COURT, TO PROVIDE THAT A MAGISTRATE HAS JURISDICTION OF ALL OFFENSES WHICH MAY BE SUBJECT TO THE PENALTIES OF A FINE OR FORFEITURE NOT EXCEEDING ONE THOUSAND DOLLARS AND TO PROVIDE THAT A MAGISTRATE MAY ORDER RESTITUTION IN AN AMOUNT NOT TO EXCEED THE CIVIL JURISDICTIONAL AMOUNT FOR MAGISTRATES.

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

SECTION 1. Section 22‑3‑550(A) of the 1976 Code is amended to read:

“(A) Magistrates have jurisdiction of all offenses which may be subject to the penalties of a fine or forfeiture not exceeding ~~five hundred~~ one thousand dollars, or imprisonment not exceeding thirty days, or both. In addition, a magistrate may order restitution in an amount not to exceed ~~five thousand dollars~~ the civil jurisdictional amount provided in Section 22‑3‑10(2). In determining the amount of restitution, the judge shall determine and itemize the actual amount of damage or loss in the order. In addition, the judge may set an appropriate payment schedule.

A magistrate may hold a party in contempt for failure to pay the restitution ordered if the judge finds the party has the ability to pay and may issue a contempt sentence not exceeding a fine of one thousand dollars, or imprisonment not exceeding thirty days, or both.”

SECTION 2. This act takes effect upon approval by the Governor.//  /

Renumber sections to conform.

Amend title to conform.

Senator HUTTO explained the perfecting amendment.

Senator MALLOY spoke on the perfecting amendment.

The amendment was adopted.

The Committee on Judiciary proposed the following amendment (JUD0718.001), which was adopted:

Amend the bill, as and if amended, page 1, by striking lines 25 and 26, in Section 22-3-550(A), as contained in SECTION 1, and inserting therein the following:

/ subject to the penalties of a fine or forfeiture not exceeding ~~five hundred~~ one thousand dollars, or imprisonment not exceeding thirty days, or /

Renumber sections to conform.

Amend title to conform.

The committee amendment was adopted.

There being no further amendments, the Bill was read the second time, passed and ordered to a third reading.

**COMMITTEE AMENDMENT ADOPTED**

**READ THE SECOND TIME**

S. 879 -- Senator Campsen: A BILL TO AMEND SECTION 12‑37‑3150, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ASSESSABLE TRANSFERS OF INTEREST FOR PURPOSES OF DETERMINING THE VALUE OF REAL PROPERTY FOR PROPERTY TAXATION, SO AS TO PROVIDE ADDITIONAL INSTANCES OF PROPERTY TRANSFERS NOT CONSIDERED ASSESSABLE TRANSFERS OF INTEREST, INCLUDING TRANSFERS OF FRACTIONAL INTERESTS CONSTITUTING NOT MORE THAN FIFTY PERCENT OF FEE SIMPLE TITLE, TRANSFERS INTO AND OUT OF A SINGLE MEMBER LIMITED LIABILITY COMPANY NOT TAXED AS A CORPORATION WHEN THE SINGLE MEMBER IS THE TRANSFEREE AND TRANSFEROR, TRANSFERS RELATING TO EASEMENTS, TRANSFERS TO QUIET TITLE OR ESTABLISH A BOUNDARY LINE, AND TRANSFERS CREATING OR TERMINATING A JOINT TENANCY WITH RIGHTS OF SURVIVORSHIP IF THE GRANTORS AND GRANTEES ARE THE SAME.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the amendment proposed by the Committee on Finance.

The Committee on Finance proposed the following amendment (879FIN001.RWH), which was adopted:

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

/ SECTION 1. A. Section 12‑37‑3150(B) of the 1976 Code, as last amended by Act 57 of 2007, is further amended to read:

“(B) An assessable transfer of interest does not include:

(1) transfers not subject to federal income tax in the following circumstances:

(a) 1033 (Conversions‑Fire and Insurance Proceeds to Rebuild);

(b) 1041 (Transfers of Property Between Spouses or Incident to Divorce);

(c) 351 (Transfer to a Corporation Controlled by Transferor);

(d) 355 (Distribution by a Controlled Corporation);

(e) 368 (Corporate Reorganizations); or

(f) 721 (Nonrecognition of Gain or Loss on a Contribution to a Partnership).

Number references in the above subitems are to sections of the Internal Revenue Code of 1986, as defined in Section 12‑6‑40;

(2) a transfer of that portion of property subject to a life estate or life lease retained by the transferor, until expiration or termination of the life estate or life lease;

(3) a transfer through foreclosure or forfeiture of a recorded instrument or through deed or conveyance in lieu of a foreclosure or forfeiture, until the redemption period has expired;

(4) a transfer by redemption by the person to whom taxes are assessed of property previously sold for delinquent taxes;

(5) a conveyance to a trust if the settlor or the settlor’s spouse, or both, convey the property to the trust and the sole present beneficiary of the trust is the settlor or the settlor’s spouse, or both;

(6) a transfer for security or an assignment or discharge of a security interest;

(7) a transfer of real property or other ownership interests among members of an affiliated group. As used in this item, ‘affiliated group’ is as defined in Section 1504 of the Internal Revenue Code as defined in Section 12‑6‑40. Upon request of the applicable property tax assessor, a corporation shall furnish proof within forty‑five days that a transfer meets the requirements of this item. A corporation that fails to comply with this request is subject to a civil penalty as provided in Section 12‑37‑3160(B);

(8) a transfer of real property or other ownership interests among corporations, partnerships, limited liability companies, limited liability partnerships, or other legal entities if the entities involved are commonly controlled. Upon request by the applicable property tax assessor, a corporation, partnership, limited liability company, limited liability partnership, or other legal entity shall furnish proof within forty‑five days that a transfer meets the requirements of this item. A corporation, partnership, limited liability company, limited liability partnership, or other legal entity that fails to comply with this request is subject to a civil penalty as provided in Section 12‑37‑3160(B); ~~or~~

(9) a transfer of an interest in a timeshare unit by deed or lease;

(10) a transfer of an undivided, fractional ownership interest in real estate in a single transaction or as a part of a series of related transactions, if the ownership interest or interests conveyed, or otherwise transferred, in the single transaction or series of related transactions within a twenty‑five year period, is not more than fifty percent of the entire fee simple title to the real estate;

(11) a transfer to a single member limited liability company, not taxed separately as a corporation, by its single member or a transfer from a single member limited liability company, not taxed separately as a corporation, to its single member, as provided in Section 12‑2‑25(B)(1);

(12) a conveyance, assignment, release, or modification of an easement, including, but not limited to:

(a) a conservation easement, as defined in Chapter 8 of Title 27;

(b) a utility easement; or

(c) an easement for ingress, egress, or regress;

(13) a transfer or renunciation by deed, release, or agreement of a claim of interest in real property for the purpose of quieting and confirming title to real property in the name of one or more of the existing owners of the real property or for the purpose of confirming or establishing the location of an uncertain or disputed boundary line; or

(14) the execution or recording of a deed to real property for the purpose of creating or terminating a joint tenancy with rights of survivorship, provided the grantors and grantees are the same.”

B. Section 12‑37‑3150(A)(8) of the 1976 Code is amended to read:

“(8) a transfer of an ownership interest in a single transaction or as a part of a series of related transactions within a twenty‑five year period in a corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity if the ownership interest conveyed is more than fifty percent of the corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity. This provision does not apply to transfers that are not subject to federal income tax, as provided in subsection (B)(1), including, but not limited to, transfers of interests to spouses. The corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity shall notify the applicable property tax assessor on a form provided by the Department of Revenue not more than forty‑five days after a conveyance of an ownership interest that constitutes an assessable transfer of interest or transfer of ownership under this item. Failure to provide this notice or failure to provide accurate information of a transaction required to be reported by this subitem subjects the property to a civil penalty of not less than one hundred nor more than one thousand dollars as determined by the assessor. This penalty is enforceable and collectible as property tax and is in addition to any other penalties that may apply. Failure to provide this notice is a separate offense for each year after the notice was required;”

C. This section applies for real property transfers after 2009. No refund is allowed on account of values adjusted by the provisions of this section.

