
Stewart Konduros & Associates, LLC

SCFOP

Both the Senate and the House of Representatives are furloughed this week

H 3147 General Bill – **Workers' Compensation**, By Pope, Tallon and Southard is a bill that amends Subsection 42-1-160, relating to the definitions of "injury" and "personal injury" in workers' compensation, modifies the requirements of an employee seeking workers' compensation connected with stress, mental injury, or mental illness associated with official duties. **H 3147** establishes provisions for **AWARDING WORKERS' COMPENSATION TO A LAW ENFORCEMENT OFFICER WHO SUSTAINS POST-TRAUMATIC STRESS DISORDER FROM THE USE OF DEADLY FORCE IN THE LINE OF DUTY**. This legislation addresses a recent South Carolina Supreme Court ruling that a police officer's post-traumatic stress disorder after a job-related fatal shooting of a suspect did not arise from extraordinary and unusual conditions of employment, as required for an award of workers' compensation payments for mental injuries. This legislation exempts a law enforcement officer seeking workers' compensation for personal injury caused by stress, mental injury or mental illness from meeting this extraordinary and unusual conditions standard when the impairment causing the stress, mental injury, or mental illness arises from the law enforcement officer's direct involvement in, or subjection to, the use of deadly force in the line of duty.

STATUS: H 3147 passed the House and sent to the Senate where it was referred to Judiciary. Referred to Subcommittee: Gregory (ch), McElveen, Turner. During the April 9, 2014, 10am meeting in room 407 Gressette building, H.3147 was carried over. SKA provided testimony on behalf of SCFOP. Currently no meeting has been scheduled to hear the bill.

H 4623 General Bill – Return to Work, by Rivers is a bill that revises South Carolina Police Officers Retirement System provisions relating to the return to employment after retirement, so as to provide that the ten thousand dollar earnings limitation does not apply if the retired member of the system who has been retired for at least thirty consecutive calendar days returns to employment covered by the system as an employee of: a municipality that has a population of less than twenty-four thousand; or a county in which the sheriff's office has a personal services budget of less than eleven million dollars or the detention center has a personal services budget of less than three million dollars.

STATUS: H 4623 was referred to House Ways and Means. Currently no meeting is scheduled to hear the bill.

H 4630 General Bill – **Law Enforcement Certification**, by Funderburk is a bill relating to the expiration or lapse of the law enforcement certification of an officer upon his discontinuance of employment, this legislation provides an exemption when the employment is discontinued because of his absence from work due to a disability he sustained in that employment for which he receives workers' compensation benefits and from which he has not been authorized to return to work without restriction. The legislation requires satisfaction of continuing education requirements for this period, and the legislation make these provisions retroactive to January 1, 2013.

STATUS: H4630 is being debated in House Judiciary. No meeting has been scheduled to date.

PASSED: **H.3089** General Bill – **Tax Deduction for State Constables**, By [Pope](#), [Tallon](#), [Hixon](#), [Wells](#) and [McCoy](#) is a bill relating to deductions allowed from South Carolina taxable income of an individual for purposes of the South Carolina Income Tax Act, so as to allow a maximum three thousand dollar a year deduction for volunteer state constables designated by the state law enforcement division as state constables and to provide the eligibility requirements for this deduction. The amendment is as written below:

"(a) A deduction calculated as provided in this item for a volunteer firefighter, rescue squad member, volunteer member of a Hazardous Materials (HAZMAT) Response Team, reserve police officer, Department of Natural Resources deputy enforcement officer, ~~or a~~ member of the State Guard, or a volunteer state constable appointed pursuant to Section 23-1-60 for the purpose of assisting named law enforcement agencies and who has been designated by the State Law Enforcement Division as a state constable not otherwise eligible for this exemption."

"(b) In the case of a volunteer state constable and in lieu of minimum points determining eligibility, this deduction is allowed only if the volunteer state constable completes a minimum logged service time of two hundred forty hours per year and has been designated by the State Law Enforcement Division as a state constable before the taxable year for which the deduction is first claimed and if the volunteer state constable is current with the required SLED approved annual training for constables for the most recently completed fiscal year as evidenced by a copy of the documentation provided to SLED of this annual training filed with the volunteer state constable's state income tax return."

