

**2009 Acts
That Affect Counties**



**South Carolina
Association of Counties**

FOREWORD

2009 ACTS THAT AFFECT COUNTIES is an annual report to the membership designed to provide county officials with a good place to begin a search for the law. This publication generally contains a brief description of those acts passed during the 2009 Session of the South Carolina General Assembly that affect county government operations. This publication is not designed to be the final word on the laws passed in the 2009 session which affect county government structure and operations. It is important to consult your county attorney when you have a question regarding the law.

2009 was the first half of the two year 118th General Assembly. All legislation pending action when the 2009 session adjourned will retain its status as it existed when the General Assembly adjourned *sine die*. The General Assembly reconvenes in January of 2010.

The acts in this report are generally listed in ascending order by ratification number. Each new act is entitled by its assigned act number. Underneath and to the left of the act number are two different citations: the ratification number and a Senate or House bill number. Since the act number is permanent, citing to that number is the proper reference when drafting ordinances pursuant to an act, e.g. Act No. 62 of 2009. Underneath and to the right of the act number is the effective date of the act. Please note that some ratified acts have yet to be assigned act numbers and that Joint Resolutions are not assigned Act Numbers. Act numbers can be obtained by calling SCAC staff.

The **Quick Reference to Legislation** that immediately follows lists all the legislation contained in this report by act number, ratification number, and Senate/House bill number to allow you to quickly find a piece of legislation, no matter which number you may have as a reference.

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QUICK REFERENCE TO LEGISLATION

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2009 ACTS

THAT AFFECT COUNTIES

ACT NO. ____

R. 4, H. 3232

EFFECTIVE DATE: FEBRUARY 25, 2009

This legislation states that if a favorable result regarding the imposition of a Capital Projects Sales Tax in the 2008 election was certified to the appropriate governing body and to the Department of Revenue no later than December 11, 2008, then the certification requirements of §4-10-330(E) are satisfied and the tax will be imposed. Section 4-10-330(E) requires the results to be certified by November 30, this legislation authorizes the imposition of the tax despite a delayed certification.

ACT NO. 3

R. 11, S. 483

EFFECTIVE DATE: APRIL 9, 2009

This legislation adds Article 9 to Chapter 10 of Title 4 to enact the Local Option Tourism Development Fee Act. Only a municipality located in a county which collects more than \$14 million in state accommodations tax in a fiscal year may utilize the provisions of this local option fee (§4-10-920). Section 4-10-930 authorizes a qualifying municipality to impose 1% sales tax, excluding food, for 10 years by an ordinance adopted by 2/3 of the municipal council or the approval of a majority of qualified electors voting in a referendum called by the municipal council. Once imposed the fee all revenues and interest of the fee in years 1 and 2 must be used exclusively for tourism advertisement and promotion directed at non-South Carolina residents. The municipality is to designate two organizations within the county to receive the revenues and interest and conduct the promotional activities. Section 4-10-970 contains a discrepancy regarding the use of the funds in the 3rd and subsequent years. That section states that up to 20% may be used for property tax rollbacks on owner-occupied real property or tourism-related capital projects, but then states that “no less than twenty percent of these funds must be used for property tax rollback on owner-occupied property.”

ACT NO. 1

R. 15, H. 3463

EFFECTIVE DATE: APRIL 7, 2009

Act No. 1 amends §56-7-20, deleting any color specific requirements for electronic traffic tickets. Previously the tickets were required to be either blue (the vehicle operator's traffic ticket) or white (all other copies.)

ACT NO. 13

R. 23, S. 97

EFFECTIVE DATE: MAY 7, 2009

Act No. 13 amends §59-53-1410 creating the Central Carolina Technical College Commission representing the counties of Clarendon, Kershaw, Lee and Sumter. The commission consists of eleven members appointed by the governor, upon the recommendation of a majority of the legislative delegation of the member's respective county, with six members from Sumter County, two members each from Clarendon and Kershaw, and one member from Lee County. The members will serve a term of four years until their successor is appointed and qualified.

