**Thursday, March 11, 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:

The prophet, Amos, reports:

“This is what he showed me: The Lord was standing by a wall that had been built true to plumb, with a plumb line in his hand.”

(Amos 7:7)

Please join me as we bow in prayer:

Holy God, we are all always confronted with issues about how we might measure up, whether we are right and true in what we do and in what we say. O Lord, may Your holy plumb line reveal that we are working to bring about the good which You expect of us, individually and collectively. Inspire and bless these Senators—and everyone else who serves You here in this State House—so that each individual honors You, freely calling upon You for guidance and wisdom. And may Your abundant blessings ultimately fall upon each resident of this State. In Your loving name we pray, dear Lord.

Amen.

**Point of Quorum**

At 11:13 A.M., Senator SHANE MARTIN made the point that a quorum was not present. It was ascertained that a quorum was not present.

**Call of the Senate**

Senator SETZLER moved that a Call of the Senate be made. The following Senators answered the Call:

Alexander Anderson Bright

Bryant Campbell Campsen

Cleary Coleman Courson

Cromer Davis Elliott

Fair Hayes Hutto

Jackson Knotts Land

Leatherman Leventis Lourie

Malloy *Martin, Larry Martin, Shane*

Massey Matthews McConnell

McGill Mulvaney Nicholson

O’Dell Peeler Pinckney

Rankin Rose Scott

Setzler Sheheen Thomas

Verdin Williams

A quorum being present, the Senate resumed.

**Recorded Presence**

Senators REESE and FORD recorded their presence subsequent to the Call of the Senate.

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

**Doctor of the Day**

Senator KNOTTS introduced Dr. Susan Keeshan of Columbia, S.C., Doctor of the Day.

**Leave of Absence**

At 11:23 P.M., Senator NICHOLSON requested a leave of absence beginning at 11:30 A.M. this morning and lasting until Noon on Tuesday.

**Leave of Absence**

At 12:15 P.M., Senator O'DELL requested a leave of absence for the balance of the day.

**Expression of Personal Interest**

Senator ROSE rose for an Expression of Personal Interest.

**CO-SPONSORS ADDED**

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

S. 452 Sen. Hayes

S. 1075 Sen. Lourie

S. 1267 Sens. O’Dell, Hayes, Setzler, Lourie

**CO-SPONSOR REMOVED**

The following co-sponsor was removed from the respective Bill:

S. 328 Sen. Cromer

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

S. 1270 -- Senator Rose: A BILL TO AMEND SECTIONS 12-60-1750 AND 12-43-220 OF THE 1976 CODE, RELATING TO REFUNDS OF PROPERTY TAXES, TO PROVIDE THAT NO REFUND MUST BE GIVEN FOR A CHANGE IN ASSESSMENT RATIOS TO THE SPECIAL FOUR PERCENT ASSESSMENT RATIO UNLESS THE APPLICATION WAS TIMELY FILED; AND TO FURTHER AMEND SECTION 12-43-220, RELATING TO THE SPECIAL FOUR PERCENT ASSESSMENT RATIO, TO PROVIDE THAT THE PROPERTY MAY ONLY BE CLAIMED AT THE FOUR PERCENT ASSESSMENT RATIO FOR THE PRO-RATA PORTION OF THE YEAR IN WHICH THE PROPERTY WAS THE LEGAL RESIDENCE.

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

S. 1271 -- Senators Campsen and Knotts: A BILL TO AMEND ARTICLE 1, CHAPTER 11, TITLE 50 OF THE 1976 CODE, BY ADDING SECTION 50-11-108 TO PROVIDE THAT A PERSON MAY USE A FIREARM TO KILL OR ATTEMPT TO KILL ANY ANIMAL DURING ANY SEASON IN SELF-DEFENSE, DEFENSE OF ANOTHER, OR DEFENSE OF PROPERTY, AND TO PROVIDE EXCEPTIONS.

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Read the first time and referred to the Committee on Fish, Game and Forestry.

S. 1272 -- Senator Mulvaney: A BILL TO AMEND SECTION 8-21-770, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROBATE COURT FEES AND COSTS, SO AS TO PROVIDE THAT A FILING FEE MAY NOT BE CHARGED IN EMERGENCY ADMISSION PROCEDURES AND PETITIONS FOR JUDICIAL ADMISSION OF A PERSON FOR CARE AND TREATMENT FOR MENTAL ILLNESS, CHEMICAL DEPENDENCY, OR MENTAL RETARDATION.

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

S. 1273 -- Senator Leatherman: A CONCURRENT RESOLUTION TO RECOGNIZE THE WEEK OF MARCH 22-27, 2010, AS "CONNECT A MILLION MINDS WEEK" WHEN TIME WARNER CABLE WILL INTRODUCE A HANDS-ON INTERACTIVE CURRICULUM TO SHOWCASE THE DIGITAL WORLD OF TECHNOLOGY FOR MIDDLE SCHOOL STUDENTS.

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Senator HAYES spoke on the Resolution.

On motion of Senator HAYES, with unanimous consent, the Concurrent Resolution was introduced and ordered placed on the Calendar without reference.

S. 1274 -- Senator Jackson: A SENATE RESOLUTION TO CONGRATULATE COLUMBIA NATIVE JONATHAN GOODWIN AND THE NEW ORLEANS SAINTS ON WINNING THE 2010 SUPER BOWL CHAMPIONSHIP.

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The Senate Resolution was adopted.

S. 1275 -- Senators Cromer and Knotts: A SENATE RESOLUTION TO RECOGNIZE AND CONGRATULATE CHAPIN HIGH SCHOOL WRESTLERS STUART HOPE AND NATE POLLY FOR AN OUTSTANDING SEASON AND TO CONGRATULATE THEM FOR CAPTURING THE 2010 CLASS AAA STATE INDIVIDUAL CHAMPIONSHIP TITLE.

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The Senate Resolution was adopted.

S. 1276 -- Senators Cromer and Knotts: A CONCURRENT RESOLUTION TO RECOGNIZE AND COMMEND THE LEXINGTON HIGH SCHOOL BOYS CROSS COUNTRY TEAM FOR ITS OUTSTANDING SEASON AND FOR CAPTURING THE 2009 CLASS AAAA STATE CHAMPIONSHIP TITLE, AND TO HONOR THE TEAM'S EXCEPTIONAL RUNNERS, COACHES, AND STAFF.

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

S. 1277 -- Senators Cromer and Knotts: A CONCURRENT RESOLUTION TO RECOGNIZE AND COMMEND THE LEXINGTON HIGH SCHOOL GIRLS GOLF TEAM FOR CAPTURING THE 2009 CLASS AAAA STATE CHAMPIONSHIP TITLE, AND TO HONOR THE TEAM'S SUPERLATIVE PLAYERS, COACHES, AND STAFF.

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

S. 1278 -- Senators Fair, Bright and Thomas: A CONCURRENT RESOLUTION TO EXPRESS THE SUPPORT OF THE SOUTH CAROLINA GENERAL ASSEMBLY FOR UNITED STATES SENATE JOINT RESOLUTION 26 DISAPPROVING A RULE SUBMITTED BY THE ENVIRONMENTAL PROTECTION AGENCY RELATING TO AN ENDANGERMENT FINDING WHICH ULTIMATELY WILL RESULT IN THE REGULATION OF GREENHOUSE GASES UNDER SECTION 202(A) OF THE CLEAN AIR ACT, AND TO REQUEST THAT SOUTH CAROLINA'S CONGRESSIONAL DELEGATION SUPPORT THE ADOPTION OF THIS RESOLUTION.

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Senator FAIR spoke on the Resolution.

**Expression of Personal Interest**

Senator LEVENTIS rose for an Expression of Personal Interest.

The Concurrent Resolution was introduced and referred to the Committee on Agriculture and Natural Resources.

H. 4033 -- Reps. Clemmons, Harrell, Gunn, Anderson, Gullick, Limehouse, Hardwick, Merrill, Ott, Rutherford, Bales, V. S. Moss, Duncan, Owens, Bowen, Stavrinakis, Hutto, Allison, Barfield, Battle, Bingham, Branham, H. B. Brown, Cato, Cooper, Crawford, Delleney, Dillard, Gambrell, Harrison, Harvin, Hayes, Hearn, Herbkersman, Horne, Hosey, Howard, Jefferson, Jennings, Kennedy, King, Kirsh, Lowe, Lucas, Mack, McLeod, Miller, D. C. Moss, Neilson, M. A. Pitts, Rice, Sandifer, G. M. Smith, G. R. Smith, J. E. Smith, Sottile, Thompson, Weeks, White, Williams, Willis, A. D. Young, Sellers, Erickson, Knight, Whipper, R. L. Brown, Gilliard, Hart and Mitchell: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE "TRANSPORTATION INFRASTRUCTURE FUNDING FLEXIBILITY ACT" BY ADDING ARTICLE 3 TO CHAPTER 3, TITLE 57 SO AS TO PROVIDE THAT THE DEPARTMENT OF TRANSPORTATION MAY SOLICIT AND ENTER INTO CERTAIN PUBLIC-PRIVATE INITIATIVES TO CONSTRUCT TRANSPORTATION FACILITIES AND TO PROVIDE THE PROCEDURE WHEREBY PUBLIC-PRIVATE INITIATIVES ARE SOLICITED, APPROVED, AND IMPLEMENTED; BY ADDING ARTICLE 9 TO CHAPTER 3, TITLE 57 SO AS TO PROVIDE THE CIRCUMSTANCES WHEREBY TOLLS MAY BE IMPOSED AND COLLECTED ALONG THE STATE'S HIGHWAYS, TO PROVIDE FOR THE PROJECTS THAT MAY BE FINANCED BY TOLL REVENUES, TO PROVIDE PENALTIES FOR A PERSON WHO FAILS TO PAY A TOLL, AND TO PROVIDE THAT THE DEPARTMENT MAY IMPLEMENT AN ELECTRONIC TOLL SYSTEM; BY ADDING SECTION 11-35-3075 SO AS TO PROVIDE THAT THE PROVISIONS THAT ALLOW THE DEPARTMENT OF TRANSPORTATION TO ENTER INTO PUBLIC-PRIVATE INITIATIVES TO CONSTRUCT TRANSPORTATION FACILITIES ARE SUBJECT TO CERTAIN PORTIONS OF THE CONSOLIDATED PROCUREMENT CODE AND TO CERTAIN EXPANDED DISCUSSIONS AND PROPOSAL REVISIONS; TO AMEND SECTION 11-35-710, AS AMENDED, RELATING TO THE PURCHASE OF CERTAIN ITEMS THAT ARE EXEMPT FROM THE PROVISIONS CONTAINED IN THE CONSOLIDATED PROCUREMENT CODE, SO AS TO PROVIDE THAT THE PURCHASE OF ITEMS ASSOCIATED WITH DEPARTMENT OF TRANSPORTATION PUBLIC-PRIVATE INITIATIVES TO CONSTRUCT TRANSPORTATION FACILITIES ARE NOT EXEMPT FROM THE CONSOLIDATED PROCUREMENT CODE; TO AMEND SECTION 11-35-40, AS AMENDED, RELATING TO THE APPLICATION OF THE CONSOLIDATED PROCUREMENT CODE, SO AS TO PROVIDE AN ENTITY THAT UTILIZES A FEDERAL GRANT TO PROCURE AN ITEM MUST COMPLY WITH ALL APPLICABLE LAWS THAT ARE NOT CONTAINED IN THE CONSOLIDATED PROCUREMENT CODE; TO AMEND SECTION 57-5-1625, AS AMENDED, RELATING TO THE DEPARTMENT OF TRANSPORTATION'S AWARDING OF CONTRACTS THAT USE THE DESIGN-BUILD PROCEDURE, SO AS TO REVISE THE DEFINITION OF THE TERM "DESIGN-BUILD CONTRACT"; TO AMEND SECTION 57-5-1310, RELATING TO THE GENERAL ASSEMBLY'S INTENT WHEN IT PROVIDED THE DEPARTMENT OF TRANSPORTATION THE AUTHORITY TO CONSTRUCT TURNPIKE PROJECTS, SO AS TO PROVIDE THAT THE DEPARTMENT ALSO HAS THE AUTHORITY TO IMPROVE THESE FACILITIES PURSUANT TO THIS PROVISION; TO AMEND SECTION 57-5-1320, RELATING TO THE DEFINITION OF TERMS REGARDING TURNPIKE PROJECTS, SO AS TO REVISE THE DEFINITION OF THE TERM "TURNPIKE FACILITY"; TO AMEND SECTION 57-5-1330, RELATING TO THE DEPARTMENT OF TRANSPORTATION'S AUTHORITY TO DESIGNATE, ESTABLISH, PLAN, IMPROVE, CONSTRUCT, OPERATE, AND REGULATE TURNPIKE FACILITIES, SO AS TO PROVIDE THAT THE DEPARTMENT MAY DESIGNATE AS A TURNPIKE FACILITY ANY TRANSPORTATION FACILITY THAT IS FUNDED IN PART BY A LOCAL OPTION SALES AND USE TAX; TO AMEND SECTION 40-11-360, RELATING TO THE ENTITIES THAT ARE EXEMPT FROM THE PROVISIONS THAT REGULATE LICENSED CONTRACTORS, SO AS TO MAKE A TECHNICAL CHANGE; TO AMEND SECTION 57-5-1660, RELATING TO THE DEPARTMENT OF TRANSPORTATION'S REQUIREMENT THAT CERTAIN CONTRACTORS MUST FURNISH A BOND FOR CERTAIN CONSTRUCTION CONTRACTS, SO AS TO PROVIDE THAT THIS PROVISION DOES NOT APPLY TO CERTAIN PUBLIC-PRIVATE INITIATIVES TO CONSTRUCT TRANSPORTATION FACILITIES AND PROVIDE THAT WHEN THE DEPARTMENT UTILIZES THE DESIGN-BUILD DELIVERY METHOD FOR A HIGHWAY CONSTRUCTION PROJECT, THE AMOUNT OF THE PERFORMANCE AND INDEMNITY BOND AND PAYMENT BONDS REQUIRED BY THIS PROVISION RELATE ONLY TO THE PORTION OF THE CONTRACT CONCERNING CONSTRUCTION; AND TO REPEAL SECTIONS 12-28-2920, 57-3-200, 57-3-615, 57-3-618, 57-5-1490, AND 57-5-1495 RELATING TO THE CONSTRUCTION OF TOLL ROADS BY THE DEPARTMENT OF TRANSPORTATION, THE DEPARTMENT'S AUTHORITY TO ENTER INTO AGREEMENTS WITH VARIOUS ENTITIES TO CONSTRUCT, OPERATE, AND MAINTAIN HIGHWAY FACILITIES, THE PROJECTS THAT MAY BE CONSTRUCTED WITH TOLL REVENUES, THE IMPOSITION AND COLLECTION OF A TOLL ALONG INTERSTATE 73, THE PENALTY FOR FAILURE TO PAY A TOLL, AND THE COLLECTION OF TOLLS.

