

ALERTS

South Carolina Legislative Report - August 3, 2012

END OF SESSION UPDATE - 2012

Please find below the end of session report for South Carolina for your review and use. We plan to provide a bi-weekly report during the interim and will provide alerts if any pertinent activities or events arise. If you would like more information regarding the 2012 legislative session, or the upcoming 2013 session, please contact a member of our team.

2012 ACTS

Business

H. 4652 - Right to Work

Status: Signed by the Governor, effective 6/07/12 (Rat #254, Act #197)

The law will require a labor union to file with the South Carolina Department of Labor, License and Regulation any regularly required U.S. Secretary of Labor documents. In addition, employers are permitted to hang posters notifying employees of the provisions of the state's right to work laws.

H. 1125 - Unemployment Benefits (Misconduct)

Status: Signed by the Governor, effective 6/18/12 (Rat #274, Act #247)

The law will disqualify a person from receiving unemployment benefits for twenty weeks if they were terminated for willful or wanton misconduct. It also seeks to clearly define causes for termination that would disqualify an individual from seeking benefits.

S. 1031 - Demolishers

Status: Signed by the Governor, effective 6/18/12 (Rat #269, Act #242)

The law provides new requirements for demolishers regarding procedures for verifying titled and untitled vehicles and enhances record keeping requirements. In addition, the law revisits the copper theft provisions adopted last year and enhances the penalties and permit requirements.

Tax

H. 3059 - Tax Credits for Plug-in Vehicles.

Status: Signed by the Governor, effective 5/14/12 (Rat #185, Act #161)

The law extends an income tax credit to consumers who purchase plug-in hybrid vehicles. The total amount authorized for all claims is \$200,000 and is determined on a first-come, first-served basis. In addition, the law clarifies the definition of approved vehicles to exclude golf carts and certain other recreational plug-in vehicles. The law applies to in-state purchases and leases made on or after the first day of the calendar month, beginning at least thirty days after the effective date.

H. 3720 - Jobs Tax Credits

Status: Signed by the Governor, effective 6/07/12 (Rat #232, Act #187)

The law, championed by the South Carolina Economic Developers Association, provides for thresholds and sales tax exemptions as well as several other economic development provisions. Some of the incentives include a tax exemption for datacenters (computer equipment, software and electricity for new or existing facilities that meet certain qualifications). The law also allows for a utility tax credit for site preparation, such as clearing, grubbing, grading, storm-water retention and building refurbishment. It also increases the maximum amount of the utility tax credit from \$300,000 to \$400,000, broadens the definition of technology intensive facilities, reduces the jobs threshold for qualifying for jobs tax credits for service related facilities and clarifies that the FILOT 30 years extension is not mandated.

H. 3506 - Tax Incentives - Tire Manufacturers

Status: Signed by the Governor, effective 6/13/12 (Rat #0286, Act #0233)

The law expands incentives for recruiting large tire manufacturers with at least a \$400 million capital investment and at least 1200 employees by 2022. The bill was originally an economic incentives bill, but became a vehicle for incentives for recruiting large tire manufactures to the state.

Healthcare

H. 5028 - Nursing Home Permits

Status: Signed by the Governor, effective 5/14/12 - Fiscal Year 2012-2013 only (Rat #198)

The Joint Resolution directs DHEC to temporarily suspend enforcement of certain provisions of the Medicaid nursing home permit law. These suspensions relate to penalties for providing fewer Medicaid bed days, allow for the transfer of allotted bed days across county lines and direct apportionment of bed days by the agency. The resolution was introduced as a means of providing relief to a Horry County facility that currently participates in the Medicaid program but is transitioning from a Medicaid facility to an assisted living facility.

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H. 4705 - Hospitals Immunization Information

Status: Signed by the Governor, effective 6/07/12 (Rat #237, Act #191)

The law requires hospitals to provide parents of newborns with educational information regarding Pertussis disease and vaccination information. It also notes that hospitals are not required to pay for or provide related vaccinations.

S. 1269 - Pharmacy Audits

Status: Signed by the Governor, effective 1/01/13(Rat #278, Act #250)

The law provides a pharmacy certain rights during various audits. It also provides an appeal process, and the process for the recoupment of fees.

H. 4008 - Limited Liability for Hospitals

Status: Signed by the Governor, effective 6/26/12 (Rat #320, Act #275)

The law establishes that there is no monetary liability or cause of action against hospitals or other related entities (boards, subsidiaries, staff, etc.) for any action taken without malice, made after reasonable efforts to obtain facts and performed in the belief that it was warranted by the known facts.

Environment**H. 4654 - Pollution Control Act**

Status: Signed by the Governor, effective 6/06/12 (Rat #255, Act #198)

The law prohibits a private cause of action under the Pollution Control Act, but does authorize an administrative remedy for individuals to petition DHEC if they believe an entity or individual is operating without a required permit. The law is intended to clarify the recent South Carolina Supreme Court opinion in *Georgetown League of Women Voters vs. Smith Land Company* while keeping the state's right to protect the environment. In addition, the bill authorizes a study committee to convene on Carolina Bays and isolated wetlands.

H. 4639 - International Energy Conservation Code

Status: Signed by the Governor, effective 1/01/13 (Rat #161, Act #143)

The law updates the state energy standard from the 2006 International Energy Conservation Code to the 2009 International Energy Conservation Code. All new and renovated buildings and additions constructed within the State must comply with this standard.

S. 1220 – Surface Water Withdrawal

Status: Signed by the Governor, effective 1/01/13 (Rat #276, Act #248)

The law relates to the Surface Water Withdrawal Program and fees for surface water withdrawal applications and permits that would otherwise have been repealed January 1, 2013.