Explanation of Amendment (May 21, 2013) Currently, all volunteer state constables are required to complete a minimum of twenty hours of training per year as prescribed by the Chief of the State Law Enforcement Division (SLED) to remain licensed. According to updated information from SLED, there are currently 990 volunteer state constables. Of these individuals, an estimated 200 constables have completed a minimum logged service time of 240 hours of training per year to become eligible for the income tax deduction. The logged hours of training must be certified to SLED with a copy to be filed with the volunteer state constable's state income tax return. Multiplying 200 volunteer state constables by a \$3,000 income tax deduction and applying an average tax rate of 5.8 percent would reduce general fund individual income tax revenue by an estimated \$34,800 in FY2013-14. This individual income tax deduction would apply to tax years beginning with 2013.

STATUS: The bill was passed the House and the Senate. Signed by the Governor 3/13/2014.

PASSED: **S.22** General Bill - **Consolidation/Restructuring**, by Senator Sheheen proposes to eliminate the State Budget and Control Board, devolving most of its functions upon a newly created Department of Administration in the executive branch of government and transferring select functions to other entities, the State Fiscal Accountability Authority, Rural Infrastructure Authority, and the South Carolina Confederate Relic Room and Military Museum Commission. The legislation transfers the Energy Office to the Office of Regulatory Staff and transfers regulation of minerals and mineral interests on public lands and the regulation of Geothermal Resources into the Department of Health and Environmental Control. The legislation also includes provisions for legislative oversight of executive departments authorizing committees of the General Assembly to conduct periodic reviews of state government functions. Among other things, the legislation enacts the "State Agency Deficit Prevention and Recognition Act"; revises the name of the Office of Legislative Printing, Information and Technology Systems to Legislative Services Agency and provides for a Legislative Fiscal Office responsible for revenue and fiscal impact statements as a division the Legislative Services Agency;

establishes an Executive Budget and Strategic Planning Office within the Department of Administration; adds members to the Charleston Naval Complex Redevelopment Authority and establishes the Charleston Navy Base Museum Authority as a division of the Charleston Naval Complex Redevelopment Authority to undertake the duties and responsibilities of the Hunley Commission; and in 2020 requires the Legislative Audit Council to conduct a performance review of these provisions to determine its effectiveness and achievements with regard to the more efficient performance of the functions and duties of the various agencies and the cost savings and benefits to the State. While the legislation ultimately eliminates the State Budget and Control Board, it does include provisions for information security within the Board.

STATUS: S.22 passed the Senate and the House and has been ratified. The Governor signed the bill on 1/27/14.

H.3043 General Bill - Consolidation, by [Pitts](#) and [G.R. Smith](#) creates the South Carolina Department of Law Enforcement and Public Safety which primarily combines the Department of Public Safety and SLED.

STATUS: Referred to House Judiciary. Currently there is no meeting scheduled to discuss the bill.

H.3120 General Bill - Consolidation, By [Crosby](#) creates the South Carolina State Police which primarily combines the Department of Public Safety and SLED into a State Police agency.

STATUS: Referred to House Judiciary. Currently there is no meeting scheduled to discuss the bill.

H.3064 General Bill – Offense of Attempted Murder, by [McCoy](#) creates the offense of attempted murder of a law enforcement officer and provide a mandatory minimum penalty. Representative Tallon has agreed to amend the bill to include firefighters in the language as well.

STATUS: Referred to House Judiciary. Currently there is no meeting scheduled to discuss the bill.

H.3039 General Bill - Custodial Interrogations Video Recorded, By [Rutherford](#) proposes a bill to provide that certain statements made during a custodial interrogation must be video recorded, to provide that a court must instruct a jury that it may draw an adverse inference for a law enforcement officer who fails to video record a statement relating to a crime, to provide the circumstance in which a person's statement may be used for impeachment purposes, to provide the circumstances when a statement obtained in another state or by the federal government is admissible in this state and to provide the circumstances when an inaudible portion of a video recording does not render it inadmissible in a judicial proceeding.

STATUS: Referred to House Judiciary. Currently there is no scheduled meeting for this bill.

H.3192 General Bill - Automatic Number Plate Recognition System, by [Rutherford](#) proposes a bill making it unlawful for a law enforcement agency to use or employ an automatic number plate recognition system and to provide a penalty (\$1,000 for each violation which will be remitted to the general fund of the state).

STATUS: Referred to House Judiciary. Currently there is no scheduled meeting for this bill.

H.3038 General Bill - **Window Tinting**, by Rutherford revises the permitted level of light transmission from 27% to 20% window tinting installed on the windshield, side windows and rear window of a motor vehicle.

STATUS: Referred to House Education. Currently there is no scheduled meeting for this bill.

