

SECTION 63 - K050 - DEPARTMENT OF PUBLIC SAFETY

63.1. (DPS: Special Events Traffic Control) The highway patrol must not charge any fee associated with special events for maintaining traffic control and ensuring safety on South Carolina public roads and highways unless approved by the General Assembly. Nothing shall prohibit the Treasury of the State from accepting voluntary payment of fees from private or public entities to defray the actual expenses incurred for services provided by the Department of Public Safety.

This proviso appears to be constitutional because it directs the performance of particular public services for which expenses will be incurred and authorizes receipt of fees under certain conditions to defray such expenses.

63.2. (DPS: Retention of Private Detective Fees) The Department of Public Safety is hereby authorized to receive, expend, retain, and carry forward all funds transmitted from SLED related to fees charged and collected by SLED from license and registration fees for private detective businesses, private security businesses, including employees of these businesses, and companies which provide private security on their own premises. The funds transferred are to be used in the Bureau of Protective Services Program to provide security for state agencies and the Capitol Complex.

This proviso appears to be constitutional because it directs the revenue collected from certain fees to a DPS division for the purpose of performing law enforcement functions.

63.3. (DPS: Motor Carrier Advisory Committee) From the funds appropriated and/or authorized to the Department of Public Safety and the Department of Motor Vehicles, the departments are directed to jointly establish a Motor Carrier Advisory Committee to solicit input from the Trucking Industry and other interested parties in developing policies and procedures for the regulation of this industry. The members of the advisory committee shall serve without compensation.

This proviso potentially could be found unconstitutional. It establishes an advisory committee to develop policies and procedures, therefore it is principally a "matter of administration and procedure" akin to the proviso struck down in South Carolina Public Interest Foundation v. Lucas, Op. No. 27638 (S.C. Sup. Ct. filed May 18, 2016). The state's revenue authority is referenced only insofar as the committee is established "from the funds appropriated," and without more it is an open question whether the proviso "reasonably and inherently" relates to raising or expending public funds – particularly when it is unclear why funds would be necessary merely to establish a committee.

63.4. (DPS: Sale of Real Property) At such time as any portion of the Laurens Road property in Greenville is declared to be surplus by the agency or agencies which occupy said portion, and after receiving approval from the Department of Administration or State Fiscal

Accountability Authority, for the sale of the property, the Department of Public Safety, the Department of Transportation, and the Department of Motor Vehicles are authorized to receive, retain, expend, and carry forward funds derived from the sale of the real property in which each agency holds an interest or title. No portion of the property may be declared as surplus by one agency if another agency is occupying said property. The Department of Public Safety is directed to use these funds to defray the operating expenses of the Highway Patrol and the Department of Transportation and the Department of Motor Vehicles are directed to use their portion of these funds for department operating expenses.

This proviso appears to be constitutional because it directs that certain operating expenses of three state agencies be paid from the revenue generated by the sale of real property in which the agencies hold an interest or title.

63.5. (DPS: CMV Driver Rest Areas) A joint working group is to be established between the Department of Transportation, Department of Public Safety, State Transport Police and the South Carolina Trucking Association to review and evaluate where critical rest areas may be made available for commercial motor vehicle drivers to park and obtain their federally mandated required rest.

This proviso likely would be found unconstitutional because it establishes a working group to make evaluations but makes no mention of raising or expending revenue to do so. Accordingly, it is a "matter of administration and procedure" akin to the proviso struck down in South Carolina Public Interest Foundation v. Lucas, Op. No. 27638 (S.C. Sup. Ct. filed May 18, 2016).

63.6. (DPS: SC Law Enforcement Officers Hall of Fame Scholarships) The Department of Public Safety is hereby authorized to accept donations from the public in order to provide scholarships to the children of law enforcement officers killed in the line of duty. The South Carolina Law Enforcement Officers Hall of Fame Advisory Committee is authorized to set the criteria for awarding such scholarships. All revenue received for this purpose shall be used to provide scholarships and shall be retained, carried forward, and expended for the same purpose.

This proviso appears to be constitutional because it directs that scholarships be paid by a DPS division from the revenue generated by donations from the public.

63.7. (DPS: Hours of Service Rest Requirements) Of the funds directed to the Department of Public Safety, the department shall expend the necessary funds to establish a policy to allow drivers of commercial motor vehicles engaged in intrastate commerce to use time waiting in their trucks while on the job to satisfy any hours of service thirty minute rest requirements. The policy shall then be printed and distributed to the Senate Transportation Committee and the House of Representatives Education and Public Works Committee. In addition, the policy shall be provided to any motor carrier who requests a copy. The department is further instructed to allow the Motor Carrier Advisory Committee to review options that may facilitate adoption of

allowable variances from state and federal statutes, rules, and regulations, as well as specific relief for interstate border-zone operations.

This proviso appears to be constitutional because it directs DPS to create a policy and requires that the policy be printed and distributed, thereby requiring the expenditure of public funds (distinguishing it from Proviso 63.3, which mandated that policies be developed but did not specifically require the printing or distributing thereof).

63.8. (DPS: Body Cameras) The Department of Public Safety is authorized to retain and carry forward unexpended funds associated with body cameras from the prior fiscal year into the current fiscal year and expend those funds for the same purpose.

This proviso appears to be constitutional because it authorizes the expenditure of funds for body cameras.