ACT NO. 4

R. 24, S. 407

EFFECTIVE DATE: MAY 6, 2009

Act No. 4 amends Article 1, Article 5, and Article 11 of Title 44, Chapter 43, relating to the Uniform Anatomical Gift Act. Section 44-43-400 requires coroners to cooperate with procurement organizations to maximize the opportunity to recover anatomical gifts and to provide that a body part may not be removed during a post-mortem exam for transplant, therapy, research, or education unless the part is the subject of an anatomical gift. Additionally, §44-43-405 requires coroners to release to a procurement organization the name, contact information, and available medical and social history of a decedent whose body is under the jurisdiction of the coroner, if requested by the procurement organization.

ACT NO. 8

R. 33, H. 3378

EFFECTIVE DATE: MAY 6, 2009

Act No. 8 adds §8-11-192 to define furlough programs authorized within state agencies. The section replaces Proviso 89.120, which was the furlough policy implemented in last years budget rescission act, Act No. 414 of 2008. The legislation states that in a fiscal year in which the general funds appropriated for a state agency are less than in the prior fiscal year, or in an agency that is funded by other funds, collections to be less than in the

prior fiscal year, or if there is a midyear across-the-board budget reduction, agency heads may institute furlough programs of 10 or less working days. The furlough program must be either inclusive of all employees in an agency or within a designated department or program, or must be based upon pay band for classified employees and based upon pay rate for unclassified employees within the agency or department.

Law enforcement employees and correctional employees may be exempted from a mandatory furlough if overtime costs would be incurred. Additionally, employees who provide direct patient or client care and front-line employees who deliver direct customer services may be exempted from a mandatory furlough. However, the mandatory furlough must include the agency head. The furlough policy for Higher Education and Technical Education continues to be dictated by the provisions of §8-11-193.

ACT NO. 18

R. 44, S. 13

EFFECTIVE DATE: MAY 19, 2009

This act amends §56-3-910 to provide that all fees and penalties collected pursuant to the South Carolina Motor Vehicle Registration and Licensing Act must be placed in the state highway account of the Transportation Infrastructure Bank without crediting any to the Department of Transportation or the general fund of the state. This amendment cleans up the current code section which phased out the distribution of these funds to the general fund in 2007.

ACT NO. 23

R. 49, H. 3560

EFFECTIVE DATE: JULY 1, 2009

The state general appropriations act generally contains a number of temporary statutory provisions which are referred to as “provisos.” Temporary provisos are effective only for the fiscal year addressed in the budget act and appear in Part IB of the act, hence the label “Part I provisos” or “temporary provisos.” Many Part I provisos are adopted every year as part of the budget process with little or no changes, others are truly temporary in nature and only appear for one or two years. The effective date of all Part IB provisos are for the fiscal year in which the act has been passed, in this case, Fiscal Year 2009-2010. This year the General Assembly placed a Part III in the budget to deal with the federal stimulus package. This part of the budget is currently the subject of several lawsuits. None of the money distributed in Part III directly affects county government.

Part IA:

The Local Government Fund (LGF) was funded in the main part of the budget bill with a \$50 million cut from the formula amount. Proviso 90.21, detailed below, potentially will distribute an additional \$10 million in funding for the LGF. It would be inadvisable to

build this additional revenue into the county budget until it is collected, unless distribution is made contingent on receipt of the funds. The earliest the revenue may be available is the third or fourth quarter of next fiscal year.

The LGF will drop significantly in next year's budget under the statutory formula reflecting the drop in the state general fund occurring this year. The state general fund is expected to be about \$1.2 billion less than the previous year. This equates to a roughly \$50 million drop in the LGF under the statutory formula.

Part IB

The following are some of the IB provisos of interest to governmental entities in this year's appropriations act (Provisos which have an * are new or amended provisos):

Proviso 1.43: This is the school district flexibility proviso. Section 59-21-1030, the EIA local effort requirement, is suspended for FY 2009-10. There is no corresponding suspension of the EFA local effort requirement.*

Proviso 21.17: This proviso, which transfers DSS employees who determine medicaid eligibility to DHHS, also requires that the governing authority of each county shall continue to provide office space and facility service for this function as they do for DSS functions under Section 43-3-65. Section 43-3-65 requires the governing authorities of each county to provide office space and facility service, including janitorial, utility and telephone services, and related supplies, for its county Department of Social Services.

