

ALERTS

South Carolina Legislative Report - March 23, 2012

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On the Floor

Pollution Control Act

H.4654 received second reading this week, without amendments, and will have one more reading before the legislation is sent to the Senate. S. 1126, the Senate companion bill to H.4654, was amended in subcommittee and sent to the Senate Medical Affairs Committee, which carried the legislation over. The amendment includes provisions to exempt certain agriculture activities and discharges of dredged or fill material to wetlands less than 0.5 acres in size from permitting – both additions are counter to the original intent of the legislation.

The legislation amends the Pollution Control Act and is intended to clarify and ease the unintended burden on businesses stemming from 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 the Smith Land case, the Court ruled that the Pollution Control Act requires DHEC to regulate by permit any release into the environment and that a third party may seek enforcement of an environmental standard through a cause of action. The bill clarifies that a permit is not required if DHEC does not regulate the release or the release is below a certain threshold. Additionally, the bill prohibits a private cause of action under the PCA.

State Retirement System Reform

The House adopted H. 4967 this week which reforms the state employee retirement system and will prevent a long term \$13 billion unfunded liability. The proposal will increase the length of service to qualify from 28 to 30 years, increase employee contributions, and pension determination will be based off the last five years of service instead of the current three year average.

Unemployment Benefits

H. 4786, regarding unemployment benefits for certain school personnel, was amended to include provisions of H. 4592 (unemployment insurance fraud investigation, fines and penalties) in the House Labor, Commerce and Industry Committee last week. This week the House ruled a perfecting amendment out of order and tabled the original amendment from the committee. Debate on the bill was adjourned until next week. H. 4592 was previously rejected by the House on third reading because a poison-pill amendment was inserted during the floor debate earlier in session.

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School Choice

H. 4894, a scaled back version of a previous school choice proposal was moved to the House contested calendar this week and debate is anticipated next week. The current version of the legislation will assist low-income students and children with special educational needs through privately funded scholarships. In addition, the legislation contains deductions for parents who home-school.

Plug-In Hybrid Income Tax Credit

H. 3059 extends a tax credit for plug-in hybrid vehicles and was amended on the Senate floor to clarify the qualifications, but the legislation failed to receive second reading. A motion to reconsider the vote for second reading was made and objection was noted to prevent further consideration.

In Committee**Certificate of Need Reform**

Regulation # 4181, regarding Certificate of Need, was before the full Senate Medical Affairs Committee for consideration this week. The committee requested DHEC to withdraw the regulation and resubmit using the current fee structure rather than the proposed fees.

Hospital Liability

H. 4008 was amended and adopted by the House and sent to the Senate. In addition, S. 771 (Senate companion bill) was approved by the Senate Medical Affairs Committee and will be before the Senate for consideration next week. Both bills were amended to reflect a compromise reached between the South Carolina Hospital Association, South Carolina Medical Association and the South Carolina Association of Justice (trial lawyers) regarding peer review committee service and investigations and counsel's access to files.

State Tax Reform

The following bills were considered by various subcommittees this week and adopted after lengthy debate. The full House Ways and Means Committee will consider the measures on Tuesday.

- H. 4993 - Reduces the business property tax rate from 10.5% to 6%.
- H. 4996 - Reduces small business active income taxes - 5% to 3%
- H. 4997 - Streamlines personal income taxes from six tax brackets to two.
- H. 4998 - Reduces commercial and rental property tax from 6% to 5%.

Right to Work Legislation

H. 4652 was carried over this week by a Senate Labor, Commerce and Industry Committee subcommittee.

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The legislation will require employers to post various provisions of South Carolina's right to work laws; prohibits local and state governments from requiring labor agreements for economic development incentives or procurement opportunities; require unions to file financial disclosures to the Department of Labor, Licensing and Regulation; increases criminal and civil penalties for violation of right to work laws; and provides union employees the ability to stop deduction of union dues at any time.

LLR Director

Mrs. Holly G. Pisarik, Governor Haley's nominee for Director of South Carolina Department of Labor, Licensing and Regulation received a favorable report from the Senate Labor, Commerce and Industry Committee and her appointment is before the Senate for consideration. Pisarik, 34, has served as the department's lead attorney since 2011. She is a graduate of the University of South Carolina School of Law and previously worked as an attorney at Nelson Mullins Riley and Scarborough.

Flow Control

Business Freedom of Choice Act (H. 4721) was amended and approved by the Senate Medical Affairs Committee (minority report filed) this week. The legislation proposes to prohibit an ordinance on the local level that restricts or prohibits disposal of waste at any permitted solid waste management facility regardless of location or impedes the development or implementation of a public or private recycling program regardless of location.

In the News**Representative Thad Viers Resigns**

Representative Thad Viers (R-Horry) resigned from the House of Representatives this week prior to being indicted on stalking and harassment charges.