SECTION 2. Section 12‑37‑3140(B) of the 1976 Code is amended to read:

“(B) Any increase in the fair market value of real property attributable to the periodic countywide appraisal and equalization program implemented pursuant to Section 12‑43‑217 is limited to fifteen percent within a five‑year period to the otherwise applicable fair market value. This limit must be calculated on the land and improvements as a whole. However, this limit does not apply to the fair market value of additions or improvements to real property in the year those additions or improvements are first subject to property tax, nor do they apply to the fair market value of real property when an assessable transfer of interest occurred in the year that the transfer value is first subject to tax.”

SECTION 3. Except where otherwise stated, this act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Senator HAYES explained the committee amendment.

The committee amendment was adopted.

There being no further amendments, the Bill was read the second time, passed and ordered to a third reading.

**COMMITTEE AMENDMENT AMENDED AND ADOPTED**

**READ THE SECOND TIME**

S. 931 -- Senator L. Martin: A BILL TO AMEND SECTION 44‑48‑40 OF THE 1976 CODE, RELATING TO THE EFFECTIVE DATE OF PAROLE OR CONDITIONAL RELEASE OF SEXUALLY VIOLENT PREDATORS, TO PROVIDE THAT WRITTEN NOTICE MUST BE GIVEN TWO HUNDRED SEVENTY DAYS RATHER THAN ONE HUNDRED DAYS, AND TO PROVIDE THAT THE PAROLE OR CONDITIONAL RELEASE ORDER DOES NOT TAKE EFFECT FOR ONE HUNDRED EIGHTY DAYS, RATHER THAN NINETY DAYS, AFTER ISSUANCE OF THE ORDER; TO AMEND SECTION 44‑48‑80, RELATING TO THE FACILITY IN WHICH A PERSON MUST BE HELD AFTER PROBABLE CAUSE IS FOUND TO EXIST THAT THE PERSON IS A SEXUALLY VIOLENT PREDATOR, TO REQUIRE THAT THE PERSON ONLY BE HELD IN A LOCAL OR REGIONAL DETENTION FACILITY PENDING CONCLUSION OF THE PROCEEDINGS IN THIS CHAPTER AND THAT THE COURT MUST DIRECT THE PERSON TO BE TRANSPORTED TO AN APPROPRIATE FACILITY OF THE SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH; TO AMEND SECTION 44‑48‑90, RELATING TO THE TIME WITHIN WHICH A JURY TRIAL MUST BE REQUESTED AND HELD TO DETERMINE IF A PERSON IS A SEXUALLY VIOLENT PREDATOR, TO PROVIDE THAT A JURY TRIAL MUST BE REQUESTED WITHIN THIRTY DAYS AFTER THE DETERMINATION OF PROBABLE CAUSE UNDER SECTION 44‑48‑80, TO PROVIDE THAT THE TRIAL MUST BE HELD WITHIN NINETY DAYS OF ISSUANCE OF THE COURT APPOINTED EVALUATOR’S OPINION, AND TO PROVIDE THAT UPON RECEIPT OF THE ISSUANCE OF THE OPINION, EITHER PARTY MAY RETAIN HIS OWN EXPERT TO CONDUCT A SUBSEQUENT EVALUATION; TO AMEND SECTION 44‑48‑100, RELATING TO THE FACILITY IN WHICH A PERSON MUST BE HELD UPON A MISTRIAL IN DETERMINING IF THE PERSON IS A SEXUALLY VIOLENT PREDATOR, TO REQUIRE THAT THE PERSON ONLY BE HELD IN A LOCAL OR REGIONAL DETENTION FACILITY; AND TO AMEND SECTION 44‑48‑120, RELATING TO PROCEDURES REQUIRED WHEN THE DIRECTOR OF THE DEPARTMENT OF MENTAL HEALTH DETERMINES A PERSON COMMITTED TO THE DEPARTMENT AS A SEXUALLY VIOLENT PREDATOR IS NO LONGER LIKELY TO COMMIT ACTS OF SEXUAL VIOLENCE, TO REQUIRE THE DIRECTOR TO CERTIFY THIS DETERMINATION IN WRITING AND TO NOTIFY THE ATTORNEY GENERAL OF THIS CERTIFICATION AND OF THE PATIENT’S AUTHORIZATION TO PETITION THE COURT FOR RELEASE, TO PROVIDE THAT THE ATTORNEY GENERAL MAY REQUEST AN EXAMINATION BEFORE A HEARING ON THE RELEASE IS HELD, AND TO PROVIDE THAT EITHER PARTY MAY REQUEST THAT THE HEARING BE HELD BEFORE A JURY.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the amendment proposed by the Committee on Judiciary.

Senator MASSEY proposed the following amendment (JUD0931.003), which was adopted:

Amend the committee report, as and if amended, page [931-3], by striking lines 5-27, and inserting:

/ (B) Within thirty days after the determination of probable cause by the court pursuant to Section 44‑48‑80, the person or the Attorney General may request, in writing, that the trial be before a jury. ~~If such a request is made, the court must schedule a trial before a jury at the next available date in the court of common pleas in the county where the offense was committed.~~ If no request is made, the trial must be before a judge in the county where the offense was committed within ninety days of the date the court appointed expert issues the evaluation as to whether the person is a sexually violent predator, pursuant to Section 44-48-80(D), or, if there is no term of court, the next available date thereafter. If a request is made, the court must schedule a trial before a jury in the county where the offense was committed within ninety days of the date the court appointed expert issues the evaluation as to whether the person is a sexually violent predator, pursuant to Section 44-48-80(D), or, if there is no term of court, the next available date thereafter. The trial may be continued upon the request of either party and a showing of good cause, or by the court on its own motion in the due administration of justice, and only if the respondent will not be substantially prejudiced. The Attorney General must notify the victim, in a timely manner, of the time, date, and location of the trial. At all stages of the proceedings under this chapter, a person subject to this chapter is entitled to the assistance of counsel, and if the person is indigent, the court must appoint counsel to assist the person. /

Renumber sections to conform.

Amend title to conform.

Senator MASSEY explained the perfecting amendment.

The perfecting amendment was adopted.

The Committee on Judiciary proposed the following amendment (JUD0931.001), which was adopted:

Amend the bill, as and if amended, by striking the bill in its entirety after the enacting words and inserting:

/ SECTION 1. Section 44-48-40(A) and (B) of the 1976 Code are amended to read:

“(A) ~~When~~ If a person has been convicted of a sexually violent offense, the agency with jurisdiction must give written notice to the multidisciplinary team established in Section 44‑48‑50, the victim, and the Attorney General at least ~~one hundred eighty~~ two hundred seventy days before:

(1) the person’s anticipated release from total confinement, except that in the case of a person who is returned to prison for no more than ~~one hundred eighty~~ two hundred seventy days as a result of a revocation of any type of community supervision program, written notice must be given as soon as practicable following the person’s readmission to prison;

(2) the anticipated hearing on fitness to stand trial following notice under Section 44‑23‑460 of a person who has been charged with a sexually violent offense but who was found unfit to stand trial for the reasons set forth in Section 44‑23‑410 following a hearing held pursuant to Section 44‑23‑430;

(3) the anticipated hearing pursuant to Section 17‑24‑40(C) of a person who has been found not guilty by reason of insanity of a sexually violent offense; or

(4) release of a person who has been found guilty of a sexually violent offense but mentally ill pursuant to Section 17‑24‑20.