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

H. 4732 -- Reps. Barfield, Viers, Simrill, G. R. Smith, Harrison, Bedingfield, Cato, Clemmons, Hamilton, Hardwick, Harrell, T. R. Young, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Battle, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Chalk, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gunn, 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, Mack, 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, Skelton, D. C. Smith, G. M. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie and A. D. Young: A CONCURRENT RESOLUTION TO RECOGNIZE AND COMMEND THE HONORABLE HALEY BARBOUR, GOVERNOR OF MISSISSIPPI, FOR HIS MANY YEARS OF PUBLIC SERVICE TO THE PEOPLE OF THE UNITED STATES, AND TO EXTEND TO HIM A CORDIAL WELCOME TO THE PALMETTO STATE ON MONDAY, MARCH 15, 2010.

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

**Expression of Personal Interest**

Senator FAIR rose for an Expression of Personal Interest.

Senators THOMAS, VERDIN and SHANE MARTIN joined Senator FAIR at the podium as the Senate was informed about Senator ANDERSON having received the A. J. Whittenberg Strength in Unity Award for Senator ANDERSON’s work on behalf of the Upstate and the State of South Carolina.

**Message from the House**

Columbia, S.C., March 10, 2010

Mr. President and Senators:

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

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.

and has ordered the Joint Resolution enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., March 11, 2010

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has returned the following Bill to the Senate with amendments:

S. 1096 -- Senators McConnell, Alexander, Rankin, Hutto, Matthews, Leatherman, Land, Hayes, Anderson, Scott, Coleman, O’Dell, Nicholson, Setzler, Cleary, Courson, Verdin, L. Martin, Knotts, Lourie, Sheheen, Mulvaney, Campbell, S. Martin, Massey, Grooms, Davis, Shoopman, Thomas, Ford, Elliott and Rose: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 58‑37‑50, SO AS TO AUTHORIZE ELECTRICITY PROVIDERS AND NATURAL GAS PROVIDERS TO IMPLEMENT FINANCING AGREEMENTS FOR THE INSTALLATION OF ENERGY EFFICIENCY AND CONSERVATION IMPROVEMENTS, TO PROVIDE FOR THE RECOVERY OF THE FINANCING THROUGH CHARGES PAID FOR BY THE CUSTOMERS BENEFITTING FROM THE INSTALLATION OF THE ENERGY EFFICIENCY AND CONSERVATION MEASURES; TO PROTECT THE ENTITIES FROM LIABILITY FOR THE INSTALLATION, OPERATION, AND MAINTENANCE OF THE MEASURES; TO PROVIDE FOR THE INSTALLATION OF ENERGY EFFICIENCY AND CONSERVATION MEASURES IN RENTAL PROPERTIES; AND TO PROVIDE A MECHANISM FOR RECOVERY OF THE COSTS OF THE MEASURES INSTALLED IN RENTAL PROPERTIES; TO AMEND SECTION 8‑21‑310, SO AS TO ALLOW CLERKS OF COURT AND REGISTERS OF DEEDS TO CHARGE A FEE FOR FILING A NOTICE OF METER CONSERVATION CHARGE; AND TO AMEND SECTION 27-50-40, SO AS TO REQUIRE THE DISCLOSURE OF A METER CONSERVATION CHARGE BY SELLERS OF REAL PROPERTY.

Respectfully submitted,

Speaker of the House

Received as Information

The Bill was ordered placed on the Calendar for consideration tomorrow.

**PRESIDENT *Pro Tempore* PRESIDES**

At 11:27 A.M., Senator McCONNELL assumed the Chair.

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

**THIRD READING BILLS**

The following Bills were read the third time and ordered sent to the House of Representatives:

S. 332 -- Senator Leventis: A BILL TO AMEND SECTIONS 6‑1‑530 AND 6‑1‑730, BOTH AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO USES ALLOWED FOR THE REVENUE OF THE LOCAL ACCOMMODATIONS AND LOCAL HOSPITALITY TAX, SO AS TO INCREASE FROM TWENTY TO FIFTY PERCENT, IN COUNTIES IN WHICH LESS THAN NINE HUNDRED THOUSAND DOLLARS IN STATE ACCOMMODATIONS TAX IS COLLECTED ANNUALLY, THE AMOUNT OF THE REVENUE OF THE LOCAL TAXES THAT MAY BE USED FOR OPERATIONS AND MAINTENANCE.

Senator LEVENTIS explained the Bill.

**S. 332--Recorded Vote**

Senator McCONNELL desired to be recorded as voting against the third reading of the Bill.

**S. 332--Recorded Vote**

Senator BRYANT desired to be recorded as voting in favor of the third reading of the Bill.

S. 1137 -- Senators Fair and L. Martin: A BILL TO AMEND SECTION 44‑53‑398, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MONITORING THE SALE OF PRODUCTS CONTAINING EPHEDRINE OR PSEUDOEPHEDRINE, SO AS TO ALSO MONITOR PHENYLPROPANOLAMINE AND THE SALE AND PURCHASE OF THESE PRODUCTS, TO MAKE IT ILLEGAL TO PURCHASE THESE PRODUCTS, TO PROVIDE THAT INFORMATION GATHERED FROM THE PURCHASER AT THE TIME OF THE SALE OF THESE PRODUCTS MUST BE ENTERED IN AN ELECTRONIC LOG, RATHER THAN A WRITTEN LOG, TO PROVIDE THAT THE INFORMATION MUST BE TRANSMITTED TO A CENTRAL DATA COLLECTION SYSTEM THAT WILL SUBMIT THIS INFORMATION TO SLED WHICH WILL MAINTAIN THIS INFORMATION TO ASSIST LAW ENFORCEMENT IN MONITORING THESE SALES AND PURCHASES, AND TO PROVIDE THAT A RETAILER OF THESE PRODUCTS MAY APPLY TO THE BOARD OF PHARMACY FOR AN EXEMPTION FROM THE ELECTRONIC LOG REQUIREMENT; AND BY ADDING CHAPTER 14 TO TITLE 23 SO AS TO PROVIDE THAT THE STATE LAW ENFORCEMENT DIVISION SHALL SERVE AS THE REPOSITORY FOR INFORMATION THE CENTRAL DATA COLLECTION GATHERS AND TRANSFERS TO SLED PERTAINING TO THE SALE AND PURCHASE OF PRODUCTS CONTAINING EPHEDRINE, PSEUDOEPHEDRINE, AND PHENYLPROPANOLAMINE.

**S. 1137--Recorded Vote**

Senators RYBERG and BRYANT desired to be recorded as voting in favor of the third reading of the Bill.

**AMENDED, READ THE THIRD TIME**

**RETURNED TO THE HOUSE AS AMENDED**

H. 3707 -- Reps. T.R. Young, Cato, Cobb‑Hunter, Toole, Ott, Cooper, Gambrell, Bowen, Agnew, McLeod, J.H. Neal, Gunn, Hayes, Stewart, Thompson, White, Duncan, D.C. Moss, H.B. Brown, Knight, Frye, Spires, Neilson, Vick, Hutto, Sellers and Rice: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 39‑41‑235 SO AS TO REQUIRE MOTOR FUEL TERMINALS TO OFFER FOR SALE PRODUCTS THAT ARE SUITABLE FOR SUBSEQUENT BLENDING EITHER WITH ETHANOL OR BIODIESEL; TO PROHIBIT A PERSON OR ENTITY FROM TAKING AN ACTION TO DENY A MOTOR FUEL DISTRIBUTOR OR RETAILER FROM BEING THE BLENDER OF RECORD; TO REQUIRE MOTOR FUEL DISTRIBUTORS, RETAILERS, AND REFINERS TO UTILIZE THE RENEWABLE IDENTIFICATION NUMBER; AND TO DECLARE VIOLATIONS AN UNFAIR TRADE PRACTICE.

Senator VERDIN 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 third reading of the Bill.

**Motion Under Rule 26B**

Senator VERDIN asked unanimous consent to make a motion to take up a further amendment pursuant to the provisions of Rule 26B.

There was no objection.

Senators McCONNELL, MALLOY, VERDIN, CAMPBELL, SETZLER and BRIGHT proposed the following amendment (3707R010.GFM), which was adopted:

Amend the bill, as and if amended, page 2, by striking line 40 and inserting:

/ gasoline blending stock, or diesel pursuant to this section. An entity that does not blend the product at issue has no duty with respect to blending and shall not be liable for fines, penalties, injuries, or damages arising out of blending that does not meet those standards.

(H) An entity that purchases an unblended product and subsequently blends that product with ethanol or biodiesel shall provide notice to the purchasing entity’s consumers, at the pump or another prominent location near the pump, identifying the entity that performed the blending.” /

Renumber sections to conform.

Amend title to conform.

Senator VERDIN explained the amendment.

The amendment was adopted.

There being no further amendments, the Bill was read the third time, passed and ordered returned to the House of Representatives with amendments.

**SECOND READING BILLS**

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

S. 1204 -- Senator Leatherman: A BILL TO AMEND SECTION 48‑5‑50 OF THE 1976 CODE, RELATING TO USES OF THE CLEAN WATER FUND, TO ALLOW ANY USE PRESCRIBED BY ANY FEDERAL LAW GOVERNING OR APPROPRIATING FUNDS FOR THE CLEAN WATER FUND; AND TO AMEND SECTION 48‑5‑55, RELATING TO USES OF THE DRINKING WATER FUND, TO ALLOW ANY USE PRESCRIBED BY ANY FEDERAL LAW GOVERNING OR APPROPRIATING FUNDS FOR THE DRINKING WATER FUND.

H. 4635 -- Rep. Sellers: A BILL TO AUTHORIZE THE CITY OF BAMBERG TO ADD TWO ADDITIONAL COMMISSIONERS TO THE BOARD OF COMMISSIONERS OF PUBLIC WORKS OF THE CITY OF BAMBERG.

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

There was no objection.

The Bill was read the second time and ordered placed on the third reading Local and Uncontested Calendar.

H. 4684 -- Rep. Anthony: A BILL TO AMEND ACT 848 OF 1946, AS AMENDED, RELATING TO THE CREATION OF THE UNION HOSPITAL DISTRICT, SO AS TO ADD THREE ADVISORY MEMBERS TO THE DISTRICT’S BOARD OF TRUSTEES, AND TO DELETE PROVISIONS MAKING THE UNION COUNTY TREASURER THE BOARD’S TREASURER, PROHIBITING A TRUSTEE FROM RECEIVING COMPENSATION, ALLOWING REIMBURSEMENT TO A TRUSTEE FOR ACTUAL CASH EXPENDITURES MADE BY HIM AS A TRUSTEE, AND CONCERNING A SEAL AND CERTAIN OFFICE PROCEDURES OF THE DISTRICT.

Senator SHANE MARTIN 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.

On motion of Senator SHANE MARTIN, the Bill was read the second time, passed and ordered to a third reading.

**H. 4684--Ordered to a Third Reading**

On motion of Senator SHANE MARTIN, H. 4684 was ordered to receive a third reading on Friday, March 12, 2010.