Proviso 22.8: This proviso requires each county to provide all operating expenses of the local health department other than salaries, fringe benefits and travel in an amount at least equal to that appropriated for operations for each county in Fiscal Year 1981. The proviso states that a reduction in the local health department funding level may be made in the event any county makes uniform reductions in appropriations to all agencies or departments for maintenance and operations.

Proviso 26.23: This proviso directs the Department of Social Services to provide a detailed report to the General Assembly on the status of the Child Support Enforcement System.

Proviso 29.1: To receive the Aid to Counties Libraries Allotment, local library support may not be less than the amount actually expended for library operations from local sources in the second preceding year (FY 07-08).

Proviso 37.5: This proviso directs that a proportionate share of funds - at \$15,000 per district - be allocated to each of the state's 46 Soil and Water Conservation Districts for general assistance to the district's programs. The districts' funding may only be reduced in an amount not to exceed the percentage of each Department of Natural Resources budget reduction.*

Proviso 44.2: This proviso requires counties to provide for each circuit court and family court judge residing within that county an office to include all utilities and a private telephone, and requires counties to provide the same for Supreme Court Justices and Judges of the Court of Appeals upon their request.

Proviso 46.5: Proviso 46.5 states that amounts appropriated in the General Appropriations Act for solicitors' offices are in addition to any amounts presently being provided by the county for these services and may not be used to supplant funding already allocated for such services.

Proviso 47.1: This proviso states that no county may contribute less money to indigent defense than the amount the county contributed as of July 1, 2001. No county shall be permitted to contribute less money than the amount the county contributed in the prior fiscal year.

Proviso 47.14: This proviso requires a person applying for a court appointed attorney in a termination of parental rights (TPR), abuse and neglect, or other civil court action to pay a \$40 application fee. The clerk of court or other appropriate official is required to collect the application fee and remit the proceeds to the Commission on Indigent Defense on a monthly basis.*

Proviso 51.29: This proviso is intended to provide funding to expand the capabilities of the Department of Corrections (DOC) to more expeditiously accept and process newly-sentenced inmates who are awaiting transfer from local jails. \$1.9 million was placed in the budget to expand the R&E centers at the Kirkland and MacDougall Housing Units. This proviso provides a permanent solution to DOC not accepting its prisoners from local jails in a timely manner and it recognizes that DOC must comply with its statutory obligations.

Proviso 71.2: Proviso 71.2 requires counties to provide for each Administrative Law Judge residing within that county, upon their request, an office within the existing physical facilities if space is available, to include all utilities and a private telephone.

Proviso 72.8: States that amounts appropriated in the General Appropriations Act for victim assistance programs in solicitors' offices are in addition to amounts presently being provided by the county for these services and may not be used to supplant funding already allocated for such services.

Proviso 76.11: This proviso states that if the State Treasurer receives an audit report from a county that contains a significant finding related to court fine reports to the State Treasurers Office, the requirements of proviso 89.70 shall be followed if an amount due is specified. Proviso 89.72 is the assessment audit proviso. The requirements of 89.70 are as follows:

“If the error is determined to have been made by the county or municipal treasurer's office, the State Auditor shall notify the State Office of Victim

Assistance for the crime victim portion and the chief administrator of the county or municipality of the findings and, if full payment has not been made by the county or municipality within ninety days of the audit notification, the State Treasurer is directed to adjust the authority's aid to subdivisions funding in an amount equal to the amount determined by the State Auditor to be the state's portion. . .”

If an amount due is not specified, proviso 76.14 authorizes the State Treasurer to withhold 25% of all state payments to the county until the estimated deficiency has been satisfied. Additionally, the proviso states that if a county is more than 90 days delinquent in remitting monthly court fines, the State Treasurer shall withhold 25% of state funding for that county until all monthly reports are current. After 90 days, the funds being held by the Treasurer’s Office will be made available to the State Auditor to conduct an audit of the entity for determining an amount due, if any.