(B) ~~When~~ If a person has been convicted of a sexually violent offense and the Board of Probation, Parole and Pardon Services or the Board of Juvenile Parole intends to grant the person a parole or the South Carolina Department of Corrections or the Board of Juvenile Parole intends to grant the person a conditional release, the parole or the conditional release must be granted to be effective ~~ninety~~ one hundred eighty days after the date of the order of parole or conditional release. The Board of Probation, Parole and Pardon Services, the Juvenile Parole Board, or the South Carolina Department of Corrections must immediately send notice of the parole or conditional release of the person to the multidisciplinary team, the victim, and the Attorney General. If the person is determined to be a sexually violent predator pursuant to this chapter, the person is subject to the provisions of this chapter even though the person has been released on parole or conditional release.”

SECTION 2. Section 44-48-80(D) of the 1976 Code is amended to read:

“(D) If the probable cause determination is made, the court must direct that upon completion of the criminal sentence, the person must be transferred to ~~an appropriate secure facility including, but not limited to,~~ a local or regional detention facility pending conclusion of the proceedings under this chapter. The court must further direct that the person be transported to an appropriate facility of the South Carolina Department of Mental Health for an evaluation as to whether the person is a sexually violent predator. The evaluation must be conducted by a qualified expert ~~approved~~ appointed by the court at the probable cause hearing. The expert must complete the evaluation within sixty days after the completion of the probable cause hearing. The court may grant one extension upon request of the expert and a showing of good cause. Any further extensions may only be granted for extraordinary circumstances.”

SECTION 3. Section 44-48-90 of the 1976 Code is amended to read:

“Section 44-48-90. (A) ~~Within sixty days after the completion of a hearing held pursuant to Section 44‑48‑80, the~~ The court must conduct a trial to determine whether the person is a sexually violent predator.

(B) Within thirty days after the determination of probable cause by the court pursuant to Section 44‑48‑80, the person or the Attorney General may request, in writing, that the trial be before a jury. ~~If such a request is made, the court must schedule a trial before a jury at the next available date in the court of common pleas in the county where the offense was committed.~~ If no request is made, the trial must be before a judge in the county where the offense was committed within ninety days of the date the court appointed expert issues the evaluation as to whether the person is a sexually violent predator pursuant to Section 44-48-80(D). If a request is made, the court must schedule a trial before a jury in the county where the offense was committed within ninety days of the date the court appointed expert issues the evaluation as to whether the person is a sexually violent predator pursuant to Section 44-48-80(D). The trial may be continued upon the request of either party and a showing of good cause, or by the court on its own motion in the due administration of justice, and only if the respondent will not be substantially prejudiced. The Attorney General must notify the victim, in a timely manner, of the time, date, and location of the trial. At all stages of the proceedings under this chapter, a person subject to this chapter is entitled to the assistance of counsel, and if the person is indigent, the court must appoint counsel to assist the person.

(C) ~~If a person is subjected to an examination under this chapter, the person~~ Upon receipt of the evaluation issued by the court appointed expert as to whether the person is a sexually violent predator pursuant to Section 44-48-80(D), the person or the Attorney General may retain a qualified expert ~~of his own choosing~~ to perform ~~the~~ a subsequent examination. All examiners are permitted to have reasonable access to the person for the purpose of the examination, as well as access to all relevant medical, psychological, criminal offense, and disciplinary records and reports. In the case of an indigent person who would like an expert of his own choosing, the court must determine whether the services are necessary. If the court determines that the services are necessary and the expert’s requested compensation for the services is reasonable, the court must assist the person in obtaining the expert to perform an examination or participate in the trial on the person’s behalf. The court must approve payment for the services upon the filing of a certified claim for compensation supported by a written statement specifying the time expended, services rendered, expenses incurred on behalf of the person, and compensation received in the case or for the same services from any other source.”

SECTION 4. Section 44-48-100(A) of the 1976 Code is amended to read:

“(A) The court or jury must determine whether, beyond a reasonable doubt, the person is a sexually violent predator. If a jury determines that the person is a sexually violent predator, the determination must be by unanimous verdict. If the court or jury determines that the person is a sexually violent predator, the person must be committed to the custody of the Department of Mental Health for control, care, and treatment until such time as the person’s mental abnormality or personality disorder has so changed that the person is safe to be at large and has been released pursuant to this chapter. The control, care, and treatment must be provided at a facility operated by the Department of Mental Health. At all times, a person committed for control, care, and treatment by the Department of Mental Health pursuant to this chapter must be kept in a secure facility, and the person must be segregated at all times from other patients under the supervision of the Department of Mental Health. The Department of Mental Health may enter into an interagency agreement with the Department of Corrections for the control, care, and treatment of these persons. A person who is in the confinement of the Department of Corrections pursuant to an interagency agreement authorized by this chapter must be kept in a secure facility and must, if practical and to the degree possible, be housed and managed separately from offenders in the custody of the Department of Corrections. If the court or jury is not satisfied beyond a reasonable doubt that the person is a sexually violent predator, the court must direct the person’s release. Upon a mistrial, the court must direct that the person be held at ~~an appropriate secure facility including, but not limited to,~~ a local or regional detention facility until another trial is conducted. A subsequent trial following a mistrial must be held within ninety days of the previous trial, unless the subsequent trial is continued. The court or jury’s determination that a person is a sexually violent predator may be appealed. The person must be committed to the custody of the Department of Mental Health pending his appeal.”

SECTION 5. Section 44-48-120 of the 1976 Code is amended to read:

“Section 44-48-120. (A) If the Director of the Department of Mental Health determines that the person’s mental abnormality or personality disorder has so changed that the person is safe to be at large and, if released, is not likely to commit acts of sexual violence, the director must certify such determination in writing with the specific basis thereof, authorize the person to petition the court for release, and notify the Attorney General of the certification and authorization. The petition must be served upon the court and the Attorney General. The Attorney General must notify the victim of the proceeding.

(B) The court, upon receipt of the petition for release, must order a hearing within thirty days unless the Attorney General requests an examination by a qualified expert as to whether the petitioner’s mental abnormality or personality disorder has so changed that the petitioner is safe to be at large and, if released, is not likely to commit acts of sexual violence, or the petitioner or the Attorney General requests a trial before a jury. The Attorney General must represent the State and has the right to have the petitioner examined by qualified experts chosen by the State. If the Attorney General retains a qualifed expert who concludes that the petitioner’s mental abnormality or personality disorder remains such that the petitioner is not safe to be at large and, if released, is likely to commit acts of sexual violence, the petitioner may retain a qualified expert of his own choosing to perform a subsequent examination. In the case of an indigent petitioner who would like an expert of his own choosing, the court must determine whether the services are necessary. If the court determines that the services are necessary and the expert’s requested compensation for the services is reasonable, the court must assist the petitioner in obtaining the expert to perform an examination or participate in the hearing or trial on the petitioner’s behalf. The court must approve payment for the services upon the filing of a certified claim for compensation supported by a written statement specifying the time expended, services rendered, expenses incurred on behalf of the petitioner, and compensation received in the case or for the same services from any other source. ~~The hearing must be before a jury if requested by either the petitioner or the Attorney General.~~ The burden of proof is upon the Attorney General to show beyond a reasonable doubt that the petitioner’s mental abnormality or personality disorder remains such that the petitioner is not safe to be at large and, that if released, is likely to commit acts of sexual violence.”

SECTION 6. SECTION 1 of this act takes effect one hundred eighty days after approval by the Governor. The remaining sections of this act take effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

The committee amendment was adopted.

There being no further amendments, the Bill was read the second time, passed and ordered to a third reading.