**COMMITTEE AMENDMENT AMENDED AND ADOPTED**

**READ THE SECOND TIME**

S. 452 -- Senators Campbell, Leatherman, Reese, Shoopman, Williams, Mulvaney, Pinckney, O’Dell, Ford, Knotts, Bryant, Land, Grooms, Hutto, Fair, Peeler, Sheheen, Ryberg, Massey, Elliott, Alexander, McGill, Bright, L. Martin, Matthews, Setzler and Rose: A BILL TO AMEND CHAPTER 4, TITLE 49 OF THE 1976 CODE, RELATING TO THE SOUTH CAROLINA SURFACE WATER WITHDRAWAL AND REPORTING ACT, TO PROVIDE THAT SUBJECT TO CERTAIN EXCEPTIONS, SURFACE WATER WITHDRAWALS MUST BE MADE PURSUANT TO A PERMIT, TO PROVIDE FOR COMPLETE EXEMPTIONS FROM THE PERMITTING REQUIREMENT, TO PROVIDE THAT REGISTERED SURFACE WATER WITHDRAWERS MAY WITHDRAW SURFACE WATER WITHOUT A PERMIT BUT SUBJECT TO CERTAIN RESTRICTIONS, TO PROVIDE FOR NONCONSUMPTIVE SURFACE WATER WITHDRAWAL PERMITS, TO PROVIDE FOR AN APPLICATION PROCEDURE FOR SURFACE WATER WITHDRAWERS THAT OWN AND OPERATE A LICENSED IMPOUNDMENT OR NEW SURFACE WATER WITHDRAWERS THAT WITHDRAW WATER FROM A LICENSED IMPOUNDMENT, TO PROVIDE FOR REPORTS TO THE DEPARTMENT OF NATURAL RESOURCES FROM PERMITTED AND REGISTERED WATER WITHDRAWERS AND THE CONTENTS OF THOSE REPORTS, TO PROVIDE THAT REGISTERED AND EXEMPT SURFACE WATER WITHDRAWERS MAY APPLY FOR A SURFACE WATER WITHDRAWAL PERMIT, TO AUTHORIZE NONRIPARIAN USE OF SURFACE WATER, TO PROVIDE FOR A PERMITTING PROCESS FOR NEW SURFACE WATER WITHDRAWERS, TO PROVIDE FOR THE CONTENTS OF THE APPLICATION, TO PROVIDE FOR THE DEPARTMENT’S DETERMINATION CONCERNING THE PERMIT, TO PROVIDE FOR PUBLIC HEARINGS CONCERNING NEW PERMIT APPLICATIONS FOR INTERBASIN TRANSFERS, TO PROVIDE FOR THE CONTENTS OF ISSUED PERMITS AND THE RIGHTS CONFERRED BY A PERMIT, TO PROVIDE FOR CIRCUMSTANCES UNDER WHICH A PERMIT MAY BE MODIFIED, SUSPENDED, OR REVOKED, TO PROVIDE FOR NOTICE TO THE DEPARTMENT CONCERNING CERTAIN NEW WATER INTAKES, TO PROVIDE FOR TEMPORARY PERMITS, TO PROVIDE AUTHORIZED WITHDRAWAL AMOUNTS, TO PROVIDE FOR OPERATIONAL AND CONTINGENCY PLANS, TO PROVIDE FOR POWERS AND DUTIES OF THE DEPARTMENT OF NATURAL RESOURCES CONCERNING IMPLEMENTATION OF THE CHAPTER, TO PROVIDE APPROPRIATE PENALTIES FOR VIOLATIONS, TO PROVIDE FOR PERMIT APPLICATION FEES; AND TO REPEAL CHAPTER 21, TITLE 49, RELATING TO THE INTERBASIN TRANSFER OF WATER, TO PROVIDE THAT CHAPTER 1, TITLE 49, RELATING TO GENERAL PROVISIONS CONCERNING WATER, WATER RESOURCES, AND DRAINAGE IS NOT AFFECTED BY AND SUPERCEDED BY CHAPTER 4, TITLE 49 AND TO PROVIDE APPROPRIATE DEFINITIONS.

Senator VERDIN 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 adoption of the amendment proposed by the Committee on Agriculture and Natural Resources.

Senators CAMPSEN, CAMPBELL, ELLIOTT and SHEHEEN proposed the following amendment (452R004.PGC), which was adopted:

Amend the committee amendment, as and if amended, page [452-4], by striking lines 1 - 11 and inserting:

/ March, and April; thirty percent of the mean annual daily flow for the months of May, June, and December; and twenty percent of the mean annual daily flow for the months of July through November for surface water withdrawers as described in Section 49-4-150(A)(1). For surface water withdrawal points located on a surface water segment downstream of and influenced by a licensed or otherwise flow controlled impoundment, ‘minimum instream flow’ means the flow that provides an adequate supply of water at the surface water withdrawal point to maintain the biological, chemical, and physical integrity of the stream taking into account the needs of downstream users, recreation, and navigation and that flow is set in Section 49‑4‑150(A)(3). /

Amend the committee amendment further, as and if amended, page [452-6], by striking lines 24 - 27 and inserting:

/ (4) a person withdrawing surface water from any pond completely situated ~~in~~ on private property and which is supplied only by diffuse surface water springs completely situated on the private property or groundwater withdrawals; /

Amend the committee amendment further, as and if amended, page [452-13], by striking lines 17 - 18 and inserting:

/ water use. In making the safe yield determination, the department, in consultation with the Department of Natural Resources, may perform stream flow modeling. /

Amend the committee amendment further, as and if amended, page [452-17], by striking lines 6 - 8 and inserting:

/ (3) any additional period necessary, not to exceed a total of fifty years, for a municipality or other governmental body to retire a bond it issued to finance the construction of waterworks. /

Amend the committee amendment further, as and if amended, pages [452-18 through 452-21], by striking Section 49‑4‑150(A) in its entirety and inserting:

/ Section 49‑4‑150. (A)(1)(a) For new surface water withdrawers located on a stream segment not influenced by a licensed or otherwise flow controlled impoundment, the surface water withdrawal permit authorizes withdrawals up to the permitted amount pursuant to this chapter’s definition of minimum instream flow subject to the provisions contained in subsection (A)(1)(b).

(b) Anytime the flow at the point of the permitted withdrawal is less than or equal to the minimum instream flow and taking into consideration natural and artificial replenishment of the surface water and existing or planned consumptive and nonconsumptive uses affected by the withdrawal downstream, the permitted surface water withdrawer must implement applicable portions of his water contingency plan and will discontinue consumptive use from the surface water source. If after all reasonable contingency plans have been implemented, and the surface water withdrawer is within fifteen days of exhausting the usable water supply from his supplemental water source, he may then give notice to the department that he is exhausting his supplemental water sources and that he intends to return to the withdrawal source in amounts up to his permitted amount. Upon receiving notice, the department must determine whether all or any portion of the withdrawal will result in a significant negative impact to an existing user or the environment if the permitted withdrawals are resumed. If the department does not make its determination within ten days of receipt of notice, the permittee may make withdrawals up to the permitted amount until the department notifies the permittee whether all or any portion of the withdrawal will result in a significant negative impact to an existing user or the environment during this low flow period.

(2)(a) The permitted surface water withdrawer may withdraw water from the permitted surface withdrawal point in order to refill his supplemental water source, or other drought contingency water supply vessels, anytime the river flow exceeds the minimum instream flow.

(b) The permitted surface water withdrawer utilizing a drought contingency pond as all or some of his supplemental water source may withdraw the entire volume of water from the pond during low flow periods requiring supplemental water source usage. Water withdrawn from drought contingency ponds are not subject to environmental and permitting restrictions.

(c) New surface water withdrawers are not required to engineer the supplemental water source identified in their contingency plan any larger than the quantity that allows for facility operations during twenty percent mean annual daily flow conditions, based upon a review of historical low flow data and projected facility consumptive water uses during low flow periods. A new surface water withdrawer may not return to the withdrawal source when his supplemental water source is exhausted unless he engineered his supplemental water source to meet the specifications of this subsection.

(3) For surface water withdrawal points located on a surface water segment downstream of and influenced by a licensed or otherwise flow controlled impoundment, the minimum instream flow shall be the flow specified in the license by the appropriate government agency. Surface water withdrawal points downstream of a licensed or otherwise flow controlled impoundment are considered to be influenced by the impoundment unless it can be demonstrated by the department through flow modeling and analysis of flow data that the withdrawal point is no longer materially influenced by the impoundment. The minimum instream flow set in this item does not apply to withdrawal points located downstream of an impoundment that are beyond the influence of the impoundment. (4) When a surface water withdrawal point is located on a licensed or otherwise flow controlled impoundment, a withdrawal permit may not authorize the withdrawal of surface water in an amount that would cause a reservoir:

(a) water level to drop below its minimum water level; or

(b) to be unable to release the lowest minimum flow specified in the license for that impoundment as issued by the appropriate government agency.

(5) When a surface water withdrawal point is located on an impoundment that serves as a water supply for a federally licensed facility that is also an existing surface water withdrawer, a withdrawal permit may not authorize any new surface water withdrawer to withdraw surface water in an amount that would negatively impact the continued operations of the federally licensed facility. The requirements contained in this item do not apply to an expansion or addition of units at a federally licensed facility.

(6) The requirements of items (1) through (4) do not apply to public water suppliers. Public water suppliers are required to implement their contingency plan measures, applicable to their service territory, commensurate with the drought level declared by the State Drought Response Committee and in accordance with any drought response plan required by the owner of a licensed impoundment. /

Renumber sections to conform.

Amend title to conform.

Senator CAMPSEN explained the perfecting amendment.

Senator CAMPBELL spoke on the perfecting amendment.

The perfecting amendment was adopted.

Senator VERDIN spoke on the Bill.

The Committee on Agriculture and Natural Resources proposed the following amendment (452R003.PGC), which was adopted:

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

/ SECTION 1. Chapter 4, Title 49 of the 1976 Code is amended to read:

“CHAPTER 4

SOUTH CAROLINA SURFACE WATER WITHDRAWAL, PERMITTING, USE, AND REPORTING ACT

Section 49‑4‑10. This chapter may be cited as the South Carolina Surface Water Withdrawal, Permitting, Use, and Reporting Act.

Section 49‑4‑20. As used in this chapter:

(1) ~~‘Board’ means the Board of the Department of Health and Environmental Control.~~ ‘Affected area’ means that portion of a county or counties within a river basin that, under the circumstances, are determined by the department to likely be affected by a proposed surface water withdrawal.

(2) ‘Agriculture facility’ means any land, building, structure, pond, impoundment, appurtenance, machinery, or equipment which is used for the commercial production or processing of crops, trees, livestock, animals, poultry, honeybees, honeybee products, livestock products, poultry products, or products which are used in commercial aquaculture.

(3) ‘Agricultural use’ means:

(a) plowing, tilling, or preparing the soil at an agricultural facility;

(b) planting, growing, fertilizing, or harvesting crops, ornamental horticulture, floriculture, and turf grasses;

(c) application of pesticides, herbicides, or other chemicals, compounds, or substances to crops, weeds, or soil in connection with the production of crops, livestock, animals, or poultry;

(d) breeding, hatching, raising, producing, feeding, keeping, slaughtering, or processing livestock, hogs, aquatic animals, equines, chickens, turkeys, poultry, or other fowl normally raised for food, mules, cattle, sheep, goats, rabbits, or similar farm animals for commercial purposes;

(e) producing and keeping honeybees, producing honeybee products, and honeybee processing facilities;

(f) producing, processing, or packaging eggs or egg products;

(g) manufacturing feed for poultry or livestock;

(h) rotation of crops;

(i) commercial aquaculture;

(j) application of existing, changed, or new technology, practices, processes, or procedures to an agricultural use;

(k) the operation of a roadside market; and

(l) silviculture.

(4) ‘Consumptive use’ means any use of water which is not a nonconsumptive use.

~~(2)~~(5) ‘Department’ means the Department of Health and Environmental Control.

~~(3)~~ ~~‘Dewatering operations’ means an operation that is withdrawing surface water for the purpose of draining an excavation or preventing or retarding flow into an excavation. Such an operation would include, but is not limited to, water and sewer line construction and excavating for a building foundation.~~

~~(4)~~(6) ‘Diffuse surface water’ means water on the surface of the earth not located in defined courses, streams, or water bodies.

(7) ‘ Drought contingency pond’ means a pond or lake designated solely as a supplemental water source in a surface water withdrawer’s operational and contingency plan.

~~(5)~~(8) ‘Emergency withdrawal’ means the withdrawal of water, for a period not exceeding thirty days, for the purpose of firefighting, hazardous substance waste spill response, or both, or other emergency withdrawal of water as determined by the department.

~~(6)~~(9) ‘Existing surface water withdrawer’ means a surface water withdrawer withdrawing surface water as of the effective date of this chapter or a proposed surface water withdrawer with its intakes under construction before ~~January 1, 2000~~ the effective date of this chapter or with all necessary applications for its intake permits deemed administratively complete before January first of the year of the effective date of this act.

~~(7)~~ ~~‘New surface water withdrawer’ means a person who becomes a surface water withdrawer after December 31, 1999.~~

(10) ‘Farm pond’ means a pond completely situated on private property that is only used for providing water for agricultural uses.

(11) ‘Impoundment’ means a dam, dike, natural structure, or any combination thereof that is designed to hold an accumulation of surface water or impede the flow of surface water.

(12) ‘Interbasin transfer’ means the withdrawal of surface water from a river basin and the movement of that water to a river basin different from the source of the withdrawal.

