

April 7, 2009

2009-2010 Legislative Session

Legislative News is a publication prepared and distributed by the SCDMH Office of Public Affairs to keep you informed of bills introduced in the General Assembly that may affect DMH, mental health, health care issues, or employee issues. In addition, we will provide budget information and general news from the General Assembly. You can also access the complete bills online by clicking the link at the end of each description, OR visiting <http://www.scstatehouse.net>.

This publication is also available on the DMH Internet and Intranet sites. However, if you do not have access to the site and wish to receive a copy of the update, call us, and we will send you one in the mail. If at any time you have questions or need more information about bills or other legislative issues, contact Alyce McEachern in the Office of Public Affairs by email at acm83@scdmh.org, or by phone at (803) 898-8585.

Budget Update

The House of Representatives completed its deliberations on the FY 2009-2010 Appropriations Act (H 3560) Wednesday, March 11, 2009. DMH received a base reduction of \$103,171.

Proviso 90.13, Health and Human Services Funding, provides \$18 million in non-recurring funding for the Department of Mental Health. Additionally, this proviso creates the Health Care General Fund Restoration Reserve Fund to be used solely for health care purposes. Agencies receiving increased funding through the American Recovery and Restoration (stimulus) Act of 2009 are required to expend the stimulus funding and submit state general funds in an equal amount to the Health Care General Fund Restoration Reserve Fund.

The Appropriation Bill, as passed by the House, includes two new provisos:

- The first, 23.15, establishes an Uncompensated Patient Medical Care Fund to carry unexpended funds obligated for patient medical costs incurred at a private hospital into the following fiscal year.
- The second, 23.16, eliminates the requirement that SLED conduct an investigation of the death of resident in a veteran nursing home under the control of our department if the coroner rules that the death was from natural causes.

Additionally Proviso 21.23, Prior Authorization Exemptions, under the Department of Health and Human Services is retained. This proviso requires Medicaid to cover medications prescribed to treat major depression, schizophrenia, or bipolar disorder as defined by the most recent edition of the Diagnostics and Statistical Manual of the American Psychiatric Association or following prescribing practice guidelines established by the American Psychiatric Association for fee-for-service enrollees without prior authorization.

Select provisos included in the Ways and Means proposal include:

- A requirement that the Budget and Control Board use reserve funds so that the employee contribution rates for health insurance will not be increased;
- Ending the TERI program to new enrollees effective July 1, 2009;
- Requiring agencies to first eliminate any TERI employee who does not have grievance rights under the State Employee Grievance Procedure Act when a Reduction in Force (RIF) is implemented, and

- Amending the Mandatory Furlough proviso to allow agencies to implement an up to 10-day mandatory furlough, based upon the pay band for classified positions and pay rate for unclassified positions, and to exempt employees who provide direct patient or client care and front-line employees who deliver direct customer services;
- Includes the Voluntary Furlough proviso allowing employees to take up to 90 days if an across-the-board mid-year reduction is ordered by the Budget and Control Board.

The Senate Finance Committee will meet pending the call of the Chair.

Senate Bills

S 4 South Carolina Teacher Protection Act (McConnell and others)

A bill to enact the South Carolina Teacher Protection Act by adding Section 59-25-900, so as to provide that a teacher may bring a civil action against a student who commits a criminal offense against the teacher if the offense occurs on school grounds or at a school-related event. Referred to Committee on Judiciary; passed the Senate 2/10/09. Introduced into House and referred to Committee on Judiciary 2/11/09.

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S 41 Hate Crimes (Ford)

A bill to add Section 16-3-1900, to establish penalties for non-capital criminal offenses against a person that were motivated by hate. Referred to Committee on Judiciary.

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S 76 Discrimination (Similar to S 39, S 40, S 73, S 75) (Ford)

A bill to add Section 44-7-65 to require health care facilities to establish protocols allowing a patient to designate an individual as an authorized visitor regardless of the blood or legal relationship of the patient to the individual. Referred to Committee on Judiciary.