**COMMITTEE AMENDMENT ADOPTED**

**READ THE SECOND TIME**

S. 1028 -- Senator Leventis: A BILL TO AMEND SECTION 32‑8‑320, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PERSONS WHO MAY SERVE AS A DECEDENT’S AGENT TO AUTHORIZE CREMATION, SO AS TO ALSO PERMIT A PERSON NAMED IN THE DECEDENT’S DD FORM 93 TO AUTHORIZE CREMATION IF THE DECEDENT SERVED IN THE MILITARY SERVICES IF THERE IS NO SUCH DESIGNATION IN THE WILL OR OTHER VERIFIED AND ATTESTED DOCUMENT OF THE DECEDENT.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the amendment proposed by the Committee on Judiciary.

The Committee on Judiciary proposed the following amendment (JUD1028.004), which was adopted:

Amend the bill, as and if amended, by striking on page 1, lines 27-41 and inserting the following:

/ “Section 32‑8‑320. (A) In the following order of priority these persons may serve as a decedent’s agent and in the absence of a preneed cremation authorization may authorize cremation of the decedent:

(1) the person designated as agent for this purpose by the decedent in a will or other verified and attested document, or a person named in the decedent’s United States Department of Defense Record of Emergency Data (DD Form 93) or its successor form, if the decedent died while serving in any branch of the United States Armed Services, as defined in 10 U.S.C. Section 1481, and there is no known designation in a will or other verified and attested document of the decedent;

(2) the spouse of the decedent at the time of the decedent’s death;

(3) the decedent’s surviving adult children;

(4) the decedent’s surviving parents;

(5) the persons in the next degree of kinship under the laws of descent and distribution to inherit the estate of the decedent. /

Amend the bill further, as and if amended, by adding an appropriately numbered SECTION at the end to read as follows:

/ SECTION \_\_\_. Section 40-19-280(B) of the 1976 Code is amended to read:

“(B) No public officer or employee, the official of any public institution, physician, surgeon, or any other person having a professional relationship with a decedent may send or cause to be sent to a funeral establishment or to a person licensed for the practice of funeral service the remains of a deceased person without having first made due inquiry as to the desires of the next of kin and of the persons who may be chargeable with the funeral and expenses of the decedent, such as the person named in the decedent’s United States Department of Defense Record of Emergency Data (DD Form 93) or its successor form, if the decedent died while serving in any branch of the United States Armed Services, as defined in 10 U.S.C. Section 1481. If any kin is found, authority and directions of the kin govern except in those instances where the deceased made prior arrangements in writing, such as the aforementioned Record of Emergency Data.” /

Renumber sections to conform.

Amend title to conform.

Senator LARRY MARTIN explained the committee amendment.

The committee amendment was adopted.

There being no further amendments, the Bill was read the second time, passed and ordered to a third reading.

**COMMITTEE AMENDMENT ADOPTED**

**READ THE SECOND TIME**

S. 1147 -- Senators McConnell, Rankin, Hutto, Campbell, Knotts and Alexander: A BILL TO AMEND SECTION 23‑47‑10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITION OF TERMS ASSOCIATED WITH THE PUBLIC SAFETY COMMUNICATIONS CENTER, SO AS TO REVISE THE DEFINITION OF SEVERAL EXISTING TERMS AND TO PROVIDE DEFINITIONS FOR SEVERAL NEW TERMS; TO AMEND SECTION 23‑47‑20, AS AMENDED, RELATING TO 911 SYSTEM SERVICE REQUIREMENTS, SO AS TO DELETE “A CAPABILITY TO HAVE CELLULAR PHONES ROUTED TO 911” AS A SYSTEM REQUIREMENT AND TO ADD “ROUTING AND CAPABILITIES TO RECEIVE AND PROCESS CMRS SERVICE AND VOIP SERVICE CAPABLE OF MAKING 911 CALLS” AS A SYSTEM REQUIREMENT; TO AMEND SECTION 23‑47‑50, RELATING TO SUBSCRIBER BILLING OR 911 SERVICE, SO AS TO PROVIDE THAT FOR THE BILLING OF 911 CHARGES FOR LOCAL EXCHANGE ACCESS FACILITIES THAT ARE CAPABLE OF SIMULTANEOUSLY CARRYING FIVE OR MORE OUTGOING 911 VOICE CALLS, TO REVISE THE 911 CHARGE THAT PREPAID WIRELESS TELECOMMUNICATIONS SERVICE IS SUBJECT TO AND TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 23‑47‑65, RELATING TO THE CMRS EMERGENCY TELEPHONE ADVISORY COMMITTEE, SO AS TO REVISE THE NAME OF THE COMMITTEE AND ITS MEMBERSHIP, TO MAKE TECHNICAL CHANGES, AND TO PROVIDE THAT THE COMMITTEE AND THE STATE BUDGET AND CONTROL BOARD ARE AUTHORIZED TO REGULATE PREPAID WIRELESS SELLERS; BY ADDING SECTION 23‑47‑67 SO AS TO IMPOSE A VOIP 911 CHARGE ON EACH LOCAL EXCHANGE ACCESS FACILITY, AND TO PROVIDE FOR THE COLLECTION OF THE CHARGE AND ITS DISTRIBUTION; BY ADDING SECTION 23‑47‑68 SO AS TO IMPOSE A PREPAID WIRELESS 911 CHARGE, AND TO PROVIDE FOR ITS COLLECTION AND DISTRIBUTION; BY ADDING SECTION 23‑47‑69 SO AS TO LIMIT THE CHARGES THAT MAY BE IMPOSED FOR 911 SERVICE; AND TO AMEND SECTION 23‑47‑70, RELATING TO LIABILITY FOR DAMAGES THAT MAY OCCUR FROM A GOVERNMENTAL AGENCY PROVIDING 911 SERVICE, SO AS TO PROVIDE FOR LIABILITY WHEN 911 SERVICE IS PROVIDED AND WHEN IT IS NOT PROVIDED PURSUANT TO TARIFFS ON FILE WITH THE PUBLIC SERVICE COMMISSION AND TO MAKE A TECHNICAL CHANGE.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the amendment proposed by the Committee on Judiciary.

The Committee on Judiciary proposed the following amendment (JUD1147.005), which was adopted:

Amend the bill, as and if amended, pages 6 and 7, by striking lines 35 through 42 on page 6, and by striking lines 1 and 2 on page 7, and inserting:

/ costs and up to a maximum of fifty local exchange lines ~~an~~ per account. For bills rendered on or after the effective date of this act, for any individual local exchange access facility that is capable of simultaneously carrying multiple voice and data transmissions, a subscriber must be billed a number of 911 charges equal to: (a) the number of outward voice transmission paths activated on such a facility in cases where the number of activated outward voice transmission paths can be modified by the subscriber only with the assistance of the service supplier; or (b) five, where the number of activated outward voice transmission paths can be modified by the subscriber without the assistance of the service supplier. The total number of 911 charges remains subject to the maximum of fifty 911 charges per account set forth above. /

Amend the bill further, as and if amended, page 8, by striking lines 32 through line 36, and inserting:

/ charge~~, including a CMRS 911 charge,~~ imposed under this chapter shall be added to the billing by the service supplier to the service subscriber and may be stated separately.

(3) A billed subscriber shall be liable for any 911 charge~~, including a CMRS 911 charge,~~ imposed under this chapter until it /

Amend the bill further, as and if amended, page 12, by striking lines 25 through line 32, and inserting:

/ 23‑47‑40(A) and 23-47-50(A).

(B) A VoIP provider must collect the VoIP 911 charge established in subsection (A) on each VoIP service line. This VoIP 911 charge must be sourced to the local government in the same manner as CMRS is sourced pursuant to the Mobile Telecommunications Sourcing Act as provided in Title 4 of the United States Code.