Government**H. 4813 – Annual Appropriations Bill**

Status: Certain items vetoed by the Governor, (Rat #330)

The budget debate this year came down to the wire as the Senate and the House debated a number of items including a \$60 million dollar reduction in the tax rate for small businesses and a pay raise for teachers and state employees. The General Assembly agreed on a phase-in of the tax cuts over three years that would drop the tax rate from five percent down to three percent. In addition, lawmakers agreed on a three percent pay raise for state employees and teachers.

The \$6.1 billion budget for FY 2012-2013 is comprised of \$672 million of new recurring revenue and \$785 million of nonrecurring revenue. The Governor issued 81 vetoes and the General Assembly sustained 33 of those, cutting approximately \$6.1 million dollars from the spending plan. The General Assembly narrowly avoided a government shutdown by approving the budget just days before the July 1st start of the fiscal year.

H. 3152 – Constitutional Amendment – Joint Ticket

Status: Signed by the Governor, effective 5/23/12 (Rat # 204)

The joint resolution will amend the Constitution of South Carolina to authorize the governor and lieutenant governor to run on the same ballot. The question will now be put before the voters in a referendum in the next election. If approved, the change will take effect in the 2018 elections.

H. 4967 – Retirement Reform

Status: Signed by the Governor, effective 7/01/12 (Rat #323, Act #278)

The law is intended to reform the state's retirement system that currently has a \$15 million shortfall. The law will phase out the TERI program over 5 years. The TERI program allows state workers to retire but continue to work for up to five years while receiving their retirement benefits in a separate account. It has been called "double-dipping" and has been seen as a major cause of the instability of the system. The law also requires state employees to work longer and pay-in more per year before collecting state retirement benefits. The law raises retirement from 25 to 27 years for full benefits, increases employee contribution from 6.5% to 7.46%, implements the Public Employee Benefit Board and increases the number of years used to calculate the average final compensation from 3 to 5 highest years.

BILLS OF INTEREST THAT DID NOT BECOME LAW

H. 3066 - Department of Administration

Status: The House adopted the conference committee report, but the Senate was not able to take the report up before adjournment.

The legislation would have effectively eliminated the Budget & Control Board (B&CB) in favor of a new cabinet-level Department of Administration. This reform bill is a signature piece of Governor Haley's agenda and was hotly debated over the bi-annual session. One of the key issues has been the division of authority previously vested in the B&CB and how it would be divided after its elimination. Many have called this year's version a messy web of new government entities that sprung up to assume the current responsibilities of the B&CB.

H. 4043 - Unemployment Benefits (Drug Testing)

Status: Died on the Senate Calendar

The proposed legislation would have suspended unemployment benefits for an individual who failed a drug test as a condition of seeking employment. The legislation also specified that employers requiring a test could not use the sample to look for other health related issues as a condition of employment.

H.4721 - Business Freedom to Choose Act - Flow Control

Status: Died on the Senate Calendar - Special Order

The bill provided that any county ordinance that restricts or prohibits disposal of waste at any permitted solid waste management facility, regardless of location, or one that impedes the development or implementation of a public or private recycling program, regardless of location, is considered inconsistent with the provisions of the South Carolina Solid Waste Policy and Management Act. The law provides that a local government must not be held liable for any costs or damages resulting from operation of a privately owned or operated solid waste management facility solely on the basis that solid waste managed at the facility was generated within the jurisdiction of the local government

H. 4802 - Abandoned Building Revitalization Act

Status: Died on the Senate Calendar

The "South Carolina Abandoned Buildings Revitalization Act" failed to receive a vote in the Senate. The legislation would have provided a tax credit on income or property taxes for a person making a \$500,000 investment in rehabilitating an abandoned building.

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H. 4894 - Income Tax Credits - School Choice

Status: Died on the Senate Calendar

The school choice bill was a scaled back version of previous school choice proposals. The legislation was targeted at providing assistance to low-income students and children with special educational needs through privately funded scholarships. The legislation also contains tax-reductions for parents who home-school. The legislation would have given parents a \$4,000 tax deduction if they sent their children to private schools, a \$2,000 tax deduction if they home-schooled their children and a \$1,000 tax deduction if they transferred their child from one public school to another.

Meeting Schedule**Monday, August 6**

- State Regulation of Public Utilities Review Committee Energy Advisory Council
 - 10:00 am Room 105, Gressette Building

Wednesday, August 8

- Budget & Control Board Meeting
 - 10:00 am Room 252, Brown Building
 - Agenda

Thursday, August 9

- DHEC Board Meeting
 - 10:00 am Room 3420, Aycock Building (2600 Bull Street, Columbia)

Tuesday, August 14

- DHHS Medical Care Advisory Committee
 - 9:30 am 11th Floor Conference Room, (1801 Main Street Columbia)

Important Dates

November 6, 2012 - General Election

November - House Organizational Session

November/December 2012 - House and Senate Prefiling

January 8, 2013 - 1st Session of the 120th South Carolina General Assembly Convenes

In the News

Petition Candidates Seek Ballot Access

The deadline for turning in the required signatures to be placed on the ballot as a petition candidate was Monday, July 16 at noon. The South Carolina Elections Commission has said that 43 people have successfully met the deadline for submitting signatures for review. The high number of candidates seeking ballot access through petition signatures is a result of the Supreme Court ruling that vacated 250 would-be candidates for failing to properly file a statement of economic interest.

Individuals seeking to become a petition candidate must have submitted signatures for 5% of their respective districts. [Read more here.](#)