Proviso 79.1: This proviso states that the amount of compensation for County Registration Board Members and County Election Commissioners is \$1500 per member and may not exceed \$12,500 per county. If the number of appointments in a county exceeds eight members, compensation shall be reduced on a pro rata basis in order to adhere to the \$12,500 per county limit. The funds are exempt from mandated budget reductions.

Proviso 79.7: This proviso requires members of the County Board of Voter Registration and County Election Commission to receive a common curriculum on the duties and responsibilities of such boards and commissions. The State Election Commission must withhold the stipend of members if they do not complete the training and certification program or fail to complete at least one training course in a year. Additionally, the proviso requires the commission to make the courses available in various locations including the upstate, coastal, and midlands areas of the state.

Proviso 80A.37: This proviso directs the Division of State Information Technology to administer and coordinate First Responder Interoperability operations for the statewide Palmetto 800 MHz radio system. The proviso directs the Division of State Information Technology to establish the level of required match each year based on the funding provided.*

Proviso 80A.39: This proviso states that there will be no state employee pay raises for FY 2009-10.*

Proviso 80A.52: This proviso states that the increase in the employer contribution rate for employers participating in the South Carolina Police Officers Retirement System provided for in Section 9-11-310(F), as added by Act 311 of 2008, is suspended for FY 2009-10.*

Proviso 80A.65: This proviso states that the funds appropriated to the Division of Aeronautics for FAA grant matching may be used to match state and local aviation airport projects whether or not they have received FAA funding.

Proviso 80C.6: This proviso states that a person who is eligible to participate in the state health and dental insurance plans as a council member of a participating county and who is also eligible to participate as the spouse of a covered employee or retiree may choose to participate in the insurance plans as either an employee or a spouse, but not both.*

Proviso 86.2: This proviso states that for Fiscal Year 2009-10, counties may transfer funds among appropriated state revenues as needed to ensure the delivery of services.*

Proviso 86.3: This proviso amends the quarterly distribution amounts for the Local Government Fund. The amount of the first quarterly distribution for each entity shall equal the amount of the last quarterly distribution for Fiscal Year 2008-2009. The next three installments will be distributed in equal amounts, reflecting any reduction in the aid to subdivisions allocation. This proviso is intended to help reduce the necessity of tax anticipation notes by ensuring a predictable amount of revenue in the first quarter of the fiscal year.*

Proviso 86.4: This proviso, which provides for the salary supplements for Clerks of Court, Probate Judges, Coroners, Sheriffs, Registers of Deeds, Auditors and Treasurers, was amended to provide that a county can reduce the expenditures in the operation of these officials offices, after consultation with the officer, without any required corresponding reduction in the county's state aid to subdivisions distribution.

Currently, §8-15-65 states: “To the extent that compensation for these officers is reduced by a county or *there is any other reduction of expenditures in the operations of their offices*, a corresponding reduction must be made in the distribution otherwise due the county pursuant to Chapter 27 of Title 6, the State Aid to Subdivisions Act.” (Emphasis added.) This section has been interpreted as sheltering these offices from budget reductions, at the expense of all other county departments. The proviso is intended to allow county council the ability to reduce expenditures in these offices for a one year period.

This proviso was also amended to exempt the salary supplements for Clerks of Court, Probate Judges, Sheriffs, Registers of Deeds, Coroners, Auditors, and Treasurers from across the board cuts mandated by the Budget and Control Board or General Assembly.*

Proviso 86.6: Requires that a county government must fund its legislative delegation budget as approved by the delegation for FY 2003-04.

Proviso 86.8: This proviso suspends §6-27-30 and §6-27-50. Section 6-27-30 requires 4½ % of general fund revenues of the latest completed fiscal year be appropriated to the Local Government Fund. Section 6-27-50 states that the Aid to Subdivisions Act, which

includes the LGF, may not be amended or repealed except in separate legislation solely for that purpose.*

Proviso 89.24: The mileage reimbursement for state employees is 50.5 cents per mile or the current rate established by the Internal Revenue Service - whichever is lower.