(C) Funding from the VoIP 911 charge established in subsection (A) must be used in the same manner as set forth in /

Amend the bill further, as and if amended, page 13, by striking lines 1 through 9, and inserting:

/ (E) If a billed subscriber purchases a service that is both a CMRS service and a VoIP service, and there is a single active mobile telephone number or successor dialing protocol associated with the service, then only the CMRS 911 charge set forth in Section 23‑47‑50(F) shall apply to the service. Similarly, if an exchange access facility is also a VoIP service line, then only the 911 charge set forth in Sections 23-47-40(A) and 23-47-50(A) shall apply to the service.”/

Amend the bill further, as and if amended, page 14, by striking lines 1 through 9, and inserting:

/ (F) A prepaid wireless seller is entitled to retain four percent of the gross prepaid wireless 911 charges remitted to the department as an administrative fee. A prepaid wireless seller must remit the remainder of the prepaid wireless 911 charges collected to the department on a monthly, quarterly, or annual basis. /

Amend the bill further, as and if amended, by adding an appropriately numbered SECTION to read:

/ SECTION \_\_. Chapter 47 of Title 23 of the 1976 Code is amended by adding:

“Section 23‑47‑55. (A) For services for which a bill is rendered prior to the effective date of this act, for an exchange access facility that is capable of simultaneously carrying multiple voice and data transmissions, a subscriber is not liable to any person or entity for a different number of 911 charges than the subscriber has been billed for any such facility, and no service supplier is liable to any person or entity for billing, collecting, or remitting a different number of 911 charges for any such facility than is required by Section 23‑47‑50(A).

(B) For services for which a bill is rendered prior to the effective date of this act, no subscriber is liable to any person or entity for a different 911 charge on VoIP service or VoIP service lines than the subscriber has been billed, and no service supplier is liable to any person or entity for billing, collecting, or remitting a different 911 charge on VoIP service or VoIP service lines than is required by Section 23‑47‑67, or both.” /

Amend the bill further, as and if amended, page 15, by striking lines 18 through 26, and inserting:

/ wanton conduct of the ~~CMRS~~ 911 service supplier or its officers, employees, assigns, or agents.

No ~~CMRS~~ 911 service supplier or its officers, employees, assigns, or agents shall be liable for civil damages or criminal liability in connection with the release of subscriber information to any governmental entity as required under the provisions of this chapter.”

SECTION 9. SECTIONS 1, 2, 3, 4, 5, 6, and 7 of this act take effect on July 1, 2011. The remaining sections of this act take effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Senator LARRY MARTIN explained the committee amendment.

The committee amendment was adopted.

There being no further amendments, the Bill was read the second time, passed and ordered to a third reading.

**COMMITTEE AMENDMENT ADOPTED**

**READ THE SECOND TIME**

S. 1174 -- Senators Leatherman, O’Dell and Setzler: A BILL TO AMEND SECTION 12‑6‑40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE APPLICATION OF THE INTERNAL REVENUE CODE TO STATE INCOME TAX LAWS, SO AS TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE TO THE YEAR 2009; TO ADOPT THE PROVISIONS OF PUBLIC LAW 111‑126 RELATING TO THE TIMING OF DEDUCTIONS FOR CHARITABLE CONTRIBUTIONS FOR HAITI RELIEF; TO AMEND SECTION 12‑6‑50, AS AMENDED, RELATING TO PROVISIONS OF THE INTERNAL REVENUE CODE NOT ADOPTED BY STATE LAW, SO AS TO ADD PROVISIONS TO THOSE NOT ADOPTED; TO AMEND SECTION 12‑6‑3910, AS AMENDED, RELATING TO ESTIMATED STATE INCOME PAYMENTS, SO AS TO ALLOW THE DEPARTMENT OF REVENUE TO WAIVE PENALTIES ON CORPORATE TAXPAYERS WHO CALCULATE SOUTH CAROLINA ESTIMATED TAX PAYMENTS BASED ON FEDERAL ESTIMATED TAX PERIODS THAT DO NOT CONFORM TO STATE LAW; AND TO AMEND ACT 110 OF 2007 AND ACT 16 OF 2009, RELATING TO MISCELLANEOUS REVENUE PROVISIONS AND CONFORMITY OF STATE INCOME TAX LAW TO THE INTERNAL REVENUE CODE, SO AS TO DELETE OBSOLETE PROVISIONS.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the amendment proposed by the Committee on Finance.

The Committee on Finance proposed the following amendment (BBM\9612HTC10), which was adopted:

Amend the bill, as and if amended, by striking SECTION 3B, page 2, and inserting:

/ B. Section 12‑6‑50 of the 1976 Code, as last amended by Act 16 of 2009, is further amended by inserting two new items after item (5) to read:

“(5A) Section 108(i) relating to the deferral and ratable inclusion of income arising from business indebtedness discharged by the reacquisition of a debt instrument;

(5B) Section 163(e)(5)(F) relating to original issue discount on certain high yield obligations;” /

Renumber sections to conform.

Amend title to conform.

Senator O’DELL explained the committee amendment.

The committee amendment was adopted.

There being no further amendments, the Bill was read the second time, passed and ordered to a third reading.

**COMMITTEE AMENDMENT ADOPTED**

**READ THE SECOND TIME**

H. 4174 -- Reps. Harvin, Bales, Harrison, G.M. Smith and Wylie: A BILL TO AMEND SECTION 12‑37‑3150, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DETERMINING WHEN A PARCEL OF REAL PROPERTY MUST BE APPRAISED AS A RESULT OF AN ASSESSABLE TRANSFER OF INTEREST, SO AS TO PROVIDE THAT A CONVEYANCE TO A TRUST DOES NOT CONSTITUTE AN ASSESSABLE TRANSFER OF INTEREST IN THE REAL PROPERTY IF THE SETTLOR OR SETTLOR’S SPOUSE CONVEYS THE PROPERTY TO A TRUST THE BENEFICIARIES OF WHICH ARE A CHILD OR CHILDREN OF THE SETTLOR OR THE SETTLOR’S SPOUSE AND TO PROVIDE THAT A CONVEYANCE BY DISTRIBUTION UNDER A WILL OR BY INTESTATE SUCCESSION DOES NOT CONSTITUTE AN ASSESSABLE TRANSFER OF INTEREST IN THE REAL PROPERTY IF THE DISTRIBUTEE IS A CHILD OR CHILDREN OF A DECEDENT AND THE DECEDENT DID NOT HAVE A SPOUSE AT THE DECEDENT’S DATE OF DEATH.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the amendment proposed by the Committee on Finance.

The Committee on Finance proposed the following amendment (4174FIN001.RWH), which was adopted:

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

/ SECTION 1. A. Section 12‑37‑3150(A)(3) of the 1976 Code is amended to read:

“(3) a conveyance to a trust, except if:

(a) the settlor or the settlor’s spouse, or both, conveys the property to the trust and the sole present beneficiary or beneficiaries are the settlor or the settlor’s spouse, or both; or

(b) the settlor or the settlor’s spouse, or both, conveys property subject to the special four percent assessment ratio pursuant to Section 12-43-220(c) and the sole present beneficiary or beneficiaries are the child or children of the settlor or the settlor’s spouse;”

B. Section 12‑37‑3150(A)(6) of the 1976 Code is amended to read:

“(6) a conveyance by distribution under a will or by intestate succession, except if:

(a) the distributee is the decedent’s spouse; or

(b) the distributee is a child or children of the decedent, the decedent did not have a spouse at the time of the decedent’s death, and the property is subject to the special four percent assessment ratio pursuant to Section 12-43-220(c);”

SECTION 2. This act takes effect upon approval by the Governor./

Renumber sections to conform.

Amend title to conform.

Senator HAYES explained the committee amendment.

The committee amendment was adopted.

There being no further amendments, the Bill was read the second time, passed and ordered to a third reading.