PASSED: **S.308** General Bill - **Firearms/CWP**, by [Bennett](#), [Shealy](#), [Grooms](#), [Hembree](#), [L. Martin](#), [Massey](#), [Campbell](#), [Turner](#), [Thurmond](#), [Bryant](#), [Verdin](#), [S. Martin](#), [Davis](#) and [Bright](#). The House returned **S.308** to the Senate with amendments. The legislation relates to **CARRYING A CONCEALED WEAPON IN A BUSINESS THAT SELLS ALCOHOL TO BE CONSUMED ON THE PREMISES**. The legislation replaces the current prohibition on carrying a pistol or firearm into a business which sells alcoholic liquor, beer, or wine for on-premises consumption with new provisions that afford concealed weapons permit holders some legal authority to carry their firearms into bars, restaurants, and other establishments that serve beer, wine, or alcoholic liquor. Also, the legislation makes revisions pertaining to **THE REQUIREMENTS AND PROCESS TO RECEIVE A CONCEALED WEAPON PERMIT**. Among other things, the legislation provides that the permit is valid for **five years** rather than four years, allows the State Law Enforcement Division to make all contact with a permit applicant through online communications if an applicant submits his application online, **deletes the requirement that an education course must be a minimum of eight hours**, and allows individuals with military training as well as retired law enforcement officers to complete only the portion of the class reviewing state law. The legislation provides that a person may not carry a concealed weapon into a place clearly marked with a sign prohibiting the carrying of a concealed weapon on the premises, except that a property owner or an agent acting on his behalf, may allow individuals of his choosing to enter onto property regardless of any posted sign to the contrary. Additionally, the legislation provides that a **CONCEALED WEAPON PERMIT HOLDER MAY SECURE HIS WEAPON UNDER A SEAT IN A VEHICLE**, or in any open or closed storage compartment within the vehicle's passenger compartment.

STATUS: S.308 was ratified 2/5/14. Governor Haley signed S.308 Tuesday, February 11, 2014.

S.115 General Bill - **Open Carry Bill**, by Bright, et. al. allows for open carry of a handgun without need of a permit in South Carolina. The bill would take away the need for the permit and training. While it has the backing of gun supporters, police officers and law enforcement groups are a little more leery. Some worry about having people carrying guns in public with no training on how to use them.

STATUS: This bill died in committee by vote.

H.3069 General Bill - **Weapons**, by Reps. Pitts and Simrill provides that a person who steals a firearm is guilty of the felony offense of theft of a firearm and, upon conviction, must be fined not more than \$5,000 dollars and imprisoned for a mandatory minimum of seven years not more than ten years. No part of the mandatory minimum term of imprisonment may be suspended nor probation granted.

STATUS: The bill was referred House Judiciary and placed in the General Laws Subcommittee. Currently there is no scheduled meeting for this bill.

H.3044 General Bill - **Fraudulent Firearms and Ammunition Purchase Prevention**, by Reps Pitts et al. provides that it is unlawful for a person to knowingly solicit, persuade, encourage or entice a licensed dealer or private seller of firearms or ammunition to transfer a firearm or ammunition under circumstances which the person knows would violate state or federal laws. The legislation provides that it is unlawful for a person to knowingly provide to a licensed dealer or private seller of firearms or

ammunition materially false information with intent to deceive the dealer or seller about the legality of a transfer of a firearm or ammunition. The legislation provides it is unlawful for a person to willfully procure another person to engage in conduct prohibited by this legislation. This legislation does not apply to a law enforcement officer acting in his official capacity or to a person acting at the direction of a law enforcement officer. A person who violates these provisions is guilty of a felony and, upon conviction, must be fined not more than \$5,000, or imprisoned for not more than five years, or both.

STATUS: The bill was referred to House Judiciary and placed in the General Laws Subcommittee. Currently there is no scheduled meeting for this bill.

H.3822 General Bill - Concealed Weapon Permit – Under the seat storage included in this bill, by Rep Pitts et al. makes various revisions relating to concealable weapons permits. Relating to definitions for purposes of concealable weapons permits, the legislation deletes the definitions of "resident", "qualified nonresident", "proof of residence", and "proof of ownership of real property" and revises the definitions of "picture identification" and "proof of training". The legislation revises the requirements that must be met in order to receive a concealable weapons permit. The legislation increases the application fee for a permit for residents of the state to \$100, and it creates a nonresident application fee of \$150. The legislation allows permit applications to be submitted online with SLED. The legislation revises the list of places where a person may not carry a concealable weapon and provides that a person may not carry a concealable weapon into a place clearly marked with a sign prohibiting the carrying of a concealable weapon. The legislation provides that a permit is valid for five years rather than four years, and it requires SLED to send a renewal notice at least thirty days before a permit expires. The legislation repeals Section 23-31-240 relating to persons allowed to carry a concealable weapon while on duty. The bill was referred to House Judiciary General Laws Subcommittee passed the bill out favorably with amendment which amends the bill back to current law in regards concerning out of state CWP holders. **H 3822 was amended in House Judiciary to allow CWP holders to store their weapons under the seat of their vehicle.**