Proviso 89.72: This proviso authorizes the State Office of Victim Assistance (SOVA) to perform programmatic reviews on any entity which receives victim assistance money, primarily fine assessments, to ensure that victim fine money is spent in accordance with the statute.*

Proviso 89.118: This proviso authorizes a committee organized and co-chaired by the State Treasurer and the Comptroller General to monitor funds associated with the federal stimulus bill. This committee shall collect information associated with funds received by state agencies from the American Recovery and Reinvestment Act. Finally, the co-chairs may also require local government entities to provide any information deemed relevant to provide disclosure of the American Recovery and Reinvestment Act of 2009 funds to the public, including audit reports.*

Proviso 90.14: This proviso suspends §6-27-30 for this fiscal year. Section 6-27-30 requires 4½ % of general fund revenues of the latest completed fiscal year be appropriated to the Local Government Fund.*

Proviso 90.21: This proviso requires the Department of Revenue to utilize \$2,200,000 allocated to the department to hire and provide operations for specifically identified additional enforcement personnel (agents, auditors and support) to enhance audit and collection activity. The funds collected as a result of these enhanced audits are to be placed in a separate fund by the State Treasurer. The first \$48,250,000 collected shall be disbursed on a pro rata basis to fund: reapportionment, OPEB funding, the school owner-occupied homestead exemption shortfall, and need based grants. After this money is distributed the next \$8 million shall be transferred to the Department of Motor Vehicles to reimburse the department for the funds transferred to other agencies in the budget bill. The next \$500,000 shall be transferred to the Forestry Commission, then the next \$285,000 to Clemson University-PSA for the South Carolina Biotechnology Incubation Facility. The next \$500,000 of excess revenue shall be transferred to the Commission on Higher Education - University Center of Greenville and the next \$30,000 to the Department of Agriculture for Agri-Business Development. After all of the above money is distributed pursuant to this proviso, the next \$10 million of revenue shall be transferred to Aid to Subdivisions-State Treasurer for the Local Government Fund.*

ACT NO. ____

R. 50, H. 3581

EFFECTIVE DATE: MAY 19, 2009

Section one of this act suspends for FY 2009-10 the provisions of §6-27-50. Section 6-27-50 states that the Aid to Subdivisions Act, which includes the Local Government Fund (LGF), may not be amended or repealed except in separate legislation solely for that purpose. This enabled the General Assembly to reduce the LGF in the state budget.

Section two states that counties, for FY2008-09 and FY2009-10, may transfer among appropriated state revenues as needed to ensure the delivery of services.

ACT NO. ____

R. 52, H. 3730

EFFECTIVE DATE: MAY 19, 2009

This act states that all funds received under the American Recovery and Reinvestment Act of 2009 (ARRA) for the Clean Water State Revolving Fund and Drinking Water State Revolving Fund may be received and expended pursuant to provisions of the ARRA. This is to prevent potential conflicts between the allowable uses of the Clean Water Fund in §48-5-30(C), the allowable uses of the Drinking Water Fund in §48-5-55(C) and the uses allowed under the ARRA.

ACT NO. 22

R. 54, H. 3957

EFFECTIVE DATE: MAY 19, 2009

This legislation adds §48-1-55 to state that on any navigable river where an oyster factory is located, the Department of Health and Environmental Control may utilize qualified personnel of the county or municipality in whose jurisdiction the factory operates to assist with the monitoring of water quality and other environmental standards the department is required to enforce. The use of such personnel requires the consent of the county or municipality.

ACT NO. 29

R. 63, S. 345

EFFECTIVE DATE: JUNE 2, 2009

This legislation amends §8-11-65(A) to provide that the number of days person may miss each year to donate their organs shall be counted in a calendar year instead of a fiscal year.

ACT No. 49

R. 65, S. 360

EFFECTIVE DATE: SEE BELOW

This legislation makes several amendments to the Capital Projects Sales Tax. Section 1 amends §4-10-310, eliminating the requirement that a limited amount of money may be collected by the sales tax.