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S 109 State Health Plan Amendment (Ryberg)

A bill to add Section 8-1-195 to Chapter 1, title 8 of the 1976 Code to direct the Budget and Control Board to charge state employees who participate in the State health Plan an additional \$25.00 a month if the employee is obese. Referred to Committee on Finance.

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S 206 Middle Court Processes Act (Companion Bill H 3181) (L. Martin)

A bill to amend Section 24-13-100 relating to the definition of the term "No Parole Offense", so as to revise the definition to include certain felonies and misdemeanors and to provide an exception related to the Youthful Offender Act. Referred to Committee on Judiciary.

[View full text.](#)

S 208 Restructuring Act (Companion Bill H 3147) (L. Martin and others)

A bill to enact the South Carolina Restructuring Act relating to the agencies of the executive branch of State Government by adding the Department of Administration as an agency of the executive branch to be headed by a director appointed by the governor upon advice and consent of the Senate, and to transfer to this newly created department certain offices and divisions of the State Budget and Control Board. Referred to Committee on Judiciary.

[View full text.](#)

S 212 Change in Retirement Benefits (Ryberg and others)

A bill relating to retirement and early retirement, calculation of benefits, survivors' annuities, death benefits, and service purchase for purposes of the SC Retirement System, to increase from 28 to 30 years the service credit required for a non-vested member of that system, on the date this Act takes effect, to retire at any age without reduction in benefits, and to make the appropriate conforming amendments. Referred to Committee on Finance.

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S 242 Closure of the TERI Program (Ryberg and others)

A bill to close the Teacher and Employee Retention Incentive (TERI) Program to new participants effective July 1, 2009. Referred to Committee on Finance.

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S 361 Adult Abuse (Lourie and others)

A bill relating to requirements of an investigative entity upon receiving a report of adult abuse to include procedures for reporting such abuse and criminal penalties for abuse. Referred to the General Committee.

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S 390 Mental Health Parity and Addiction Act (Hayes)

A bill to enact the "Mental Health Parity and Addiction Act of 2009" relating to medical and surgical benefits and mental benefits coverage and to add substance use disorder coverage, financial requirements, and treatment limitations. Referred to Committee on Banking and Insurance; reported favorable with amendment on March 11.

[View full text.](#)

S 416 Health Care Accessibility for Young Americans Act (Lourie and others)

A bill to enact the "Health Care Accessibility for Young Americans Act" to provide health insurance coverage under a parent's policy for certain military personnel on termination of active duty status, among other things. Referred to Committee on Banking and Insurance.

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S 486 Commission on Disabilities and Special Needs (Peeler and others)

A bill to amend Section 44-20-210 specifically relating to the creation and responsibilities of the Department of Disabilities and Special Needs, so as to delete the provision transferring the responsibility for Autistic Services from the Department of Mental Health to the Department of Disabilities and Special Needs. Referred to Committee on Medical Affairs; read third time and sent to House Judiciary Committee.

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House Bills

H 3115 Residential Care Facilities (Kirsh)

A bill to amend Section 44-7-350 relating to Community Residential Care Facilities, to provide that DHEC may not remove a resident from such a facility if the resident, the resident's family, the resident's physician, and the facility agree to the resident's continued stay and the facility is capable of providing or obtaining necessary services for the resident. Referred to Committee on Medical, Military, Public and Municipal Affairs.

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H 3147 Restructuring Act (Companion Bill S 208) (G.R. Smith and others)

A bill to enact the South Carolina Restructuring Act relating to the agencies of the executive branch of State Government by adding the Department of Administration as an agency of the executive branch to be headed by a director appointed by the governor upon advice and consent of the Senate, and to transfer to this newly created department certain offices and divisions of the State Budget and Control Board. Referred to Committee on Judiciary; read third time and sent to Senate Judiciary.

[View full text.](#)

H 3166 Middle Court Processes Act (Companion Bill S 206) (G.M. Smith)

A bill to amend Section 24-13-100 relating to the definition of the term “No Parole Offense”, so as to revise the definition to include certain felonies and misdemeanors and to provide an exception related to the Youthful Offender Act. Referred to Committee on Judiciary.