(13) ‘Minimal changes in water quantity’ means that greater than ninety percent of the water withdrawn by a surface water withdrawer, based upon the previous twenty‑four months of historical data, is returned to the waters of origin; provided, that either the amount of water not returned to the water source does not:

(a) exceed three million gallons during any one month; or

(b) significantly reduce the safe yield at the withdrawal point.

(14) ‘Minimum instream flow’ means the flow that provides an adequate supply of water at the surface water withdrawal point to maintain the biological, chemical, and physical integrity of the stream taking into account the needs of downstream users, recreation, and navigation and that flow is set at forty percent of the mean annual daily flow for the months of January, February, March, and April; thirty percent of the mean annual daily flow for the months of May, June, and December; and twenty percent of the mean annual daily flow for the months of July through November. For surface water withdrawal points located on a surface water segment downstream of and influenced by a licensed or otherwise flow controlled impoundment ‘minimum instream flow’ means the flow that provides an adequate supply of water at the surface water withdrawal point to maintain the biological, chemical, and physical integrity of the stream taking into account the needs of downstream users, recreation, and navigation and that flow is set in Section 49‑4‑150(A)(2).

(15) ‘Minimum water level’ means the water level in an impoundment necessary to maintain the biological, chemical, and physical integrity of the surface water in the impoundment taking into account downstream uses, withdrawals from the impoundment, and recreational and navigational needs as established by an existing federal regulatory process or established through consultation between the department and the operator of the impoundment.

(16) ‘Nonconsumptive use’ means a use of surface water withdrawn in such a manner that it is returned to its waters of origin within the boundaries of contiguous property owned by the surface water withdrawer with no or minimal changes in water quantity.

(17) ‘Permit’ or ‘surface water withdrawal permit’ means a written authorization issued to a person by the department that allows the person to hold and exercise a water right to withdraw surface water pursuant to the terms of the permit and this chapter.

(18) ‘Permitted surface water withdrawer’ means a person withdrawing surface water pursuant to a surface water withdrawal permit.

(19) ‘Permittee’ means a person authorized to make withdrawals of surface water pursuant to a surface water withdrawal permit issued by the department.

~~(8)~~(20) ‘Person’ means an individual, firm, partnership, trust, estate, association, public or private institution, municipality, or political subdivision, governmental agency, public water system, or a private or public corporation or other legal entity organized under the laws of this State or any other state or county.

(21) ‘Proposed registered surface water withdrawer’ means a proposed surface water withdrawer whose planned operations would result in his withdrawals being subject to the reporting but not the permitting requirements of this chapter.

~~(9)~~(22) ‘Public water system’ means a water system as defined in Section 44‑55‑20 of the State Safe Drinking Water Act.

(23) ‘Registered surface water withdrawer’ means a person who makes surface water withdrawals for agricultural uses at an agricultural facility that is filing a report pursuant to Section 49‑4‑50.

(24) ‘River basin’ means the area drained by a river and its tributaries or through a specified point on a river, as determined in Section 49‑4‑80(K)(2).

(25) ‘Safe yield’ means the amount of water available for withdrawal from a particular surface water source in excess of the minimum instream flow or minimum water level for that surface water source. Safe yield is determined by comparing the natural and artificial replenishment of the surface water to the existing or planned consumptive and nonconsumptive uses.

(26) ‘Supplemental water source’ means a source of water different from the source of permitted withdrawal that will be used when an adequate amount of water is unavailable for withdrawal from the permitted source, including, but not limited to, ground water wells, aquifer storage and recovery projects, water storage facilities, drought contingency ponds, and connections to other water providers.

~~(10)~~(27) ‘Surface water’ means all water that is wholly or partially within the State, including the Savannah River, or within its jurisdiction, which is open to the atmosphere and subject to surface runoff ~~which includes lakes, streams, ponds, and reservoirs~~, including, but not limited to, lakes, streams, ponds, rivers, creeks, runs, springs, and reservoirs, but not including water and wastewater treatment impoundments, off‑stream supplemental operations related impoundments, or water storage structures constructed by the surface water withdrawer to provide adequate supplies of surface water during low flow conditions.

~~(11)~~(28) ‘Surface water withdrawer’ means a ~~public water system withdrawing surface water in excess of three million gallons during any one month and any other~~ person withdrawing surface water in excess of three million gallons during any one month from a single intake or multiple intakes under common ownership within a one mile radius from any one existing or proposed intake.

(29) ‘Withdrawal’ means to remove surface water from its natural course or location, or exercising physical control over surface water in its natural course or location, regardless of whether the water is returned to its waters of origin, consumed, transferred to another river basin, or discharged elsewhere.

Section 49‑4‑25. Except as provided in Sections 49‑4‑30, 49‑4‑35, 49‑4‑40, and 49‑4‑45, all surface water withdrawals by a surface water withdrawer are unlawful unless made pursuant to a surface water withdrawal permit issued pursuant to this chapter. The department may not issue a permit to a new applicant unless the department determines that the applicant’s proposed use is reasonable pursuant to this chapter.

Section 49‑4‑30. (A) ~~The~~ Surface water withdrawals for the following purposes are exempt from the permitting, registering, and reporting requirements provided for in this chapter:

(1) ~~dewatering operations~~ withdrawals associated with active instream dredging or sand mining operations or other nonconsumptive instream mining operations undertaken pursuant to the South Carolina Mining Act;

(2) emergency withdrawals;

(3) ~~a person withdrawing surface water for environmental remediation purposes~~ agricultural uses from farm ponds:

(a) owned or leased by the person making the withdrawal; or

(b) situated on two or more separately owned parcels of private property if each property owner agrees to the withdrawal;

(4) a person withdrawing surface water from any pond completely situated ~~in~~ on private property and which is supplied only by diffuse surface water or springs completely situated on the private property;

(5) ~~a person required to obtain a permit under the Interbasin Transfer of Water Act, Section 49‑21‑10, et seq.;~~ naturally occurring evaporation from impoundments;

(6) a person withdrawing, using, or discharging surface water for the purpose of wildlife habitat management~~.~~; and

(7) a special purpose district withdrawing surface water from any pond completely situated on property owned by a special purpose district and which is supplied only by diffuse surface water or springs completely situated on the special purpose district’s property.

(B) Hydropower generation, including pumped storage, is exempt from the permitting requirements of this chapter but not the reporting requirements in Section 49‑4‑50.

Section 49‑4‑35. (A) Registered surface water withdrawers must register their surface water use with the department on forms provided by the department and are subject to only to the reporting requirements of Section 49‑4‑50. Registered surface water withdrawers are authorized to withdraw surface water up to their registered amount.

(B) An existing registered surface water withdrawer already reporting its withdrawals to the department as of the effective date of this section may maintain its withdrawals at its highest reported level and is deemed to be registered with the department.

(C) Prior to constructing or installing a water intake, a proposed registered surface water withdrawer must report its anticipated withdrawal quantity to the department for determination as to whether that quantity is within the safe yield for that water source at the time of the request. Upon making a determination, the department must send a detailed description of its determination to the proposed registered surface water withdrawer by registered mail. A proposed registered surface water withdrawer may not begin his proposed withdrawals until he notifies the department of his anticipated withdrawals and the department provides written notification to the proposed registered surface water withdrawer that authorizes him to proceed, if the anticipated withdrawals are within the safe yield at the time of the request. If the department provides a proposed registered surface water withdrawer with written notification that the anticipated withdrawals are not within the safe yield, then the proposed registered surface water withdrawer may not proceed with the construction or installation of a water intake. Proposed registered surface water withdrawers are authorized to make withdrawals up to the department approved anticipated withdrawal amounts during the first year of registration and are authorized to make withdrawals in the amounts permitted by subsection (A) during subsequent years.

(D) Registered surface water withdrawers that begin surface water withdrawal operations after the effective date of this section shall submit a registration form to the department within thirty days after completing construction of its surface water intake. An existing registered surface water withdrawer that would like to substantially increase the amount of surface water for which he is registered to withdraw must submit the anticipated amount of the increase for consideration by the department in the manner provided for in subsection (C).

(E) The department may modify the amount an existing registered surface water withdrawer may withdraw, or suspend or revoke a registered surface water withdrawer’s authority to withdraw water, if the registered surface water withdrawer withdraws substantially more surface water than he is registered for or anticipates withdrawing, as the case may be, and the withdrawals result in detrimental effects to the environment or human health.

(F) Nothing in this chapter prohibits a registered surface water user from applying for and obtaining a surface water withdrawal permit.

Section 49‑4‑40. (A) ~~An existing surface water withdrawer in the State shall register its surface water use with the department on forms provided by the department no later than January 1, 2001.~~ Upon proper application, the department shall issue a permit for surface water withdrawals to nonconsumptive users. The application must only require that information necessary for the department to determine that the proposed withdrawals will result in no or minimal changes in water quantity.

(B) ~~An existing surface water withdrawer already registered with the department is exempt from subsection (A)~~ Permits issued pursuant to this section must identify the surface water withdrawer, the point of withdrawal, the maximum withdrawal amounts, and the point of return. A permit for a nonconsumptive use is subject only to the reporting requirements of Section 49‑4‑50.

~~(C)~~ ~~A surface water withdrawer shall submit a registration form to the department within thirty days after completing construction of its surface water intake.~~

Section 49‑4‑45. (A)(1) A new surface water withdrawer that owns and operates a licensed impoundment that utilizes water withdrawn from its licensed impoundment and the withdrawals are subject to review and approval of applicable state and federal laws and regulations, including its impoundment licensing authority, shall be issued a surface water withdrawal permit upon proper application.

(2) Any other new surface water withdrawer that utilizes water withdrawn from a licensed impoundment shall be issued a surface water withdrawal permit upon proper application in accordance with the criteria contained in this chapter. If this new surface water withdrawer has been issued a license, permit, or certification through a state or federal process that reviewed criteria substantially similar to some or all of the surface water withdrawal criteria contained in this chapter, then the application for the new surface water withdrawal is only required to address the criteria not addressed when the new surface water withdrawer was issued a license, permit, or certification through a state or federal process.

(B) Permits issued pursuant to this section will be required to identify the surface water withdrawer, the point of withdrawal, and the maximum withdrawal amounts and will also require that the applicant comply with the reporting requirements of Section 49‑4‑50.

(C) Nothing in this chapter shall be construed to diminish the department’s authority to regulate facilities under any other applicable laws.

Section 49‑4‑50. (A) ~~A~~ Each permitted or registered surface water ~~user in the State shall file annually before January thirty~~ withdrawer must file a report with the department ~~a report~~ of the quantity of water withdrawn by that surface water withdrawer annually before February first, on forms furnished by the department~~, of the quantity of water withdrawn~~.

(B) The quantity of surface water withdrawn must be determined by one of the following:

(1) flow meters accurate to within ten percent of calibration;

(2) the rated capacity of the pump in conjunction with the use of an hour meter, electric meter, or log;

(3) the rated capacity of the cooling systems;

(4) any standard or method employed by the United States Geological Survey in determining these quantities;

(5) any other method found to provide reliable water withdrawal data approved by the department.

(C) ~~The~~ Permitted and registered surface water ~~withdrawer is not~~ withdrawers who are required to ~~submit the~~ file a surface water withdrawal report ~~required by~~ subsection (A) are not required to submit the report if the monthly quantity withdrawn from each intake is being reported to the department as a result of another environmental program reporting requirement, permit condition, or consent agreement.

Section 49‑4‑55. (A) A registered surface water withdrawer is not prohibited from applying for a surface water withdrawal permit. The permit application must be considered using the criteria established in the section establishing the permit for which the registered surface water withdrawer is applying. A registered surface water withdrawer that obtains a surface water withdrawal permit must abide by all of the terms of this chapter related to permit holders and is entitled to all of the rights conferred by a permit.

(B) An exempt surface water withdrawer is not prohibited from applying for a surface water withdrawal permit or from registering its use. An exempt surface water withdrawer’s application for a permit must be considered using the criteria established in the section establishing the permit for which the registered surface water withdrawer is applying. An exempt surface water withdrawer that obtains a permit or registers its use is entitled to all of the rights conferred upon by a permit or a registered surface water withdrawer, as the case may be.

Section 49‑4‑60. ~~The department may:~~

~~(1)~~ ~~adopt and modify regulations to implement the provisions of this chapter;~~

~~(2)~~ ~~perform acts and issue orders as necessary to carry out the purposes and requirements of this chapter;~~

~~(3)~~ ~~administer and enforce this chapter and regulations promulgated and orders issued or effective under this chapter; and~~

~~(4)~~ ~~present proper identification and then enter upon any land or water for the purpose of conducting an investigation, examination, or survey contemplated by this chapter.~~

The use of surface water on nonriparian land authorized pursuant to this chapter is lawful and is entitled to equal consideration with uses on riparian land in any administrative or judicial proceeding relating to the allocation, withdrawal, or use of water or to the modification of a water right. Nothing in this chapter may be construed to authorize access to waters of the State by a person seeking to make a nonriparian use apart from access otherwise lawfully available to that person.