**THE CALL OF THE UNCONTESTED CALENDAR HAVING BEEN COMPLETED, THE SENATE PROCEEDED TO THE MOTION PERIOD.**

**MOTION ADOPTED**

On motion of Senator LARRY MARTIN, the Senate agreed to dispense with the Motion Period.

**HAVING DISPENSED WITH THE MOTION PERIOD, THE SENATE PROCEEDED TO A CONSIDERATION OF BILLS AND RESOLUTIONS RETURNED FROM THE HOUSE.**

**CARRIED OVER**

S. 191 -- Senators McConnell, Malloy, Campsen, Sheheen, Rose, Campbell and Knotts: A BILL TO ENACT THE SOUTH CAROLINA REDUCTION OF RECIDIVISM ACT OF 2009, SO AS TO PROVIDE LAW ENFORCEMENT OFFICERS WITH THE STATUTORY AUTHORITY TO REDUCE RECIDIVISM RATES, APPREHEND CRIMINALS AND PROTECT POTENTIAL VICTIMS FROM CRIMINAL ENTERPRISES BY AUTHORIZING WARRANTLESS SEARCHES AND SEIZURES OF PROBATIONERS AND PAROLEES; TO AMEND SECTION 20‑7‑8305, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE BOARD OF JUVENILE PAROLE, SO AS TO PROVIDE THAT BEFORE A JUVENILE MAY BE CONDITIONALLY RELEASED, THE JUVENILE MUST AGREE TO BE SUBJECT TO SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT AND WITH OR WITHOUT CAUSE; TO AMEND SECTION 20‑7‑8320, RELATING TO CONDITIONAL RELEASE, SO AS TO PROVIDE THAT THE JUVENILE MUST BE SUBJECT TO SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT AND WITH OR WITHOUT CAUSE; TO AMEND SECTION 24‑19‑110, RELATING TO THE PROCEDURE FOR CONDITIONAL RELEASE OF YOUTHFUL OFFENDERS, SO AS TO PROVIDE THAT BEFORE A YOUTHFUL OFFENDER MAY BE CONDITIONALLY RELEASED, THE YOUTHFUL OFFENDER MUST AGREE TO BE SUBJECT TO SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT AND WITH OR WITHOUT CAUSE; TO AMEND SECTION 24‑13‑710, RELATING TO THE GUIDELINES, ELIGIBILITY CRITERIA, AND IMPLEMENTATION OF A SUPERVISED FURLOUGH PROGRAM, SO AS TO PROVIDE THAT BEFORE AN INMATE MAY BE RELEASED ON SUPERVISED FURLOUGH, THE INMATE MUST AGREE TO BE SUBJECT TO SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT AND WITH OR WITHOUT CAUSE; TO AMEND SECTION 24‑13‑720, RELATING TO INMATES WHO MAY BE PLACED WITHIN CERTAIN PROGRAMS, SO AS TO PROVIDE THAT BEFORE AN INMATE MAY BE RELEASED ON SUPERVISED FURLOUGH, THE INMATE MUST AGREE TO BE SUBJECT TO SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT AND WITH OR WITHOUT CAUSE; TO AMEND SECTION 24‑13‑1330, RELATING TO A COURT INMATE’S AGREEMENT TO TERMS AND CONDITIONS, SO AS TO PROVIDE THAT BEFORE AN INMATE MAY BE RELEASED ON PAROLE, THE INMATE MUST AGREE TO BE SUBJECT TO SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT AND WITH OR WITHOUT CAUSE; TO AMEND SECTION 24‑21‑410, RELATING TO THE COURT BEING AUTHORIZED TO SUSPEND IMPOSITION OF SENTENCE FOR PROBATION AFTER CONVICTION, SO AS TO PROVIDE THAT BEFORE A DEFENDANT MAY BE PLACED ON PROBATION, THE DEFENDANT MUST AGREE TO BE SUBJECT TO SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT BASED ON REASONABLE SUSPICIONS; TO AMEND SECTION 24‑21‑430, RELATING TO THE CONDITIONS OF PROBATION, SO AS TO PROVIDE THAT THE CONDITIONS IMPOSED MUST INCLUDE THE REQUIREMENT THAT THE PROBATIONER MUST PERMIT SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT BASED ON REASONABLE SUSPICIONS; TO AMEND SECTION 24‑21‑560, RELATING TO COMMUNITY SUPERVISION PROGRAMS, SO AS TO PROVIDE THAT THE CONDITIONS OF PARTICIPATION MUST INCLUDE THE REQUIREMENT THAT THE OFFENDER MUST PERMIT SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT BASED ON REASONABLE SUSPICIONS; TO AMEND SECTION 24‑21‑640, RELATING TO THE CIRCUMSTANCES WARRANTING PAROLE, SO AS TO PROVIDE THAT BEFORE AN INMATE MAY BE RELEASED ON PAROLE, THE INMATE MUST AGREE TO SEARCH AND SEIZURE WITH OR WITHOUT A SEARCH WARRANT AND WITH OR WITHOUT CAUSE; AND TO AMEND SECTION 24‑21‑645, RELATING TO THE ORDER AUTHORIZING PAROLE, SO AS TO PROVIDE THAT THE CONDITIONS OF PAROLE MUST INCLUDE THE REQUIREMENT THAT THE PAROLEE MUST PERMIT SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT AND WITH OR WITHOUT CAUSE.

On motion of Senator McCONNELL, the Bill was carried over.

**CARRIED OVER**

S. 328 -- Senators Verdin, Grooms, Cromer, Campbell, Bright, Bryant and Campsen: A BILL TO AMEND SECTION 47‑5‑60 OF THE 1976 CODE, RELATING TO INOCULATING PETS AGAINST RABIES, SO AS TO PROVIDE THAT THESE INOCULATIONS MUST BE ADMINISTERED BY A LICENSED VETERINARIAN OR SOMEONE UNDER THE DIRECT SUPERVISION OF A LICENSED VETERINARIAN.

On motion of Senator VERDIN, the Bill was carried over.

**THE SENATE PROCEEDED TO A CONSIDERATION OF VETOES.**

**Message from the House**

Columbia, S.C., March 2, 2010

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has sustained the veto by the Governor on R135, H. 4431 by a vote of 39 to 25:

(R135, H4431) -- Rep. H.B. Brown: AN ACT TO AMEND ACT 191 OF 1991, AS AMENDED, RELATING TO THE FAIRFIELD COUNTY SCHOOL DISTRICT, SO AS TO REQUIRE THE FINANCE COMMITTEE ESTABLISHED BY THIS ACT TO PREPARE THE DISTRICT BUDGET AND TO SUBMIT IT FOR BOARD REVIEW, TO REQUIRE THE BOARD TO SUBMIT THE BUDGET TO THE FAIRFIELD COUNTY COUNCIL FOR APPROVAL, TO AUTHORIZE THE FAIRFIELD COUNTY COUNCIL TO NOTIFY THE COUNTY AUDITOR OF THE AMOUNT OF THE LEVY NEEDED TO OPERATE SCHOOLS IN THE DISTRICT, TO CREATE A FINANCE COMMITTEE TO OVERSEE THE FINANCIAL OPERATIONS OF THE DISTRICT AND TO PROVIDE ITS MEMBERSHIP, DUTIES, AND GOALS, TO PROVIDE FOR THE HIRING OF A FINANCE DIRECTOR FOR THE DISTRICT AND TO PROVIDE HIS RESPONSIBILITIES AND DUTIES, TO PROVIDE FOR THE ABOLITION OF THE FINANCE COMMITTEE AND THE POSITION OF FINANCE DIRECTOR UPON CERTAIN CONDITIONS, AND TO DEFINE THE DUTIES OF BOTH THE BOARD AND THE DISTRICT SUPERINTENDENT.