[View full text.](#)

H 3170 Creation of the Joint Electronic Health Information Study Committee (Gunn and others)

A Joint Resolution to create the Joint Electronic Health Information Study Committee to examine the feasibility of increasing the use of health information technology and electronic personal health records. Referred to Committee on Medical, Military, Public and Municipal Affairs; read third time and sent to Senate Committee on Medical Affairs on March 3.

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H 3192 Sunset Commission (Rice and others)

A bill to add Chapter 24 to Title 1 to establish the SC Sunset Commission and a Sunset Review Division of the Legislative Audit Council, to establish procedures providing for the manner in which programs of certain agencies and departments of state government must be evaluated to determine if they should be continued, modified, or terminated. Referred to Committee on Judiciary.

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H 3199 Behavioral Health Services Act of 2009 (Harrison and others)

A bill to amend Section 1-30-10 relating to the departments in the executive branch of state government to add the Department of Behavioral Health Services and delete the Department of Alcohol and Other Drug Abuse Services and the Department of Mental Health and transfer them to the Department of Behavioral Health Services. Referred to Committee on Judiciary.

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H 3201 Child’s Right to Counsel (Whipper)

A bill to add Section 63-19-1050 to provide that a child or the child’s parent or guardian may not waive the child’s right to counsel when the Family Court proceeding may result in detention or confinement of the child. Referred to Committee on Judiciary.

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H 3314 Disabilities and Special Needs Department (Harrison)

A bill specifically relating to Section 44-20-240, which states: There is created the South Carolina Department of Disabilities and Special Needs which has authority over all of the state's services and programs for the treatment and training of persons with mental retardation, related disabilities, head injuries, and spinal cord injuries. This authority does not include services delivered by other agencies of the State as prescribed by statute. The department must be comprised of a Mental Retardation Division, an Autism Division, and a Head and Spinal Cord Injuries Division. The department may be divided into additional divisions and named as may be determined by the director. Responsibility for all autistic services is transferred from the Department of Mental Health to the Department of Disabilities and Special Needs. Referred to Committee on Judiciary; read third time and sent to Senate Medical Affairs.

[View full text.](#)

H 3487 State Employees Leave Transfer Program (J.E. Smith)

A bill to provide that a leave donor under the State Employees Leave Transfer Program may donate sick leave or annual leave or both to a specific leave recipient rather than to the leave pool account. Referred to Committee on Ways and Means.

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H 3532 Long-Term Care Income Tax Credit Act (T.R. Young and others)

A bill enacting the “Long-Term Care Income Tax Credit Act” by allowing a state individual income tax credit of 25 percent of the total amount of premiums paid by a taxpayer pursuant to a long-term care insurance contract, up to \$1,000 for each taxable year for each contract, to prohibit a double benefit, and to make this credit retroactive for taxable years beginning after 2007. Referred to Committee on Ways and Means.

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H 3554 Federal Stimulus Funds (Mitchell)

A bill to provide that pursuant to the American Recovery and Reinvestment Act of 2009, the General Assembly accepts the use of Federal Stimulus Funds provided to this State in this Act if the Governor within the required 45 day period fails to certify that he will request and use these funds for this state and the agencies and entities thereof in the manner provided in the Federal Act, and to provide for the manner of distribution of these funds. Referred to Committee on Ways and Means.

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Tobacco Tax Bills - H 3584 (Harrell and others); H 3470 (Skelton); H3471 (Chalk); H 3486 (J.E. Smith)

A bill to impose a surtax on each cigarette (amount varies per Bill) and provide the crediting of the revenue from the surtax to the Smoking Prevention and Cessation Trust Fund as well as creating other Trust Funds to receive the credit. H. 3471 creates the Community Mental Health Fund for the SCDMH and provides its sources of revenue to provide for the uses of fund revenues, to provide a tax credit for an individual who maintains a qualifying health savings account. All referred to Committee on Ways and Means. House Bill 3584 passed House on April 2 and received unanimous consent for third reading on next legislative day.

[House 3584 - View full text.](#)

[House 3470 - View full text.](#)

[House 3471 - View full text.](#)

[House 3486 - View full text.](#)