Section 49‑4‑70. ~~A registered surface water withdrawer shall notify the department in writing within thirty days of constructing a new intake changing the method of measuring the withdrawal, ceasing to withdraw surface water, abandoning an intake, or a change in ownership.~~ (A) After the effective date of regulations promulgated by the department pursuant to this chapter, a new surface water withdrawer must obtain a surface water withdrawal permit from the department before making surface water withdrawal. A permitted surface water withdrawer that would like to increase its permitted withdrawal amount must apply to the department for the increased amount.

(B)(1) An existing surface water withdrawer must apply for a permit pursuant to this chapter within one hundred eighty days of the effective date of regulations promulgated by the department pursuant to this chapter. An existing surface water withdrawer that applies for a permit must be issued an initial permit but the initial permit and subsequent renewals are not subject to the permitting criteria in Section 49‑4‑80 and are not subject to Section 49‑4‑150. The initial permit must authorize the existing surface water withdrawer to withdraw surface water in an amount equal to its documented historical water use, current permitted treatment capacity, design capacity of the intake structure as of the effective date of this chapter, design capacity of a pending intake structure permit application, an amount necessary to recover indebtedness from an outstanding bond or revenue certificate issued through the sale of surface water, or for a publicly owned water utility, the safe yield of the utility’s existing or permitted water supply only reservoir, whichever is greatest. An existing surface water withdrawer that applies for an initial permit may continue to withdraw surface water at its documented levels from the effective date of this act until its initial permit is issued pursuant to this section, unless the applicant requests a lesser quantity.

(2) For an existing surface water withdrawer, the operational and contingency plan required under Section 49‑4‑160 will only address appropriate industry standards for water conservation.

(3) An existing surface water withdrawer may request that its initial permit allow the surface water withdrawer to withdraw a reasonable amount in excess of the amount provided for in item (1). The department must use the criteria established in Section 49‑4‑80 to make its determination concerning approval of the quantity requested in excess of the quantity provided for in item (1). However, any increase requested by a surface water withdrawer issued a permit pursuant to Section 49‑4‑40 or Section 49‑4‑45 shall be subject only to the requirements contained in the applicable section.

(C) The expiration date of an interbasin transfer permit or an interbasin registration, including any water withdrawal right or authority contained in the permit or registration, in existence on the effective date of this chapter remains effective. For the purposes of this chapter, existing interbasin transfer permit or interbasin registration holders are deemed to be existing surface water withdrawers. A renewal of an interbasin transfer permit or registration must be made pursuant to the criteria established in this chapter for existing surface water withdrawers, except that permits or registrations renewed within three years after the effective date of this chapter must be renewed for a quantity at least equal to the permitted quantity in the expired permit. All other renewals must be issued in accordance with the criterion applicable to existing surface water withdrawers and for a quantity equal to the permitted quantity in the expired permit, unless the department demonstrates that the quantity above maximum withdrawals during the permit term are not necessary to meet the permittee’s future need.

Section 49‑4‑80. (A) ~~A person wilfully violating a provision of this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars a day for each violation.~~ An application for a surface water withdrawal permit must contain the following information:

(1) the name and address of the applicant;

(2) the location of the applicant’s intake facilities;

(3) the place and nature of the proposed use of the surface water withdrawn;

(4) the quantity of surface water requested and for the applicant’s proposed use; and

(5) the estimated ratio between water withdrawn and consumptive use of water withdrawn.

(B) ~~A violation of a provision of this chapter or a regulation promulgated under the authority of this chapter, renders the violator liable to the State for a civil penalty of not more than one thousand dollars a day for each violation.~~ To determine whether an applicant’s proposed use is reasonable, the department must consider the following criteria:

(1) the minimum instream flow or minimum water level and the safe yield for the surface water source at the location of the proposed surface water withdrawal;

(2) the anticipated effect of the applicant’s proposed use on existing users of the same surface water source including, but not limited to, present agricultural, municipal, industrial, electrical generation, and instream users;

(3) the reasonably foreseeable future need for the surface water including, but not limited to, reasonably foreseeable agricultural, municipal, industrial, electrical generation, and instream uses;

(4) whether it is reasonably foreseeable that the applicant’s proposed withdrawals would result in a significant, detrimental impact on navigation, fish and wildlife habitat, or recreation;

(5) the applicant’s reasonably foreseeable future water needs from that surface water;

(6) the beneficial impact on the State and its political subdivisions from a proposed withdrawal;

(7) the impact of applicable industry standards on the efficient use of water, if followed by the applicant;

(8) the anticipated effect of the applicant’s proposed use on the following if the permit is granted:

(a) interstate and intrastate water use;

(b) public health and welfare;

(c) economic development and the economy of the State; and

(d) applicable federal laws and interstate agreements and compacts; and

(9) any other reasonable criteria that the department promulgates by regulation that it considers necessary to make a final determination.

(C) ~~The department may administer penalties as otherwise provided herein for a violation of this chapter, an order, regulation, or standard or may request the Attorney General to commence an action under this subsection in an appropriate court of the State to secure a penalty~~ The department shall determine the safe yield of the surface water source and the volume of supplemental water supply, if needed, necessary to sustain the applicant’s proposed water use. In making the safe yield determination, the department may perform hydraulic stream modeling.

(D) The department must determine the minimum instream flow requirement for the surface water body at the point of the proposed withdrawal.

(E) The department must consult with the Department of Natural Resources to determine which, if any, existing stream flow measuring devices should be utilized to quantify the stream flow at the point of the proposed withdrawal. If no existing measuring device is suitable, the Department of Natural Resources will recommend the location of a new measuring device.

(F) The department must consult with the Department of Natural Resources to quantify the stream flow measured at the specified measuring device that will require a reduction in the applicant’s water withdrawal because of inadequate stream flow at the point of withdrawal.

(G) The department shall develop a mechanism for notifying the applicant that its withdrawal must be reduced because of inadequate stream flow at the point of the proposed withdrawal.

(H) The department must share all findings of subsections (C) through (G) with the applicant.

(I) If the department determines that a supplemental water supply is required, the applicant must demonstrate that the supplemental water supply will be comprised of sources other than the surface water source from which the surface water withdrawals are made during non‑low flow conditions. This section does not prevent a licensee from replenishing his supplemental water supply from the source of the surface water withdrawal during appropriate flows.

~~(D)~~(J) ~~The department may cause to be instituted a civil action in any court of applicable jurisdiction for injunctive relief to prevent violation of this chapter or an order issued pursuant to this chapter~~ Upon a determination by the department that, based upon its examination of the criteria in subsection (B), the applicant’s use is reasonable, the department shall issue a permit to the applicant.

~~(E)~~(K)(1) ~~Civil penalties collected pursuant to this section must be deposited in the general fund of the State.~~ Except as provided in Section 49‑4‑90, upon receipt of a new surface water withdrawal permit application or an application to significantly increase the amount of water that may be withdrawn under an existing permit and the appropriate filing fee, the department must, within thirty days, provide the public with notice of the application. In addition to the department’s usual public notice procedures, the department must publish notice of the application in a newspaper of statewide circulation and in the local newspaper with the greatest general circulation in the affected area and on the department’s website. The public notice must contain the location and amount of the proposed withdrawal, the use for which the water will be withdrawn, and the process for requesting a public hearing concerning the application. If within thirty days of the publication of the public notice the department receives a request to hold a public hearing from at least twenty citizens or residents of the affected area, the department must conduct a hearing. The hearing must be held within ninety days at an appropriate time and in an appropriate location near the specific site from which surface water withdrawals are proposed to be made.

(2) The department shall by regulation delineate and designate river basins to be used when determining the affected area for a particular surface water withdrawal application. In undertaking this task, the department shall initially establish fifteen river basins, including the watershed of each of the following fifteen rivers or river systems:

(a) Upper Savannah;

(b) Lower Savannah;

(c) Saluda;

(d) Broad;

(e) Congaree;

(f) Catawba‑Wateree;

(g) Lynches;

(h) Pee Dee;

(i) Little Pee Dee;

(j) Black;

(k) Waccamaw;

(l) Lower Santee;

(m) Edisto;

(n) Ashley‑Cooper; and

(o) Combahee‑Coosawhatchie.

(N) If the department determines that a new surface water withdrawal permit application or an application to significantly increase the amount of water that may be withdrawn under an existing permit must be denied because there is not enough water in the safe yield, the department may meet with the other permitted withdrawers in the affected stream segment or basin, as appropriate, to determine whether the other permitted withdrawers can reach mutually agreed upon permit reductions to accommodate the applicant.

Section 49‑4‑90. (A) The department must hold a public hearing concerning new surface water withdrawal permit applications for interbasin transfers. The hearing must be held at an appropriate time and in an appropriate location near the withdrawal point of the interbasin transfer. The hearing may not be held until after at least thirty days’ notice is given to the public in the manner provided in this section. The notice must:

(1) include a nontechnical description of the applicant’s request;

(2) include a conspicuous statement in bold type describing the effects of the interbasin transfer on the river basin from which the water will be withdrawn and the river basin into which the withdrawn water will be transferred; and

(3) describe the procedure that a person must follow to submit a comment concerning the proposed interbasin transfer.

(B) Upon the receipt of a new surface withdrawal permit application for an interbasin transfer and the appropriate filing fee, the department must, within thirty days, provide notice as required in this section, in the following manner:

(1) by publication in the South Carolina State Register;

(2) by publication in a newspaper of general circulation in the affected area of the river basin downstream from the point of withdrawal;

(3) by publication on the department’s website; and

(4) through standard United States mail to:

(a) any person holding a permit issued by the department authorizing surface water withdrawals, including interbasin transfers, from the river basin from which the water for the proposed transfer would be withdrawn;

(b) any person holding a National Pollutant Discharge Elimination System (NPDES) wastewater discharge permit authorizing wastewater discharge into the river basin where the proposed withdrawal point of the proposed interbasin transfer is located;

(c) any city or county governing body whose jurisdiction is located entirely or partially within the river basin that is the source of the proposed transfer;

(d) the governing body of a public water supply system that withdraws water from the same river basin where the proposed withdrawal point of the proposed transfer is located; and

(e) any agency from another state where an interstate water basin is the source of the proposed transfer.

Section 49‑4‑100. (A) Surface water withdrawal permits issued by the department must:

(1) identify the location of the permitee’s intake facility used or constructed to make withdrawals pursuant to the permit;

(2) specify the amount of water that may be withdrawn;

(3) specify the amount of water to be discharged back into the surface water body and location of the discharge;

(4) specify the volume of supplemental water supply if needed;

(5) specify the minimum instream flow at the point of withdrawal;

(6) specify the minimum instream flow triggers that will determine if the permitee’s withdrawal must be reduced;

(7) specify the stream flow, that will be used to notify the applicant of starting the reduction of withdrawal;

(8) specify the date upon which the permit expires; and

(9) clearly state that the terms and conditions of the permit are subject to the provisions of the South Carolina Drought Response Act.

(B) Permits issued by the department, unless revoked or suspended pursuant to this chapter, shall be valid for a period to represent the economic life of any capital investments made by the permittee necessary to carry out the permittee’s use of the withdrawn water. Permits must be issued for:

(1) twenty years, or a greater period the department considers reasonable based upon its review of all the facts and circumstances relevant to a proposed withdrawal not to exceed an additional twenty years;

(2) thirty years for a permittee entitled to an initial permit pursuant to Section 49‑4‑70(B), or a greater period the department considers reasonable based upon its review of all the facts and circumstances relevant to the proposed withdrawal not to exceed an additional ten years; or

(3) any period necessary, not to exceed fifty years, for a municipality or other governmental body to retire a bond it issued to finance the construction of waterworks.

Section 49‑4‑110. (A) A surface water withdrawal permit confers upon the permittee a right to withdraw and use surface water pursuant to the terms and conditions of the permit. The permit does not convey a property right in the water to the permittee. Nothing in this chapter shall affect any requirement under any other law or regulation, including any requirement for the owner or operator of a proposed new or expanding water withdrawal facility that will be constructed within the boundaries of a reservoir operated by a different entity to obtain the reservoir operator’s approval before constructing and operating the proposed new water withdrawal facility or expanding an existing water withdrawal facility.

(B) Surface water withdrawals made by permitted or registered surface water withdrawers shall be presumed to be reasonable. No private cause of action for damages arising directly from a surface water withdrawal by a permitted or registered surface water withdrawer may be maintained unless the plaintiff can show a violation of a valid permit or registration.

(C) Issuance of a surface water withdrawal permit under this chapter does not relieve the permittee from being required to obtain and comply with any other permits or approvals that may be required under other laws, or existing agreements, or under common law. Nothing in this chapter shall prevent an impoundment licensee from requiring persons seeking to withdraw water from a licensed reservoir to comply with any and all conditions that the licensee is empowered to require under its license and applicable laws.

Section 49‑4‑120. (A) The department may modify, suspend, or revoke a permit under the following conditions:

(1) the permit holder withdraws water not authorized by his permit or fails to comply with the terms and conditions of his permit;

(2) the permit holder obtains a permit by misrepresentation or fails to disclose a material fact in his application;

(3) the permit holder ceases to withdraw water for a period of at least thirty‑six consecutive months; or

(4) a permanent change in natural conditions results in a permitted activity endangering human health or the environment.

(B) Surface water permits are transferable with the prior written consent of the department.