Section 2 amends §4-10-330 and authorizes the proceeds of the tax to be used on “educational facilities under the direction of an area commission for technical education.” Additionally, that section is amended to state that the implementing ordinance must state the maximum time the tax is to be imposed in two year increments not to exceed 8 years, or in the case of a reimposed tax, a period ending on April 30th of an odd-numbered year, not to exceed seven years. Currently the time limitation is 7 years after the date of imposition. Section 4-10-330(C) is amended to allow the referendum concerning the reimposition of a capital projects sales tax in effect before June 1, 2009 to be held on a general election day or at a time the governing body of the county and the Department of Revenue determine necessary to permit the tax to be reinstated and continue without interruption.

Section 3 of the legislation amends §4-10-340 to state that if all projects are completely funded then additional proceeds of the tax are to go to projects authorized under the reimposition referendum, or in the case of no reimposition, to authorized capital projects outlined by ordinance.

Finally, Section 4 amends §4-10-350(B) to state that the Capital Projects Sales Tax may not be collected on food.

The act became law June 3, 2009 without the Governor’s signature. However, the allowance to use funds for technical education buildings, and the elimination of food from the tax apply to Capital Project taxes imposed or reimposed pursuant to a referendum held after the effective date of this act.

ACT No. 74

R. 67, S. 364

EFFECTIVE DATE: JUNE 16, 2009

This act adds §23-9-25 to create the Volunteer Strategic Assistance and Fire Equipment Program (V-SAFE). The V-Safe Program is a competitive grant program for volunteer and combination fire departments with the purpose of protecting communities from fire, hazardous materials, terrorism, and to provide for the safety of volunteer firefighters.

The program is to be administered by the State Fire Marshal in conjunction with a peer review panel.

Grant money received by a chartered fire department must be used for the following purposes:

- (1) fire suppression equipment;
- (2) self-contained breathing apparatus;
- (3) portable air refilling systems;
- (4) hazardous materials spill leak detection, repair, and recovery equipment;
- (5) protective clothing and equipment;
- (6) new and used fire apparatus;
- (7) incident command vehicles;
- (8) special operations vehicles;
- (9) training;
- (10) rescue equipment;
- (11) medical equipment;
- (12) decontamination equipment; and
- (13) safety equipment.

Applications will be evaluated and scored based upon the proposed project's clarity, including the project's budget detail, the organization's financial need, the benefits that would result from an award relative to the cost, and the extent to which the grant would enhance daily operations or how the grant will positively impact an organization's ability to protect life and property.

This section became effective upon the General Assembly's override of the Governor's veto on June 16, 2009. However, the General Assembly did not appropriate funds for these grants. When appropriated, grants can be for up to \$30,000.

ACT NO. 75

R. 70, S. 453

EFFECTIVE DATE: JUNE 16, 2009

This act adds §47-4-160 to state that the General Assembly occupies the field concerning the regulation of care and handling of livestock and poultry, and to provide that local laws, ordinances, orders, or other regulations concerning the care and handling of livestock and poultry are preempted and superceded. This Act does not affect nuisance lawsuits related to agricultural operations, and this Act does not affect a local government's authority to enact ordinances concerning new swine or slaughterhouse operations. This Act also amends §6-1-330 by adding section (D) prohibiting counties from imposing a fee on agricultural lands, forest lands, or undeveloped lands for a storm water, sediment, or erosion control program unless Chapter 14, Title 48, allows for the imposition of this fee on these lands. However, any county which imposes such fees on these lands on the effective date of this Act may continue to impose that fee under the same terms, conditions, and amounts.

ACT No. 33

R. 76, S. 668

EFFECTIVE DATE: JUNE 2, 2009

Act No. 33 amends §53-5-10 to add December 24 to the list of legal state holidays. The act deletes §53-5-20 which authorized the Governor to declare Christmas Eve a state holiday.

ACT No. 56

R. 87, H. 3013

EFFECTIVE DATE: JUNE 3, 2009

This bill amends §16-11-650, which deals with the unauthorized removal of fences or gates enclosing animals, crops, or uncultivated lands. It provides for a fine of \$1,000.00 or imprisonment for thirty days, or both. The bill vests the magistrates court with jurisdiction to dispose of these cases.

