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## Stewart Konduros & Associates, LLC

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SCFOP - April 8-13, 2013

### Workers' Compensation

**H 3147** General Bill, By Pope, Tallon and Southard is bill that amends Subsection 42-1-160, relating to the definitions of "injury" and "personal injury" in workers' compensation, so as to modify the requirements of an employee seeking workers' compensation connected with stress, mental injury, or mental illness associated with official duties. Referred to House Judiciary. **H.3147 was recommitted to House Judiciary for discussion and review.**

### ISSUE

A law enforcement officer shot and killed a suspect while on duty and the courts declined his workers' compensation claim for personal injury caused by post traumatic stress because the event in their opinion was not considered an extraordinary and unusual employment condition making the post traumatic stress claim stemming from the shooting ineligible to be compensable under the Workers' Compensation Act. H.3147 amends the law to include these types of disorders.

### Tax

**H 3089** General Bill, 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."* Referred to House Ways and Means.

### Retirement Disability

**S.484** (PORS Retirement Disability) Current law requires determination of disability by the Social Security Administration to be eligible for SCRS or PORS disability. The provisions of this Act do not take effect until December 31, 2013. The Act required the SCRS to conduct a study on revisions to eligibility for disability and provide the report the chairmen of Senate Finance Committee and the House Ways and Means Committee by December 1, 2012 which has been done. Meetings with Senate staff and conversations with Senate members indicate that the joint committee to be appointed by the Chairman of Senate Finance and the Chairman of Ways and Means must come together to discuss the report and determine what recommendations they will be making regarding the Retirement Disability issue (report attached). The report "Revisions to the Disability Retirement Provisions of the south Carolina Retirement System and South Carolina Police Officers' Retirement System under Act 278 of 2012" has been published. Senator Setzler introduced a bill 3/6/13 to delete the requirement that PORS members' eligibility to receive retirement disability must be tied to social security standards. **The bill will**

be discussed by the Full Senate Finance Committee on **Tuesday, April 9, 2013 @ 3pm in Room 105** of the Gressette.

### **H.3378** (Volunteer Appreciation Act) by Rep. Sandifer

Notwithstanding another provision of law, this legislation provides that the governing body of a local government may authorize the distribution of a gratuitous year-end or holiday monetary or other type of gift to the following categories of volunteer service personnel: (1) reserve law enforcement officers; (2) volunteer firefighters; or (3) volunteer emergency medical service personnel. If the governing body of a local government elects to authorize the distribution of a gratuitous year-end or holiday monetary or other type of gift, the legislation requires that it ensure all personnel in that respective category are treated equally. H.3378 was passed by the House of Representatives and is currently in Senate Judiciary. **Referred to Subcommittee: Senator(s): Rankin, Scott and Thurmond.**

### **Charitable Funds Act**

**H.3367** General Bill, by Representative JE Smith is a bill that makes various revisions relating to the "South Carolina Solicitation of Charitable Funds Act". Among other things, the legislation revises definitions and certain filing requirements for those conducting business in South Carolina. Revisions to the Charitable Funds Act include cleanup language offered by the Secretary of State. **H.3367 was passed by the House and sent to the SC Senate where it was referred to Senate Judiciary on March 21, 2013.**

### **Raffles**

**S.213** General Bill, by Senator Cleary, outlines conditions under which raffles can be operated, and goes into effect only if a constitutional amendment S.239 is also passed. S.213 has passed the Senate and sent to the House. The bill was referred to House Judiciary. S.213 was passed out favorably from the Full House Judiciary Tuesday, March 19, 2013 @ 2:30 or 1.5 hours after adjournment of the House in room 516 Blatt. **The bill is on the House calendar and up for 2<sup>nd</sup> reading.**