(C)(1) A permittee may apply for a renewal of his permit no sooner than six months before his permit expires. A permit shall remain valid during the department’s consideration of a renewal application if the permittee files a renewal application prior to the expiration date of his permit. Renewal applications take priority over permit applications for new withdrawals. The renewed permit must be issued in accordance with the criterion applicable to the issuance of the initial permit and for a quantity at least equal to the expired permit unless the department demonstrates that the quantity above maximum withdrawals during the permit term are not necessary to meet the permittee’s future needs.

(2) An application to modify an existing permit for a significant increase in the quantity of the withdrawal must be evaluated using the criteria provided in Section 49‑4‑80. However, any significant increase in surface water withdrawals authorized pursuant to Section 49‑4‑40 or Section 49‑4‑45 shall be subject only to the requirements set forth in that section.

Section 49‑4‑130. A surface water withdrawer must provide the department with prior written notice of the construction of a new surface water intake that changes the method of measuring the water the permittee is withdrawing, cessation of its surface water withdrawals, a proposed change in ownership, or the abandonment of a surface water intake.

Section 49‑4‑140. The department may issue a temporary surface water withdrawal permit to a new applicant while his application is pending, if the temporary permit is necessary to address an imminent hazard to public health or the applicant demonstrates that without a temporary permit he will suffer physical or financial damage. A temporary permit must contain an expiration date, which must not be more than one hundred eighty days after it was issued. The issuance of a temporary permit does not guarantee that the department will issue a permanent permit to the applicant.

Section 49‑4‑150. (A)(1) (a) For new surface water withdrawers located on a stream segment not influenced by a licensed or otherwise flow controlled impoundment, the surface water withdrawal permit authorizes withdrawals up to the permitted amount pursuant to this chapter’s definition of minimum instream flow subject to the provisions contained in this subsection.

(b) Anytime the flow at the point of the permitted withdrawal is less than or equal to the minimum instream flow, the permitted surface water withdrawer must implement applicable portions of his water contingency plan and will discontinue consumptive use from the surface water source. If after all reasonable contingency plans have been implemented, and the surface water withdrawer is within fifteen days of exhausting the usable water supply from his supplemental water source, he may then give notice to the department that he is exhausting his supplemental water sources and that he intends to return to the withdrawal source in amounts up to his permitted amount. Upon receiving notice, the department must determine the portion of the permitted withdrawals that may be withdrawn. If the department does not make its determination within ten days of receipt of notice, the permittee may make withdrawals up to the permitted amount until the department notifies the permittee of the appropriate amount of withdrawals during this low flow period.

(c) The permitted surface water withdrawer may withdraw water from the permitted surface withdrawal point in order to refill his supplemental water source, or other drought contingency water supply vessels, anytime the river flow exceeds the minimum instream flow.

(d) The permitted surface water withdrawer utilizing a drought contingency pond as all or some of his supplemental water source may withdraw the entire volume of water from the pond during low flow periods requiring supplemental water source usage. Water withdrawn from drought contingency ponds are not subject to environmental and permitting restrictions.

(e) New surface water withdrawers are not required to engineer the supplemental water source identified in their contingency plan any larger than the quantity that allows for facility operations during twenty percent mean annual daily flow conditions, based upon a review of historical low flow data and projected facility consumptive water uses during low flow periods. A new surface water withdrawer may not return to the withdrawal source when his supplemental water source is exhausted unless he engineered his supplemental water source to meet the specifications of this subsection.

(2)(a) For surface water withdrawal points located on a surface water segment downstream of and influenced by a licensed or otherwise flow controlled impoundment, the minimum instream flow shall be the flow specified in the license by the appropriate government agency. Surface water withdrawal points downstream of a licensed or otherwise flow controlled impoundment are considered to be influenced by the impoundment unless it can be demonstrated by the department through flow modeling and analysis of flow data that the withdrawal point is no longer influenced by the impoundment. The minimum instream flow set in this item does not apply to withdrawal points located downstream of an impoundment that are beyond the influence of the impoundment. (b) A licensee or a registered user located on a surface water segment downstream of and influenced by a licensed or otherwise flow controlled impoundment may notify the operator of the impoundment that he would like notice of increases or decreases in the releases from the impoundment pursuant to the operator’s license. If the impoundment operator receives notice from a licensee or a registered user, then he must use reasonable efforts to notify the licensee or registered user of increases or decreases in releases pursuant to the operator’s license. The provisions of this item do not apply to releases increased or decreased in emergencies.

(3) When a surface water withdrawal point is located on a licensed or otherwise flow controlled impoundment, a withdrawal permit may not authorize the withdrawal of surface water in an amount that would cause a reservoir:

(a) water level to drop below its minimum water level; or

(b) to be unable to release the minimum flow specified in the license for that impoundment as issued by the appropriate government agency.

(4) When a surface water withdrawal point is located on an impoundment that serves as a water supply for a federally licensed facility that is also an existing surface water withdrawer, a withdrawal permit may not authorize to any new surface water withdrawer to withdraw surface water in an amount that would negatively impact the continued operations of the federally licensed facility. The requirements contained in this item do not apply to an expansion or addition of units at a federally licensed facility.

(5) The requirements of items (1) through (3) do not apply to public water suppliers. Public water suppliers are required to implement their contingency plan measures, applicable to their service territory, commensurate with the drought level declared by the State Drought Response Committee and in accordance with any drought response plan required by the owner of a licensed impoundment.

(B) When determining the amount of water available to be withdrawn by future surface water withdrawers in a particular stream segment, the department shall determine the inflow at the beginning of the stream segment, as well as the inflow from tributaries, based on historical flow. Also, the department shall account for returns of water to the stream segment from all sources including, but not limited to, municipalities, utilities, and industries.

Section 49‑4‑160. (A) Each permittee must prepare and maintain on site, available for inspection, an operational and contingency plan to promote an adequate water supply from the surface water during times when the actual flow of the surface water is less than the minimum instream flow for that particular surface water segment. The plan must identify actions to be taken, as applicable, to address low flow conditions, including water conservation, supplemental water supplies, off‑stream water storage, seasonal water flow fluctuation withdrawals, and hydroelectric operations in controlled surface waters. For applicable new surface water withdrawers with an operational and contingency plan that identifies one or more supplemental sources of water to be used for continued facility operations during minimum instream flow conditions, the amount of supplemental water should be calculated on a reasonable and responsible basis taking into account a review of historical flow records for the stream at or near the proposed withdrawal point in order to identify the years of historical record where flows at that stream point dropped below minimum instream flow, and the consumptive amount of water that is projected to be needed by the new surface water withdrawer in order to continue to operate during a period of time identified as that stream segment’s historical average minimum instream flow conditions. The existence of a plan is deemed to be an enforceable part of the permit under which the permittee is withdrawing surface water and shall be deemed to control a permitted surface water withdrawal in situations where the actual flow of the surface water is less than the minimum instream flow for that particular stream segment.

(B) Nothing in this section limits or precludes any action authorized by the South Carolina Drought Response Act. In the event that an action authorized by the South Carolina Drought Response Act conflicts with this subsection or a permitted use, the action taken pursuant to the South Carolina Drought Response Act supercedes any actions taken pursuant to this subsection or the permit.

Section 49‑4‑170. (A) In addition to any other powers and duties, the department may:

(1) promulgate regulations necessary to implement the policies and purposes of this chapter;

(2) enter upon any land or water for the purpose of conducting investigations, examinations, or surveys necessary to carry out its duties and responsibilities provided in this chapter;

(3) receive financial and technical assistance from private entities, the federal government, or another state agency; and

(4) take any action reasonable and necessary to enforce the provisions of this chapter.

(B)(1) The department may, in consultation with the Department of Natural Resources, negotiate agreements, accords, or compacts on behalf of and in the name of the State with other states or the United States, or both, with any agency, department, or commission of either, or both, relating to transfers of water that impact waters of this State, or are connected to or flowing into waters of this State. Any agreements, accords, or compacts made by the board pursuant to this section must be approved by concurrent resolution of the General Assembly prior to being implemented. The department may also represent the State in connection with water withdrawals, diversions, or transfers occurring in other states which may affect this State. The provisions in this section do not apply to the Office of Attorney General or any pending or future criminal or civil actions, lawsuits, or causes in which the State is a party or interested.

(2) The department must notify the Chairman of the Senate Agriculture and Natural Resources Committee and the Chairman of the House Agriculture, Natural Resources, and Environmental Affairs Committee when the department enters into negotiations or otherwise represents the State as provided in item (1). The department must also periodically report, as necessary or upon request, to the chairmen concerning the progress of the negotiations or representation.

Section 49‑4‑180. (A) A surface water withdrawer who commits a violation of this chapter:

(1) is subject to a civil penalty of not more than ten thousand dollars for each day that the violation occurred; or

(2) is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars for each day that the violation occurred, if the violation is willful.

(B) All penalties and fines assessed and collected pursuant to this chapter must be deposited in the general fund of the State.”

SECTION 2. Section 48‑2‑30(B) of the 1976 Code is amended by an appropriately numbered new item at the end to read:

“( ) Surface Water Withdrawal, Permitting, Use, and Reporting Act.”

SECTION 3. Section 48‑2‑50(H) of the 1976 Code is amended by adding an appropriately numbered item at the end to read:

“( ) Surface Water Withdrawals:

(a) Existing surface water withdrawal permit ‑ application processing fee ‑ $1,000;

(b) New surface water withdrawal permit ‑ application processing fee ‑ $7,500;

(c) Modification of surface water withdrawal permit ‑ application processing fee ‑ $2,000;

(d) Renewal of surface water withdrawal permit with modifications application processing fee ‑ $1,000;

(e) Surface water withdrawal annual operating fee per permitted intake ‑ $1,000.”

SECTION 4. A. Chapter 21, Title 49 of the 1976 Code is repealed.

B. Chapter 1, Title 49 of the 1976 Code is not affected by and supersedes Chapter 4, Title 49 of the 1976 Code, as amended by SECTION 1 of this act.

SECTION 5. It is the intention of the General Assembly to not affect or prejudice in any way the ongoing litigation between the States of South Carolina and North Carolina in the Supreme Court of the United States or any litigation related thereto, nor is it the intent of the General Assembly to prejudice any argument that the State of South Carolina may make in such litigation.

SECTION 6. (A) The repeal or amendment by this act of any law, whether temporary or permanent, does not affect pending actions, rights, duties, or liabilities founded on it, or alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision expressly provides it. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws. Any state agency, board, commission, or council to which are transferred the powers, duties, and functions of any state agency, board, commission, or council relating to the pending proceeding must be substituted as a party in interest.

(B) Any statute enacted and any rule or regulation made in respect to any state agency, board, commission, or council or function transferred to, or consolidated, coordinated, or combined with any other state agency, board, commission, or council or function under the provisions of this act before the effective date of the transfer, consolidation, coordination, or combination, except to the extent repealed, modified, superseded, or made inapplicable by or under the authority of law, shall have the same effect as if the transfer, consolidation, coordination, or combination had not been made. But when any such statute, rule, or regulation has vested functions in the state agency, board, commission, or council from which the transfer is made under the act, the functions, insofar as they are to be exercised after the transfer, must be considered as vested in the state agency, board, commission, or council to which the transfer is made under the act.

SECTION 7. If any section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, items, subitems, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 8. This act takes effect January 1, 2011. /

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.

**AMENDED, READ THE SECOND TIME**

H. 4551 -- Reps. Sandifer, Thompson, Bedingfield, Hayes, Brady, Mack, Harrell, Cato, Ott, Harrison, Duncan, J.R. Smith, White, Cooper, Hutto, Horne, Cobb‑Hunter, Anderson, Hodges, Harvin, Skelton, Gunn and Bales: 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 second reading of the Bill.

Senators LARRY MARTIN, RANKIN and HUTTO proposed the following amendment (4551SEN), which was adopted:

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

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.

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

SECTION 1. Section 23‑47‑10 of the 1976 Code is amended to read:

“Section 23‑47‑10. As used in this chapter:

(1) ‘911 charge’ means a fee for the 911 service start‑up equipment costs, subscriber notification costs, addressing costs, billing costs, and nonrecurring and recurring installation, maintenance service, and network charges of a service supplier providing 911 service as provided in this chapter.

(2) ‘911 system’ or ‘911 service’ means an emergency telephone system that provides the user of the public telephone system with the ability to reach a public safety answering point by dialing the digits 911. The term 911 system or service also includes ‘enhanced 911 service’, which means an emergency telephone system with 911 service and, in addition, directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated and provides the capability for automatic number identification and automatic location identification features. ‘911 system’ and ‘911 service’ include those systems and services that use or rely upon internet protocol or other similar technologies to provide services that direct voice calls to public safety answering points.

(3) ‘911 plan’ means a plan for the 911 system, enhanced 911 system, or any amendment to the plan developed by a county or municipality.

(4) ‘Basic 911 system’ means a system by which the various emergency functions provided by public safety agencies within each local government’s jurisdiction may be accessed utilizing the three‑digit number 911, but no available options of enhanced systems are included in the system.

(5) ‘Enhanced 911 network features’ means selective routing, automatic number identification, and location identification.