STATUS: The bill was passed by the House of Representatives and sent to the Senate where it was referred to Senate Judiciary. Referred to Subcommittee: Massey (ch), Coleman, Bennett, Johnson, Shealy

PASSED: S.19 General Bill - Bond Provisions by Ford provides that if a person released on bond for a serious or most serious offense, and is charged with a serious or most serious offense, while released on bond, this legislation provides that the bond hearing for the subsequent serious or most serious offense must be held in the circuit court within thirty days. If the court finds probable cause that the person committed the current offense or that the person is unlikely to comply with any condition of release, a rebuttable presumption arises that no condition will assure the person will not pose a danger to the safety of any other person or the community. If the court finds that certain conditions of release on bond will ensure that the person is unlikely to flee or pose a danger to any other person or the community and the person will abide by the terms of release on bond, the judge shall consider bond and set or amend bond accordingly. If the court finds no such conditions will ensure that the person is unlikely to flee or not pose a danger to the community, bond must be revoked.

STATUS: S.19 has passed the Senate and passed the House with amendments. S.19 was returned to the Senate with amendments. The House amendment refines the language regarding immediate release from a detention center by paying to or depositing the amount set by the summary court judge. The Senate in turn amended the House amended version by adding a legislative study committee. The House concurred with the Senate amendments. Ratified 4/3/14. Signed by the Governor 4/7/14.

S.142 General Bill - Arson Statutes Revision by Malloy includes among many other issues arson law changes submitted by the State Law Enforcement Division (SLED). The bill takes the language of the current arson statutes back to the verbiage used prior to the “Omnibus Crime Reduction and Sentencing Reform Act of 2010” except for the penalties.

1st Degree – fire resulted in serious bodily harm or death, violent crime, sentence not less than 30 years.

2nd Degree – Dwelling, House, Church, School, Plant, or building designed for human occupancy, violent crime, sentence of 3-25 years

3rd Degree – building other than in Arson 2nd, boats, planes, cars. Sentence is not more than 15 years.

S.142 received a favorable report from the subcommittee 1/31/2013. This bill passed the Senate and was sent to the House of Representatives and referred to House Judiciary. Currently there is no meeting scheduled to discuss the bill. Requested that the bill be pulled out of Judiciary and be debated on the floor; however, were told by the Chairman that the bill had too many issues in it and needed to be discussed through committee process.

STATUS: S.142 passed the Senate and awaiting debate in House Judiciary Criminal Laws Subcommittee. Currently there is not a meeting scheduled.

H.4791 "ELECTRONIC DATA PRIVACY PROTECTION ACT" Rep. G. R. Smith

This legislation enacts the "Electronic Data Privacy Protection Act". Among other things, this legislation provides that an entity may not search an electronic device without a search warrant, provides exceptions, and provides certain notice requirements.

STATUS: Bill reported out of favorably with an amendment by the full House Judiciary 4/1/14. The amendment removes several areas of concern to law enforcement. The bill is on the House Calendar with Debate requested by members.

H.4094 EXEMPTIONS FROM THE FREEDOM OF INFORMATION ACT Rep. Rivers

This legislation adds exemptions from the Freedom of Information Act. The legislation provides that a public agency may not disclose information from its personnel, medical, or similar files concerning a residential address, date of birth, social security number, telephone number, photograph, name of a spouse or name of a child, if applicable, or address or telephone number of the daycare or K-12 school of a child, if applicable, of any active or former: (1) member or employee of the federal judiciary; (2) member or employee of the judiciary, administrative law court, or a municipal judge in this State; (3) law enforcement officer who has served in an active capacity in this State; (4) director, acting director, or employee of the Department of Corrections, Department of Juvenile Justice, Department of Social Services, or Department of Probation, Parole and Pardon Services; (5) guardian ad litem serving on behalf of the South Carolina Guardian ad litem program or similar local program; (6) municipal, state, or federal prosecutor who has prosecuted actions in this State; or (7) municipal, state, or federal public defender or appellate defender who has served in that capacity in this State.

STATUS: H.4094 is in Constitutional Laws Subcommittee. No meeting scheduled at this time.