**S.239** Constitutional Amendment, by Senator Cleary, seeks to change the state constitution, which currently only allows the state to conduct lotteries, to allow the General Assembly to legalize raffles for charitable purposes. It does not legalize any other kind of lottery. If passed, this would require a public referendum in Fall 2014 before the constitution can be changed. S.239 has passed the Senate and sent to the House. The bill was referred to House Judiciary. S.239 was passed out favorably from the Full House Judiciary Tuesday, March 19, 2013 @ 2:30 or 1.5 hours after adjournment of the House in room 516 Blatt. **The bill is on the House calendar and up for 2<sup>nd</sup> reading.**

### **Consolidation/Restructuring**

**S.22** General Bill, by Senator Sheheen is a bill that 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. **S.22 was passed by the Senate and sent to the House where it was referred to House Judiciary. Note: Similar bill H.3646 includes a component that eliminates PEBA but places the function with the Department of Administration.**

**H 3043** General Bill, by [Pitts](#) and [G.R. Smith](#) is a bill that creates the South Carolina Department of Law Enforcement and Public Safety which primarily combines the Department of Public Safety and SLED. Referred to House Judiciary.

**H 3120** General Bill, By [Crosby](#) is a bill to create the South Carolina State Police which primarily combines the Department of Public Safety and SLED into a State Police agency. Referred to House Judiciary.

## **Criminal**

**H 3024** General Bill, By [McCoy](#), [Henderson](#) and [Long](#) is a bill relating to persons required to report child abuse or neglect requiring any person in this state to report suspected child abuse or neglect. H.3024 was taken up by the Family and Probate Laws Subcommittee and amended to tighten the language whereby certain professions (firefighters) were added rather than stating “any person” would be required to report child abuse or neglect. Law enforcement already required to report. **This bill will be debated in House Judiciary Committee on Tuesday, April 9, 2013 at 2:30pm, or 1-1/2 hours after the House adjourns, whichever is later, in Room 516 of the Blatt Building**

**H 3039** General Bill, 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. Referred to House Judiciary.

**H 3192** General Bill, 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). Referred to House Judiciary.

**H 3038** General Bill, By [Rutherford](#) is a bill 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. **Continue to work with Public Safety Coalition and House Education staff regarding officer safety concerns. The bill is being debated in House Education Committee.**

## **Weapons**

There are 11 bills filed which address firearms. Some bills address the right to carry, others child safety, etc. As the bills begin to be discussed, updates regarding their progress will be reported so that recommendations by the group (if desired) can be provided to the membership of the General Assembly.

**S 308 (Firearms/CWP)** By [Bennett](#), [Shealy](#), [Grooms](#), [Hembree](#), [L. Martin](#), [Massey](#), [Campbell](#), [Turner](#), [Thurmond](#), [Bryant](#), [Verdin](#), [S. Martin](#), [Davis](#) and [Bright](#). Similar ([S 0276](#)) The bill is about carrying of a concealed weapon in a business that sells alcohol to be consumed on the premises, to permit the possession of a weapon unless notice of a prohibition is provided by the business, to prohibit the consumption of alcoholic beverages in a business by someone carrying a firearm, and to reduce the penalties for violations. S.308 was passed out of Full Senate

Judiciary with a minority report on the bill. **S.308 set for special order and is in interrupted debate on the Senate Calendar.**

**S.115 (Open Carry Bill)** By Bright, et. al. The bill 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. **The bill will be discussed by the Full Senate Judiciary, Tuesday, April 9, 2013 @ 3pm in Room 308 of the Gressette Building.**

**H.3069 (Weapons)** Reps. Pitts and Simrill

This legislation 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. **The bill will be discussed at the General Laws Subcommittee meeting on Wednesday, April 10, 2013 at 9:00 am in Room 516 of the Blatt Building.**

**H.3044 (Fraudulent Firearms and Ammunition Purchase Prevention)** by Reps Pitts et al.

This legislation 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. **The bill will be discussed at the General Laws Subcommittee meeting on Wednesday, April 10, 2013 at 9:00 am in Room 516 of the Blatt Building.**

**H.3822 (Concealed Weapon Permit)** Reps Pitts et al.

This legislation 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 will be discussed at the General Laws Subcommittee meeting on Wednesday, April 10, 2013 at 9:00 am in Room 516 of the Blatt Building.**