(6) ‘Enhanced 911 system’ means enhanced 911 service, which is a telephone exchange communications service consisting of telephone network features and public safety answering points designated by the local government which enables users of the public telephone system to access a 911 public safety communications center by dialing the digits 911. The service directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated and provides the capability for automatic number identification and automatic location identification.

(7) ‘Addressing’, with respect to nonCMRS exchange access service, means the assigning of a numerical address and street name (the name may be numerical) to each location within a local government’s geographical area necessary to provide public safety service as determined by the local government. This address replaces any route and box number currently in place in the ‘911’ database and facilitates quicker response by public safety agencies.

(8) ‘Automatic location identification’ means an enhanced 911 service capability that enables the automatic display of information.

(9) ‘Automatic number identification’ means an enhanced 911 service capability that enables the automatic display of the seven‑digit number used to place a 911 call.

(10) ‘Board’ means the South Carolina State Budget and Control Board.

(11) ‘Committee’ means the ~~CMRS Emergency Telephone Service Advisory Committee established in this chapter~~ South Carolina 911 Advisory Committee.

(12) ‘CMRS Connection’ means each mobile number assigned to a CMRS customer.

(13) ‘Commercial Mobile Radio Service’ (CMRS) means commercial mobile service under Sections 3(27) and 332(d), Federal Telecommunications Act of 1996 (47 U.S.C. Section 151, et seq.), Federal Communications Commission Rules, and the Omnibus Budget Reconciliation Act of 1993. The term includes any wireless two‑way communication device, including radio‑telephone communications used in cellular telephone service, personal communication service, or the functional and/or competitive equivalent of a radio‑telephone communications line used in cellular telephone service, a personal communication service, or a network radio access line. The term does not include services that do not provide access to 911 service, a communication channel suitable only for data transmission, a wireless roaming service or other nonlocal radio access line service, or a private telecommunications system.

(14) ‘Customer’ means the local government subscribing to 911 service from a service supplier.

(15) ‘Department’ means the Department of Revenue.

(16) ‘Enhancement’ means any addition to a 911 system such as automatic number identification, selective routing of calls, or other future technological advancements, as determined by the Public Service Commission for nonCMRS exchange access companies.

~~(16)~~(17) ‘Exchange access facility’ means the access from a particular telephone subscriber’s premises to the telephone system of a service supplier. Exchange access facilities include service supplier provided access lines, PBX trunks, and Centrex network access registers, all as defined by the South Carolina Public Service Commission. Exchange access facilities do not include service supplier owned and operated telephone pay station lines, or wide area telecommunications service (wats), foreign exchange (fx), or incoming lines.

~~(17)~~(18) ‘Local government’ means any city, county, or political subdivision of the State.

~~(18)~~(19) ‘Mapping’ means the development of a computerized geographical display system of roads and structures where emergency response may be required.

(20) ‘Prepaid wireless 911 charge’ means the charge that a prepaid wireless seller is required to collect from a prepaid wireless consumer pursuant to Section 23‑47‑68.

(21) ‘Prepaid wireless consumer’ means a person or entity that purchases prepaid wireless telecommunications service in a prepaid wireless retail transaction.

(22) ‘Prepaid wireless provider’ means a person or entity that provides prepaid wireless telecommunications service pursuant to a license issued by the Federal Communications Commission.

(23) ‘Prepaid wireless retail transaction’ means the purchase of prepaid wireless telecommunications service from a prepaid wireless seller for any purpose other than resale.

(24) ‘Prepaid wireless seller’ means a person or entity that sells prepaid wireless telecommunications service to another person or entity for any purpose other than resale.

(25) ‘Prepaid wireless telecommunications service’ means any commercial mobile radio service that allows a caller to dial 911 to access the 911 system, which service must be paid for in advance and is sold in units or dollars which decline with use in a known amount.

~~(19)~~(26) ‘Public safety agent’ means a functional agency which provides fire fighting, law enforcement, medical, or other emergency services.

~~(20)~~(27) ‘Public safety answering point’ (PSAP) means a communications facility operated on a twenty‑four hour basis which first receives 911 calls from persons in a 911 service area and which may directly dispatch public safety services or extend, transfer, or relay 911 calls to appropriate public safety agencies. A PSAP may be designated to a primary or secondary exchange service, referring to the order in which calls are directed for answering.

~~(21)~~(28) ‘Regional systems’ means the formation of two or more local governments or multi‑jurisdictional systems for the purpose of jointly forming and funding 911 systems.

~~(22)~~(29) ‘Selective routing’ means the method employed to direct 911 calls to the appropriate public safety answering point based on the geographical location from which the call originated.

~~(23)~~(30) ‘Service subscriber’ means any person, company, corporation, business, association, or party not exempt from county or municipal taxes or utility franchise assessments who is provided telephone (local exchange access facility) service in the political subdivision or CMRS service or VoIP service.

~~(24)~~(31) ‘Service supplier’ means any person, company, or corporation, public or private, providing exchange telephone service, ~~or~~ CMRS service, or VoIP service to end users.

~~(25)~~(32) ‘Rate’ means the recurring or nonrecurring rates billed by the service supplier, which represents the service supplier’s recurring charges for exchange access facilities, exclusive of all taxes, fees, licenses, or similar charges.

~~(26)~~(33) ‘Telephone subscriber’ or ‘subscriber’ means a person or entity to whom exchange telephone service, either residential or commercial, is provided and in return for which the person or entity is billed on a monthly basis. When the same person, business, or organization has several telephone access lines, each exchange access facility constitutes a separate subscription.

(34) ‘Voice over Internet Protocol (VoIP) service’ means interconnected VoIP service as that term is defined in 47 C.F.R. Section 9.3 as may be amended.

(35) ‘Voice over Internet Protocol (VoIP) provider’ means a person or entity that provides VoIP service.

(36) ‘Voice over Internet Protocol (VoIP) subscriber’ means a person or entity that purchases VoIP service from a VoIP provider.

(37) ‘Voice over Internet Protocol (VoIP) 911 charge’ means the charge imposed pursuant to Section 23‑47‑67.

(38) ‘Voice over Internet Protocol (VoIP) service line’ means a VoIP service that offers an active telephone number or successor dialing protocol assigned by a VoIP service provider to a customer that has outbound calling capability.”

SECTION 2. Section 23‑47‑20(C)(14) of the 1976 Code is amended to read:

“(14) ~~capabilities to have cellular phones routed to 911~~ routing and capabilities to receive and process CMRS service and VoIP service capable of making 911 calls;”

SECTION 3. Section 23‑47‑50 of the 1976 Code is amended to read:

“Section 23‑47‑50. (A) The maximum 911 charge that a subscriber may be billed for an individual local exchange access facility must be in accordance with the following scale:

Tier I‑‑1,000 to 40,999 access lines‑‑$1.50 for start‑up costs, $1.00 for on‑going costs.

Tier II‑‑41,000 to 99,999 access lines‑‑$1.00 for start‑up costs, $.60 for on‑going costs.

Tier III‑‑more than 100,000 access lines‑‑$.75 for start‑up costs, $.50 for on‑going costs.

Start‑up includes a combination of recurring and nonrecurring 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.

(B) Every local telephone subscriber served by the 911 system is liable for the 911 charge imposed. A service supplier has no obligation to take any legal action to enforce the collection of the 911 charges for which a subscriber is billed. However, a collection action may be initiated by the local government that imposed the charges. Reasonable costs and attorney’s fees associated with that collection action may be awarded to the local government collecting the 911 charges.

(C) The local government subscribing to 911 service is ultimately responsible to the service supplier for all 911 installation, service, equipment, operation, and maintenance charges owed to the service supplier. Upon request by the local government, the service supplier shall provide a list of amounts uncollected along with the names and addresses of telephone subscribers who have identified themselves as refusing to pay the 911 charges. Taxes due on a 911 system service provided by the service supplier must be billed to the local government subscribing to the service. State and local taxes do not apply to the 911 charge billed to the telephone subscriber.

(D) Service suppliers that collect 911 charges on behalf of the local government are entitled to retain two percent of the gross 911 charges remitted to the local government as an administrative fee. The service supplier shall remit the remainder of charges collected during the month to the fiscal offices of the local government. The 911 charges collected by the service supplier must be remitted to the local government within forty‑five days of the end of the month during which such charges were collected and must be deposited by and accounted for by the local government in a separate restricted fund known as the ‘emergency telephone system fund’ maintained by the local government. The local government may invest the money in the fund in the same manner that other monies of the local government are invested and income earned from the investment must be deposited into the fund. Monies from this fund are totally restricted to use in the 911 system.

(E) The ‘emergency telephone system’ fund must be included in the annual audit of the local government in accordance with generally accepted auditing standards.

(F) Fees collected by the service supplier pursuant to this section are not subject to any tax, fee, or assessment, nor are they considered revenue of the service supplier. A monthly CMRS 911 charge is levied for each CMRS connection for which there is a mobile identification number containing an area code assigned to South Carolina by the North American Numbering Plan Administrator. The amount of the levy must be approved annually by the board at a level not to exceed the average monthly telephone (local exchange access facility) 911 charges paid in South Carolina. The board and the committee may calculate the CMRS 911 charge based upon a review of one or more months during the year preceding the calculation of telephone (local exchange access facility) charges paid in South Carolina. The CMRS 911 charge must have uniform application and must be imposed throughout the State; however, trunks or service lines used to supply service to CMRS providers shall not be subject to a CMRS 911 levy. Prepaid wireless telecommunications service is subject to the 911 charge set forth in Section 23‑47‑68 and not to the CMRS 911 charge set forth in this subsection. On or before the twentieth day of the second month succeeding each monthly collection of the CMRS 911 charges, every CMRS provider shall file with the Department of Revenue a return under oath, in a form prescribed by the department, showing the total amount of fees collected for the month and, at the same time, shall remit to the department the fees collected for that month. The department shall place the collected fees on deposit with the State Treasurer. The funds collected pursuant to this subsection are not general fund revenue of the State and must be kept by the State Treasurer in a fund separate and apart from the general fund to be expended as provided in Section 23‑47‑65.

(G)(1) Fees collected by the service supplier pursuant to this section are not subject to any tax, fee, or assessment, nor are they considered revenue of the service supplier.

(2) ~~A~~ Except as provided in Section 23‑47‑68(B), a 911 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 has been paid to the service supplier.”

SECTION 4. 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.”

SECTION 5. Section 23‑47‑65 of the 1976 Code is amended to read:

“Section 23‑47‑65. (A)(1) The ~~CMRS Emergency Telephone Services~~ South Carolina 911 Advisory Committee is created to assist the board in carrying out its responsibilities in implementing a wireless enhanced 911 system consistent with FCC Docket Number 94‑102. The committee must be appointed by the Governor and shall consist of: ~~the Director of the State Chief Information Officer Division,~~ a director of a division of the State Budget and Control Board, ex officio; the Director of the Office of Research and Statistics; two employees of CMRS providers licensed to do business in the State; two 911 system employees; and one employee of a telephone (local exchange access facility) service supplier licensed to do business in the State; and one consumer. Local governments and related organizations such as the National Emergency Number Association may recommend PSAP Committee members, and industry representatives may recommend wireline and CMRS Committee members to the Governor. There is no expense reimbursement or per diem payment from the fund created by the CMRS surcharge made to members of the committee.

(2) All committee members, except the ex officio members, must be appointed for a three‑year term by the Governor. Committee members may be appointed to one subsequent term.

(3) In the event a vacancy arises, it must be filled for the remainder of the term in the manner of the original appointment. A partial term does not count toward the term limits; however, service for three‑fourths or more of a term constitutes service for a term.

(4) Any committee member who terminates his holding of the office or employment which qualified him for appointment shall cease immediately to be a member of the committee; the person appointed to fill the vacancy shall do so for the unexpired term of the member whom he succeeds.

(5) The committee shall establish its own procedures with respect to the selection of officers, quorum, place, and conduct of meetings.

(B) The responsibilities of the committee with respect to CMRS emergency telephone services are to:

(1) advise the board on technical issues regarding the implementation of a wireless ~~E~~ 911 system, especially matters concerning appropriate systems and equipment to be acquired by CMRS providers and PSAP’s to assure the compatibility of the systems and equipment and the ability of the systems and equipment to comply with the requirements of FCC Docket Number 94‑102;

(2) recommend systems and equipment for which reimbursement may be allowed to CMRS providers and PSAP’s under the provisions of this chapter, which are compatible with each other as needed for the public’s safety, and will not result in wasteful spending on inappropriate or redundant technology.