Very respectfully,

Speaker of the House

Received as information

**Message from the House**

Columbia, S.C., March 2, 2010

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has reconsidered the vote whereby the House sustained the veto and has overridden the veto by the Governor on R.135, H. 4431 by a vote of 33 to 10:

(R135, H4431) -- Rep. H.B. Brown: AN ACT TO AMEND ACT 191 OF 1991, AS AMENDED, RELATING TO THE FAIRFIELD COUNTY SCHOOL DISTRICT, SO AS TO REQUIRE THE FINANCE COMMITTEE ESTABLISHED BY THIS ACT TO PREPARE THE DISTRICT BUDGET AND TO SUBMIT IT FOR BOARD REVIEW, TO REQUIRE THE BOARD TO SUBMIT THE BUDGET TO THE FAIRFIELD COUNTY COUNCIL FOR APPROVAL, TO AUTHORIZE THE FAIRFIELD COUNTY COUNCIL TO NOTIFY THE COUNTY AUDITOR OF THE AMOUNT OF THE LEVY NEEDED TO OPERATE SCHOOLS IN THE DISTRICT, TO CREATE A FINANCE COMMITTEE TO OVERSEE THE FINANCIAL OPERATIONS OF THE DISTRICT AND TO PROVIDE ITS MEMBERSHIP, DUTIES, AND GOALS, TO PROVIDE FOR THE HIRING OF A FINANCE DIRECTOR FOR THE DISTRICT AND TO PROVIDE HIS RESPONSIBILITIES AND DUTIES, TO PROVIDE FOR THE ABOLITION OF THE FINANCE COMMITTEE AND THE POSITION OF FINANCE DIRECTOR UPON CERTAIN CONDITIONS, AND TO DEFINE THE DUTIES OF BOTH THE BOARD AND THE DISTRICT SUPERINTENDENT.

Very respectfully,

Speaker of the House

Received as information.

**VETO OVERRIDDEN**

(R135, H4431) -- Rep. H.B. Brown: AN ACT TO AMEND ACT 191 OF 1991, AS AMENDED, RELATING TO THE FAIRFIELD COUNTY SCHOOL DISTRICT, SO AS TO REQUIRE THE FINANCE COMMITTEE ESTABLISHED BY THIS ACT TO PREPARE THE DISTRICT BUDGET AND TO SUBMIT IT FOR BOARD REVIEW, TO REQUIRE THE BOARD TO SUBMIT THE BUDGET TO THE FAIRFIELD COUNTY COUNCIL FOR APPROVAL, TO AUTHORIZE THE FAIRFIELD COUNTY COUNCIL TO NOTIFY THE COUNTY AUDITOR OF THE AMOUNT OF THE LEVY NEEDED TO OPERATE SCHOOLS IN THE DISTRICT, TO CREATE A FINANCE COMMITTEE TO OVERSEE THE FINANCIAL OPERATIONS OF THE DISTRICT AND TO PROVIDE ITS MEMBERSHIP, DUTIES, AND GOALS, TO PROVIDE FOR THE HIRING OF A FINANCE DIRECTOR FOR THE DISTRICT AND TO PROVIDE HIS RESPONSIBILITIES AND DUTIES, TO PROVIDE FOR THE ABOLITION OF THE FINANCE COMMITTEE AND THE POSITION OF FINANCE DIRECTOR UPON CERTAIN CONDITIONS, AND TO DEFINE THE DUTIES OF BOTH THE BOARD AND THE DISTRICT SUPERINTENDENT.

The veto of the Governor was taken up for immediate consideration.

Senator COLEMAN moved that the veto of the Governor be overridden.

The question was put, “Shall the Act become law, the veto of the Governor to the contrary notwithstanding?”

The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 1; Nays 0**

**AYES**

Coleman

**Total--1**

**NAYS**

**Total--0**

The necessary two-thirds vote having been received, the veto of the Governor was overridden, and a message was sent to the House accordingly.

**Statement by Senator FORD**

I strongly oppose H. 4431 and H. 4432 due to the impact on the Fairfield County School Board. I believe both pieces of legislation have the effect of subverting the will of Fairfield County voters who elected the current school board members. As Co-Chairman of the Affirmative Action Committee of the S. C. Legislative Black Caucus, I have been asked to investigate whether the two Bills violate the 1965 Voting Rights Act. I believe the way to effect change on the school board is through the election process and not through local legislation which may disenfranchise voters. It is my intent to convey my concerns to the Civil Rights Division of the U. S. Department of Justice.

**Statement by Senators MATTHEWS, JACKSON and ANDERSON**

Out of a long-held precedent in the Senate where members do not vote on legislation affecting solely one county, also known as local legislation, we did not officially vote on Bills related to Fairfield County schools. However, we have serious concerns about the legislation.

The effect of H.4431 and H.4432 is to undermine the will of Fairfield County voters. As a result, we strongly oppose both pieces of legislation. The Bills serve to subvert the local election process and could be construed as devices to disenfranchise Fairfield County voters and thus violate the 1965 Voting Rights Act. We believe Fairfield County voters can best effect change for their community in the election process. We plan to relay our strong objections to the U.S. Department of Justice when the Bills go to the agency for preclearance.

**Message from the House**

Columbia, S.C., March 2, 2010

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R136, H. 4432 by a vote of 44 to 21:

(R136, H4432) -- Rep. H.B. Brown: AN ACT TO AMEND ACT 191 OF 1991, AS AMENDED, RELATING TO THE FAIRFIELD COUNTY SCHOOL DISTRICT, SO AS TO REVISE THE MEMBERSHIP OF THE BOARD OF TRUSTEES, TO REVISE COMPENSATION OF BOARD MEMBERS, TO PROVIDE FOR THE FILLING OF VACANCIES, TO PROVIDE FOR THE ABOLITION OF CERTAIN BOARD SEATS UPON CERTAIN CONDITIONS, AND TO REQUIRE THE SCHOOL DISTRICT BOARD AND SUPERINTENDENT TO COOPERATE WITH NEWLY APPROVED BOARD MEMBERS.

Very respectfully,

Speaker of the House

Received as information

**VETO OVERRIDDEN**

(R136, H4432) -- Rep. H.B. Brown: AN ACT TO AMEND ACT 191 OF 1991, AS AMENDED, RELATING TO THE FAIRFIELD COUNTY SCHOOL DISTRICT, SO AS TO REVISE THE MEMBERSHIP OF THE BOARD OF TRUSTEES, TO REVISE COMPENSATION OF BOARD MEMBERS, TO PROVIDE FOR THE FILLING OF VACANCIES, TO PROVIDE FOR THE ABOLITION OF CERTAIN BOARD SEATS UPON CERTAIN CONDITIONS, AND TO REQUIRE THE SCHOOL DISTRICT BOARD AND SUPERINTENDENT TO COOPERATE WITH NEWLY APPROVED BOARD MEMBERS.

The veto of the Governor was taken up for immediate consideration.

Senator COLEMAN moved that the veto of the Governor be overridden.

The question was put, “Shall the Act become law, the veto of the Governor to the contrary notwithstanding?”

The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 1; Nays 0**

**AYES**

Coleman

**Total--1**

**NAYS**

**Total--0**

The necessary two-thirds vote having been received, the veto of the Governor was overridden, and a message was sent to the House accordingly.

**Statement by Senator FORD**

I strongly oppose H. 4431 and H. 4432 due to the impact on the Fairfield County School Board. I believe both pieces of legislation have the effect of subverting the will of Fairfield County voters who elected the current school board members. As Co-Chairman of the Affirmative Action Committee of the S. C. Legislative Black Caucus, I have been asked to investigate whether the two Bills violate the 1965 Voting Rights Act. I believe the way to effect change on the school board is through the election process and not through local legislation which may disenfranchise voters. It is my intent to convey my concerns to the Civil Rights Division of the U. S. Department of Justice.