ACT No. 76

R. 88, H. 3018

EFFECTIVE DATE: SEE BELOW

Section 1 of this legislation amends §12-37-220(B) to exempt from real property taxes the value of a new home until either the home is sold or occupied or the 6th December 31 after the home is completed and a certificate of occupancy(CO) is issued. A home builder shall obtain the exemption by notifying the assessor and the auditor by written affidavit no later than 30 days after the CO is used and by January 31 in subsequent years.

Section 2 of the bill amends §12-37-220(c)(2)(iii) to change the certification requirement to qualify for the 4% owner-occupant assessment ratio. The legislation would allow a taxpayer to certify that he qualifies if the taxpayer has a household member, over the age of 18, claimed or eligible to be claimed as a dependent on the owner-occupant's federal income tax return, who also receives the 4% owner-occupant assessment ratio.

The act took effect on June 16, 2009 and applies for CO's issued after 2006. However, no refunds are allowed for property tax years 2007 and 2008 as a result of this legislation.

ACT No. 36

R. 89, H. 3022

EFFECTIVE DATE: JUNE 2, 2009

H. 3022 enacts Article 9, Chapter 22, Title 17, dealing with the Uniform Expungement of Criminal Records. The legislation provides that all applications for expungement must be

administered by the solicitor's office (§17-22-910). Section 12-22-940(A) states that an applicant for expungement must pay the solicitor's office a \$250 fee per order. An applicant is also required to pay the clerk of court the \$35 filing fee per order required pursuant to §8-21-310(21). However, §17-22-950 provides that any person charged with an offense and the offense is later dropped, the person is found not guilty, or the charges are dismissed nolle prosequere must have the charges expunged from their record free of charge. Section 17-1-40(A) states that all records of any person charged with an offense which is later dropped, or the person is found not guilty, or the charges are dismissed must be destroyed at no cost to the accused. This section allows jail administrators to retain the records for a period not to exceed three years for purposes of statistical management and litigation defense.

ACT NO. 77

R. 91, H. 3087

EFFECTIVE DATE: JUNE 16, 2009

This act amends § 23-3-535 relating to the limitations on places of residence for sex offenders. It provides that a local government may not pass an ordinance that either expands or contracts the boundaries in which a sex offender may reside.

ACT NO. 38

R. 93, H. 3123

EFFECTIVE DATE: JUNE 2, 2009

This act amends §40-5-310 pertaining to the prohibition against any person practicing law in a court of this state unless they have been admitted and sworn as a member of the South Carolina Bar. A person who violates this act is guilty of a felony. However, the Supreme Court of South Carolina must define the practice of law prior to a charge under this act. This law does not appear to replace the 1992 Order of South Carolina Supreme Court, which allows police officers to prosecute traffic offenses without engaging in the unauthorized practice of law. Presumably this would also include code enforcement officers who present testimony in court hearings on challenges to citations issued for ordinance violations. The Supreme Court will continue to determine the unauthorized practice of law on a case by case basis.

ACT NO. 40

R. 97, H. 3187

EFFECTIVE DATE: JUNE 2, 2009

This act allows a person who has performed more than five thousand dollars in landscape services to file a mechanic's lien for nonpayment by adding §29-5-26 to the Code of Laws. Section 29-5-15 states that in order to file the mechanic's lien, the landscaper or contractor must provide the clerk of court or register of deeds proof that he is licensed or

registered if he is required by law to be license or registered, and include the license or registration number on the lien document.

ACT No. 45

R. 103, H. 3482

EFFECTIVE DATE: SEE BELOW

This legislation amends §12-37-220(B)(33) to exempts from property taxes all aircraft, including associated personal property, owned by a company owning two or more specially equipped planes that are used for the transportation of specialized cargo.

The legislation takes effect upon approval by the Governor and applies for property tax years after 2006.