(C) The responsibilities of the board with respect to CMRS emergency telephone services are to:

(1) direct the State Treasurer in the management and disbursal of the funds in and from an interest‑bearing account in the following manner:

(a) hold and distribute not more than thirty‑nine and eight‑tenths percent of the total monthly revenues in the interest‑bearing account to PSAP administrators based on CMRS 911 call volume for expenses incurred for the answering, routing, and proper disposition of CMRS 911 calls;

(b) hold and distribute not more than fifty‑eight and two‑tenths percent of the total monthly revenues in the interest‑bearing account solely for the purposes of complying with applicable requirements of FCC Docket Number 94‑102. These funds may be utilized by the PSAP and the CMRS providers licensed to do business in this State for the following purposes in connection with compliance with the FCC requirements: upgrading, acquiring, maintaining, programming, and installing necessary data, hardware, and software. Invoices detailing specific expenses for these purposes must be presented to the board in connection with any request for reimbursement, and the request must be approved by the board, upon recommendation of the committee. Any invoices presented to the board for reimbursements of costs not described by this section may be approved only by a unanimous vote of the committee, but in no event shall reimbursement be made for costs unrelated to compliance with applicable requirements of FCC Docket Number 94‑102;

(c) hold and distribute not more than two percent of the total monthly revenues in the interest‑bearing account to compensate the independent auditor provided for herein and for expenses which the board is authorized to incur by contract, or otherwise, for provision of any administrative, legal, support, or other services to assist the board in fulfilling its responsibilities under this act;

(2) with the State Treasurer, prepare annual reports outlining fees collected and monies disbursed to PSAP and CMRS providers, and submit annual reports outlining monies disbursed for operations of the board;

(3) retain an independent, private auditor, as provided in the Consolidated Procurement Code, for the purposes of receiving, maintaining, and verifying the accuracy of proprietary information submitted to the board by CMRS providers or PSAP’s, and assisting the committee in its duties including its annual calculation of the average 911 charges pursuant to Section 23‑47‑50(f) and in cost studies it may conduct. Due to the confidential and proprietary nature of the information submitted by CMRS providers, the information may not be released to a party other than the independent private auditor and is expressly exempt from disclosure pursuant to Chapter 4 of Title 30. The information collected by the auditor may be released only in aggregate amounts that do not identify or allow identification of numbers of subscribers or revenues attributable to an individual CMRS provider;

(4) conduct a cost study to be submitted to the House Ways and Means Committee and Senate Finance Committee one year from the effective date of this section and thereafter at the board’s discretion. The board may include any information it considers appropriate to assist the General Assembly in determining whether future legislation is necessary or appropriate, but the report must include information to assist in determining whether to adjust the CMRS 911 charge to reflect actual costs incurred by PSAP’s or CMRS providers for compliance with applicable requirements of FCC Docket Number 94‑10;

(5) convene the committee and consult with it concerning the performance of the responsibilities assigned to the board and to the committee in this chapter, and the development and maintenance of the state’s CMRS emergency telephone services and system;

(6) report as required or suggested by this chapter, promulgate any regulations, and take further actions as are appropriate in implementing it.

(D) The board and committee must:

(1) annually calculate the average 911 charge as provided in Section 23‑47‑50(F);

(2) take appropriate measures to maintain the confidentiality of the proprietary information described in this section ~~23‑47‑65(C)(1)(e)~~. This information may be disclosed to board and committee members only in the event a dispute arises with respect to the board’s and committee’s discharge of their responsibilities under Section 23‑47‑65(B)(2) which necessitates such disclosure. The information shall also be exempt from disclosure pursuant to Chapter 4 ~~of~~ , Title 30. Members of the board may not disclose the information to any third parties, including their employers;

(3) take appropriate measures to see that all prepaid wireless sellers comply with the requirements of Section 23‑47‑68(F) and that all other CMRS service suppliers comply with the requirements of Section 23‑47‑50(F).

(E) CMRS providers are entitled to retain two percent of the fees collected as reimbursement for collection and handling of the CMRS 911 charge.

~~(F)~~ ~~On August 1, 2004, the committee’s existence terminates and all its duties and powers devolve to the board, except that the committee may continue to exist and function upon adoption by the General Assembly of a joint resolution extending its existence past August 1, 2004.~~”

SECTION 6. Chapter 47 of Title 23 of the 1976 Code is amended by adding:

“Section 23‑47‑67. (A) There is hereby imposed a VoIP 911 charge in an amount identical to the amount of the 911 charge imposed on each local exchange access facility pursuant to Section 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 Section 23‑47‑40(B) and (C). The provisions of Section 23‑47‑50(B), (C), (D), (E), and (G) apply with equal force with regard to the VoIP 911 charge.

(D) A VoIP provider that purchases its 911 capabilities in South Carolina from another person or entity is responsible for directly remitting the VoIP 911 charge as set forth in this section unless the VoIP provider and the other person or entity have agreed in writing that the other person or entity will remit the VoIP 911 charge on behalf of the VoIP provider.

(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.”

SECTION 7. Chapter 47 of Title 23 of the 1976 Code is amended by adding:

“Section 23‑47‑68. (A) There is hereby imposed a prepaid wireless 911 charge in the amount equal to the average 911 charges calculated pursuant to Section 23‑47‑50(F).

(B) A prepaid wireless seller must collect the prepaid wireless 911 charge established in subsection (A) from a prepaid wireless consumer with respect to each prepaid wireless retail transaction occurring in this State. The amount of the prepaid wireless 911 charge shall be either: separately stated on an invoice, receipt, or other similar document that is provided to the prepaid wireless consumer by the prepaid wireless seller or otherwise disclosed to the prepaid wireless consumer.

(C) For the purposes of this section, a prepaid wireless retail transaction must be sourced as provided in Section 12‑36‑910(B)(5)(b).

(D) The prepaid wireless 911 charge is the liability of the prepaid wireless consumer and not the prepaid wireless seller or of any prepaid wireless provider. However, the prepaid wireless seller is liable to remit to the department all prepaid wireless 911 charges that the prepaid wireless seller collects from prepaid wireless consumers as provided in this section.

(E) The amount of the prepaid wireless 911 charge collected by a prepaid wireless seller from a prepaid wireless consumer, whether or not such amount is separately stated on an invoice, receipt, or other similar document provided to the prepaid wireless consumer by the prepaid wireless seller, shall not be included in the base for measuring any tax, fee, prepaid wireless 911 charge, or other charge that is imposed by this State, any political subdivision of this State, or any intergovernmental agency. This amount shall not be considered revenue of the prepaid wireless seller.

(F) A prepaid wireless seller is entitled to retain three 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.

(G) The audit and appeal procedures applicable under Chapter 36, Title 12 shall apply to the prepaid wireless 911 charge.

(H) The department shall establish procedures by which a prepaid wireless seller may document that a sale is not a prepaid wireless retail transaction, which procedures shall substantially coincide with the procedures for documenting sale for resale transactions under Section 12‑36‑950.

(I) The department shall transfer all remitted prepaid wireless 911 charges to the State Treasurer in the same manner as provided in Section 23‑47‑50(F). These funds are not general fund revenue of the State and must be kept by the State Treasurer in a fund separate and apart from the general fund to be expended as provided in Section 23‑47‑65.”

SECTION 8. Chapter 47 of Title 23 of the 1976 Code is amended by adding:

“Section 23‑47‑69. Neither the State, any political subdivision of the State, nor an intergovernmental agency may require any service provider to impose, collect, or remit a tax, fee, surcharge, or other charge for 911 funding purposes other than the 911 charges set forth in this chapter.”

SECTION 9. Section 23‑47‑70 of the 1976 Code is amended to read:

“Section 23‑47‑70. (A) A local government or public safety agency, as defined in Section 23‑47‑10, or state government entity, their officers, agents, or employees, together with any person following their instructions in rendering services, are not liable for civil damages as a result of an act or omission under this chapter, including, but not limited to, developing, adopting, operating, or implementing a plan or system pursuant to the South Carolina Tort Claims Act, Section 15‑78‑60(5) or 15‑78‑60(19).

(B) ~~Liability concerning all service suppliers as defined in this chapter~~ To the extent that a 911 service is provided pursuant to tariffs on file with the South Carolina Public Service Commission, the liability of the provider of this service must be governed by the filed and approved tariffs of the South Carolina Public Service Commission, including, but not limited to, those general subscriber service tariffs concerning emergency reporting services.

(C) ~~Notwithstanding any other provision of law,~~ To the extent that a 911 service is not provided pursuant to tariffs on file with the South Carolina Public Service Commission, in no event shall ~~any CMRS service supplier~~ the provider of these services or its officers, employees, assigns, or agents be liable for civil damages or criminal liability in connection with the development, design, installation, operation, maintenance, performance, or provision of 911 service unless such event was the result of reckless, wilful, or 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 10. SECTIONS 1, 2, 3, 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 amendment.

The amendment was adopted.

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

**ADOPTED**

S. 1192 -- Senators Massey, Campbell, Mulvaney and Bright: A CONCURRENT RESOLUTION MEMORIALIZING CONGRESS TO ENACT LEGISLATION EXPANDING THE OUTER CONTINENTAL SHELF (OCS) OIL AND GAS LEASING PROGRAM TO ALLOW EXPLORATION AND PRODUCTION OF DOMESTIC SUPPLIES OF NATURAL GAS OFF THE COAST OF SOUTH CAROLINA AND TO ALLOW SOUTH CAROLINA TO RECEIVE 37.5 PERCENT OF FUNDS DUE TO THE UNITED STATES FROM OCS NATURAL GAS LEASES TO BE EXPENDED BY THE STATE FOR SUCH PURPOSES THE STATE MAY DETERMINE.

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

**COMMITTED TO THE COMMITTEE ON FINANCE**

S. 903 -- Senators McConnell, Land, Setzler, Sheheen, Scott, Elliott, S. Martin, Campsen, Hutto, Davis, Anderson and L. Martin: A BILL TO AMEND ACT 200 OF 2002, RELATING TO THE SOUTH CAROLINA CONSERVATION BANK ACT, SO AS TO DELETE A PROVISION WHICH PROVIDES THAT NO FURTHER DEED RECORDING FEES OR OTHER FUNDS MAY BE CREDITED TO THE CONSERVATION BANK TRUST FUND IN ANY YEAR WHEN A MAJORITY OF STATE AGENCY APPROPRIATIONS ARE REDUCED IN THE ANNUAL GENERAL APPROPRIATIONS ACT OR WHEN THE STATE BUDGET AND CONTROL BOARD IMPOSES ACROSS THE BOARD CUTS AND INSTEAD PROVIDE FOR A REDUCTION ON A PERCENTAGE BASIS IN THE AMOUNT OF DEED RECORDING FEES WHICH MAY BE TRANSFERRED TO THE TRUST FUND, AND TO EXTEND THE EXPIRATION DATE OF THE PROVISIONS OF LAW RELATING TO THE CONSERVATION BANK ACT AND OTHER RELATED DATES PERTAINING TO THE CLOSURE OF THE CONSERVATION BANK ACT AND CONSERVATION BANK FUND.

Senator LEATHERMAN asked unanimous consent to commit the Bill to the Committee on Finance.

There was no objection and the Bill was committed to the Committee on Finance.

**CARRIED OVER**

H. 3170 -- Reps. Gunn, Wylie, Hart, Loftis, R.L. Brown, Whipper and King: A JOINT RESOLUTION TO CREATE THE JOINT ELECTRONIC HEALTH INFORMATION STUDY COMMITTEE TO EXAMINE THE FEASIBILITY OF INCREASING THE USE OF HEALTH INFORMATION TECHNOLOGY AND ELECTRONIC PERSONAL HEALTH RECORDS, TO PROVIDE FOR THE STUDY COMMITTEE’S MEMBERSHIP, AND TO REQUIRE THE STUDY COMMITTEE TO REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE GENERAL ASSEMBLY BEFORE JANUARY 1, 2010, AT WHICH TIME THE STUDY COMMITTEE IS ABOLISHED.

On motion of Senator SETZLER, the Joint Resolution was carried over.

**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 MALLOY, the Bill was carried over.

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

**DEBATE INTERRUPTED**

S. 1054 -- Senators Pinckney and Malloy: A BILL TO AMEND CHAPTER 1, TITLE 4 OF THE 1976 CODE, RELATING TO EXTRAORDINARY COMMERCIAL FACILITIES, BY ADDING SECTION 4‑1‑180 TO ALLOW COUNTIES THAT CREATE A MULTICOUNTY BUSINESS PARK TO DESIGNATE A PORTION OR ALL OF THAT PARK AS A DESIGNATED ECONOMIC DEVELOPMENT SITE FOR EXTRAORDINARY COMMERCIAL FACILITIES.

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

Senator PINCKNEY explained the committee amendment.

**RECESS**

At 1:11 P.M., with Senator PINCKNEY retaining the floor, on motion of Senator SETZLER, with unanimous consent, the Senate receded from business subject to the Call of the Chair.

At 1:20 P.M., the Senate resumed.

Senator PINCKNEY explained the committee amendment.

Senator DAVIS argued contra to the adoption of the committee amendment.

**ACTING PRESIDENT PRESIDES**

At 1:42 P.M., Senator LARRY MARTIN assumed the Chair.

Senator DAVIS argued contra to the adoption of the committee amendment.

With Senator DAVIS retaining the floor, on motion of Senator MULVANEY, with unanimous consent, debate was interrupted by adjournment.

**MOTION ADOPTED**

On motion of Senators LEVENTIS and LAND, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. Charles C. Capell, Sr. of Rembert, S.C., who passed away at his home on Wednesday, March 3, 2010.  He is survived by his loving family.  Mr. Capell will be deeply missed by everyone whose life he touched.

and

**MOTION ADOPTED**

On motion of Senator NICHOLSON, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. Arthur Dye of Greenwood, S.C., who passed away on March 5, 2010.

**ADJOURNMENT**

At 2:09 P.M., on motion of Senator MULVANEY, 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.

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