**Statement by Senators MATTHEWS, JACKSON and ANDERSON**

Out of a long-held precedent in the Senate where members do not vote on legislation affecting solely one county, also known as local legislation, we did not officially vote on Bills related to Fairfield County schools. However, we have serious concerns about the legislation.

The effect of H.4431 and H.4432 is to undermine the will of Fairfield County voters. As a result, we strongly oppose both pieces of legislation. The Bills serve to subvert the local election process and could be construed as devices to disenfranchise Fairfield County voters and thus violate the 1965 Voting Rights Act. We believe Fairfield County voters can best effect change for their community in the election process. We plan to relay our strong objections to the U.S. Department of Justice when the Bills go to the agency for preclearance.

**THE SENATE PROCEEDED TO THE INTERRUPTED DEBATE.**

**READ THE SECOND TIME**

**RETURNED TO THE CATEGORY OF SPECIAL ORDER**

H. 3305 -- Reps. Bedingfield, Merrill, Bingham, Duncan, Loftis, G.R. Smith, Cato, Owens, Crawford, A.D. Young, Nanney, Bannister, Daning, Harrison, Horne, Kirsh, Lowe, Lucas, E.H. Pitts, Stringer, Thompson, Toole, Wylie, T.R. Young, Long, Rice, Parker, Allison, Littlejohn, Cole, Hiott, Edge, Whitmire, Hearn, Hardwick, D.C. Smith, Pinson, J.R. Smith, Simrill, Brantley, Willis, Hamilton, Erickson, Sottile, Scott, Harrell, Delleney, Gullick, Frye, Clemmons, G.M. Smith, Battle, Sandifer, Millwood, Haley, Ballentine, M.A. Pitts, Cooper, White, Gambrell, Bowen, Umphlett, Forrester, Barfield, Chalk, Herbkersman, Viers, Spires, Huggins, Limehouse, Stewart, Kelly, Brady and D.C. Moss: A JOINT RESOLUTION TO PROPOSE AN AMENDMENT TO ARTICLE II OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE RIGHT OF SUFFRAGE, BY ADDING SECTION 12 SO AS TO GUARANTEE THE RIGHT OF AN INDIVIDUAL TO VOTE BY SECRET BALLOT FOR A DESIGNATION, A SELECTION, OR AN AUTHORIZATION FOR EMPLOYEE REPRESENTATION BY A LABOR ORGANIZATION.

The Senate proceeded to a consideration of the Joint Resolution, the question being the second reading of the Joint Resolution.

**Amendment No. 2**

Senators HUTTO and FORD proposed the following Amendment No. 2 (3305FEES), which was tabled:

Amend the joint resolution, as and if amended, page 2, after line 4 by inserting an appropriately numbered new SECTION to read:

/ SECTION . In the event any provision of this act is challenged in a legal action, all cost and attorney’s fees incurred by the State, or any agency or subdivision of the State, as a result of defending against the challenge shall be paid equally from the approved accounts of the House and the Senate. /

Renumber sections to conform.

Amend title to conform.

Senator HUTTO explained the amendment.

Senator LARRY MARTIN argued contra to the adoption of the amendment.

Senator McCONNELL argued contra to the adoption of the amendment.

Senator LARRY MARTIN moved to lay the amendment on the table.

The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 28; Nays 15**

**AYES**

Alexander Bright Bryant

Campbell Campsen Cleary

Courson Cromer Davis

Fair Grooms Hayes

Knotts Leatherman *Martin, Larry*

*Martin, Shane* Massey McConnell

McGill Mulvaney O’Dell

Peeler Rankin Reese

Rose Shoopman Thomas

Verdin

**Total--28**

**NAYS**

Anderson Coleman Elliott

Ford Hutto Jackson

Land Leventis Lourie

Malloy Matthews Nicholson

Pinckney Scott Setzler

**Total--15**

The amendment was laid on the table.

There being no further amendments, the question then was the second reading of the Joint Resolution.

Senator HUTTO argued contra to the second reading of the Joint Resolution.

Senator ROSE spoke on the Joint Resolution.

**Remarks by Senator ROSE**

Members of the Senate, I want to give you another reason to vote for this Union-Only-By-Secret-Ballot Bill. There is a trend in the last few years in the U.S. Supreme Court. I’ve got three cases here in which the U.S. Supreme Court upheld state laws that conflicted with laws of the federal government. Just like the Senator from Charleston, Senator McCONNELL, said: Chief Justice Roberts is leading a new trend. 150 years ago we had a Civil War and Acts of Nullification -- then there were all kinds of things done that we’re not doing now in an attempt to stop federal encroachment on states’ rights. Today we have a new theory. We have a new plan of action endorsed by the U.S. Supreme Court steadily growing, case by case, to carve out areas in which the states can preserve their own rights. And we should take advantage of this.

We need to pass more legislation that preserves fundamental rights for the citizens of our states; secret ballot union elections is an example of one of those rights. When you hear lawyers and their conflicting theories -- I think it’s been pretty much one-sided what’s been said here today -- remember there is authority that allows states to pass laws that give our citizens more protections than does the federal government, and only by testing new laws, step by step, are we going to see what the outer limits of those state protections are. I think we ought to proactively establish and litigate what are our citizens’ rights. We ought to be -- I wouldn’t use the word ashamed -- but how can we justify -- how can we say when our forefathers sacrificed so much to stand up to federal authority, that we’re not now going to take advantage of this legal way of doing the same, just because it might cost a lot of attorney fees or be a lot of trouble?

Thank you.

On motion of Senator COURSON, with unanimous consent, the remarks of Senator ROSE, were ordered printed in the Journal.

The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 30; Nays 13**

**AYES**

Alexander Bright Bryant

Campbell Campsen Cleary

Courson Cromer Davis

Elliott Fair Grooms

Hayes Knotts Leatherman

Lourie *Martin, Larry Martin, Shane*

Massey McConnell McGill

Mulvaney O’Dell Peeler

Rankin Rose Setzler

Shoopman Thomas Verdin

**Total--30**

**NAYS**

Anderson Coleman Ford

Hutto Jackson Land

Leventis Malloy Matthews

Nicholson Pinckney Reese

Scott

**Total--13**

There being no further amendments, the Joint Resolution was read the second time, passed and ordered to a third reading.

The Joint Resolution was returned to the category of Special Order.

**LOCAL APPOINTMENT**

**Confirmation**

Having received a favorable report from the Senate, the following appointment was confirmed in open session:

Initial Appointment, Dillon County Board of Voter Registration, with the term to commence March 15, 2010, and to expire March 15, 2012

At-Large:

Alton Glenn Greene III, P. O. Box 38, Latta, SC 29565 *VICE* Joseph U. Moffett

**MOTION ADOPTED**

On motion of Senators LEVENTIS and LAND, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. Ansel Rose McFadden, Jr. of Manning, S.C., who passed away February 27, 2010. Mr. McFaddin was active in the community, serving on various church and civic committees to ensure a better quality of life for everyone in the Manning Community. In addition to serving on the board of trustees for Manning Christian Academy, he volunteered with the American Red Cross and was an “honorary member” of the Clarendon Pilot Club. He loved being in the outdoors and it was his pleasure to serve as Secretary-Treasurer and President of the Home Lake Club. Mr. McFaddin will be deeply missed by his family and the many, many friends who loved him dearly.

**ADJOURNMENT**

At 1:00 P.M., on motion of Senator McCONNELL, the Senate adjourned to meet tomorrow at 11:00 A.M. under the provisions of Rule 1 for the purpose of taking up local matters and uncontested matters which have previously received unanimous consent to be taken up.

**Recorded Vote**

Senators BRIGHT and BRYANT desired to be recorded as voting against the motion to adjourn.

\* \* \*