ACT No. ____

R. 104, H. 3483

EFFECTIVE DATE: MAY 27, 2009

This Joint Resolution proposes an amendment to Article I of the South Carolina Constitution, by providing that hunting and fishing are valuable parts of the state's heritage, important for conservation, and a protected means of managing nonthreatened wildlife, and that citizens of South Carolina shall have the right to hunt, fish, and harvest wildlife, subject to the laws and regulations as prescribed by the General Assembly. The proposed amendment must be submitted to voters at the next general election for representatives.

ACT No. 48

R. 109, H. 3651

EFFECTIVE DATE: JUNE 2, 2009

Act No. 48 amends §48-23-205 so as to limit the authority of counties and municipalities to restrict or regulate certain forestry activities. It prevents counties or municipalities from adopting or enforcing any ordinance, rule, regulation, resolution, or permit related to forestry activities on forestland that is either taxed as forestland under §12-43-220(d), managed by a forest management plan, certified under a nationally recognized forest certification system, subject to a conservation easement, or managed in accordance with the State Commission on Forestry's best management practices pursuant to §48-36-30. This act does not limit, expand or otherwise alter the authority of a county or municipality to regulate activities associated with development, provided that a deferral of consideration of an application for a building permit, a site disturbance or subdivision plan, etc. Limits on such deferral are provided by the Act also.

ACT No. 59

R. 111, H. 3677

EFFECTIVE DATE: JUNE 2, 2009

This act conforms state law to federal requirements regarding violence against women by amending §16-3-740, which requires certain criminals convicted of criminal domestic violence to be tested for Hepatitis B and HIV at the request of the victim. This includes adults and juvenile offenders. The tests must be administered by DHEC through the local county health department or the medical professional at the state or local detention facility where the offender is imprisoned or detained. The State shall pay for the tests and solicitor shall notify the state or local correctional facility where the test results of an offender are positive for HIV or Hepatitis B. Section 16-3-750 is added to provide that law enforcement may request that the victim of an alleged criminal sexual conduct change take a polygraph test as part of the ongoing investigation, but that law enforcement may not require the test as a condition before proceeding with an investigation.

ACT No. 62

R. 114, H. 3761

EFFECTIVE DATE: JUNE 3, 2009

This amends §44-53-530 relating to forfeited monies and proceeds from the sale of forfeited property. It allows the use of forfeited monies and proceeds from forfeited property for drug and other law enforcement training and education, in addition to other uses previously delineated.

ACT No. 81

R. 121, S. 12

EFFECTIVE DATE: SEE BELOW

This legislation creates the South Carolina Tax Realignment Commission. The commission will consist of 11 members, 4 appointed by the Senate, (1 member each appointed by President Pro Tempore, the Finance Committee Chairman, the Majority Leader, and the Minority Leader) 4 appointed by the House, (2 members appointed by the Speaker, 2 by the Ways and Means Chairman) 2 appointed by the Governor, and the Director of the Department of Revenue, to serve ex officio. A member of the General Assembly may not serve on the commission.

The commission is to develop and report criteria, within 3 months, for assessing the effectiveness of the current tax system structure, as well as the likely systemic impact of any proposed changes affecting tax revenues. Then the commission is to prepare and deliver a detailed, comprehensive, and careful evaluation of the state's tax system

structure by March 15, 2010. This report must consider sales and use tax exemptions or limitations to be retained, modified, or repealed; an assessment of state and local taxes levied and other provisions affecting state and local revenue to fund the operation and responsibilities of state and local government, respectively; and fees, fine, license, forfeiture, or other funds. The commission is also to consider the federal Fair Tax proposal.

After providing the report on March 15, 2010 the commission is to continue studying the tax system and may make further legislative recommendations at any time. Additionally, the commission must submit a report to the Chairman of the Finance Committee and the Chairman of the Ways and Means Committee on August 1st and February 1st of each year detailing the commission's progress and points of focus. The commission expires on January 1, 2011.

The commission may not consider the exemption of owner-occupied residential property granted in §12-37-220(B)(47).

The General Assembly adopted the conference report on S. 12 during the sine die session as authorized under S. 834. It will become effective upon the approval of the Governor.

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