

House Legislative Oversight Committee Full Committee Meeting

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Agenda



South Carolina
House of Representatives
Legislative Oversight Committee

Chair Jeffrey E. “Jeff” Johnson

William H. Bailey
Gary S. Brewer, Jr.
April Cromer
Kambrell H. Garvin
Leon Douglas “Doug” Gilliam
Thomas Duval “Val” Guest, Jr.

William M. “Bill” Hixon
Joseph H. “Joe” Jefferson, Jr.
Wendell Keith Jones
Roger K. Kirby
Josiah Magnuson
John R. McCravy, III

First Vice-Chair Chris Wooten

Timothy A. “Tim” McGinnis
Adam M. Morgan
Travis A. Moore
Russell L. Ott
Marvin R. Pendarvis
Marvin “Mark” Smith

Lewis Carter
Research Director

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Counsel/Associate General Counsel for Litigation

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AGENDA

Tuesday, August 20, 2024

12:00 p.m.

Room 521 – Blatt Building

I. Approval of minutes

II. Discussion of the following:

- **Healthcare and Regulatory Subcommittee - Study of the Department of Consumer Affairs**
- **Law Enforcement, Criminal and Civil Justice Subcommittee – Study of the South Carolina Workers’ Compensation Commission**

III. Discussion of committee administrative matters

IV. Adjournment

Meeting Minutes



South Carolina House of Representatives Legislative Oversight Committee

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MEETING MINUTES

Tuesday, December 20, 2023
Blatt Room 110

Archived Video Available

- I. Pursuant to House Legislative Oversight Committee Rule 4.7, South Carolina ETV was allowed access for streaming the meeting. You may access an archived video of this meeting by visiting the South Carolina General Assembly’s website (<http://www.scstatehouse.gov>) and clicking on *Committee Postings and Reports*, then under *House Standing Committees* click on *Legislative Oversight*. Then, click on *Video Archives* for a listing of archived videos for the Committee.

Attendance

- II. The public input meeting of the House Legislative Oversight Committee was called to order by Chair Jeffrey E. “Jeff” Johnson. All members of the Committee were present for all or a portion of the meeting, except: Representative Tim McGinnis, Representative Adam Morgan, Representative Mark Smith, and Representative Chris Wooten.

Minutes

- III. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings, but the minutes do not have to be verbatim accounts of meetings.

Representative Joseph H. Jefferson, Jr., makes a motion to approve the meeting minutes from the March 9, 2023, meeting. A roll call vote was held, and the motion passed.

Rep. motion to approve the minutes from the March 9, 2023, meeting	Yea	Nay	Not Voting/Not Present
Rep. Bailey	✓		
Rep. Brewer	✓		
Rep. Cromer	✓		Not Present
Rep. Garvin	✓		
Rep. Gilliam	✓		Not Present
Rep. Guest	✓		
Rep. Hixon	✓		
Rep. Jefferson	✓		
Rep. Johnson			
Rep. Jones	✓		
Rep. Kirby	✓		
Rep. Magnuson	✓		
Rep. McCravy	✓		
Rep. McGinnis			Not Present
Rep. Morgan			Not Present
Rep. Moore	✓		
Rep. Ott	✓		
Rep. Pendarvis	✓		
Rep. Smith	✓		Not Present
Rep. Wooten	✓		Not Present

IV. Agency Studies

Jobs Economic Development Authority (JEDA) Study:

- Representative Moore presented the findings and recommendations of the subcommittee's study on JEDA.
- Key takeaways included JEDA's low public profile despite its four-decade existence and role in promoting economic development through tax-exempt bonds.
- Subtopics covered JEDA's programs (Industrial Revenue Bond Program, Taxable Bond Program, State Small Business Credit Initiative), bond issuance process, self-funded structure, board composition, and relationships with non-profit entities like Invest SC.
- The subcommittee proposed 10 recommendations, focusing on modernizing laws governing JEDA,

clarifying its role, and addressing potential conflicts of interest in leadership positions.

Department on Aging Study:

- Representative Jefferson presented the findings and recommendations of the subcommittee's study on the Department of Aging.
- Key takeaways highlighted the need for a more integrated approach between the Department, Area Agencies on Aging (AAAs), and service providers, particularly given the projected growth in the senior population.
- Subtopics addressed the high turnover rate of agency directors, challenges in the direct care workforce (low pay, recruitment, and retention), the impact of a growing senior population on services, and the need for better data collection and strategic planning.
- The subcommittee put forth 24 recommendations, emphasizing improved communication and collaboration, strategic planning, workforce development, addressing home modification needs for seniors, and modernization of relevant laws.

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Adjournment

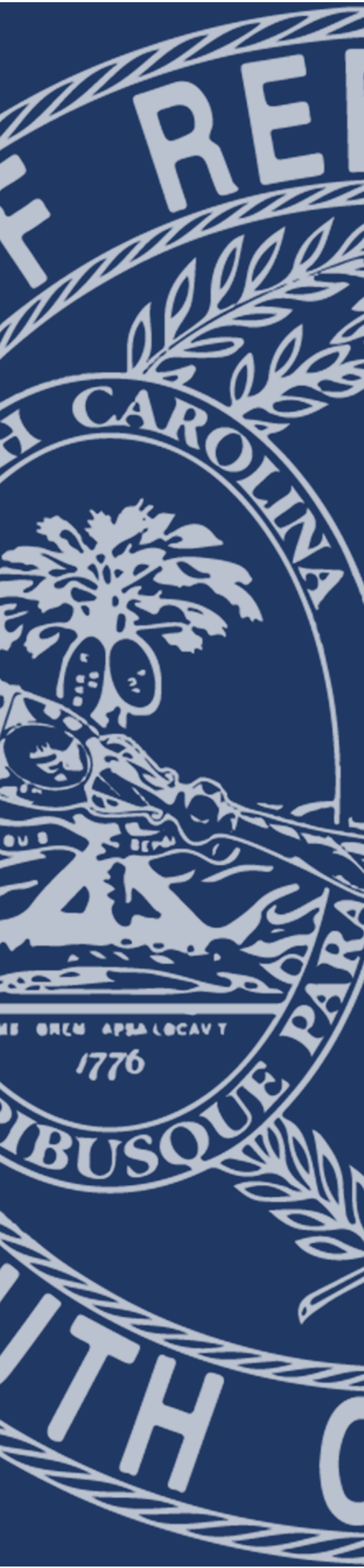
- There being no further business, the meeting is adjourned.

Executive Summary – South Carolina Department of Consumer Affairs



South Carolina
House of Representatives
Legislative Oversight Committee

DEPARTMENT OF
CONSUMER AFFAIRS
Executive Summary



FINDINGS

During the study of the Department of Consumer Affairs (agency or DCA), the Healthcare and Regulatory Subcommittee (Subcommittee) of the House Legislative Oversight Committee (Committee) adopts 15 findings pertaining to organizational structure, Commission on Consumer Affairs (Commission) governance, operations, regulatory actions, consumer protection reports, and consumer issues.

Findings note information a member of the public or General Assembly may seek to know or on which they may desire to act.

FINDING 1

DCA is uniquely structured relative to consumer protection agencies across the country, as multiple entities may exist in other states to provide similar and like services for consumers.

FINDING 2

The General Assembly passed Act No. 45 (2023), a bill related to motor vehicle sales contract closing fees to specify the way DCA is to provide enforcement measures. Complaints of government overreach, onerous DCA inspection practices, and hostility towards the motor vehicle industry, prompted legislative action. The bill was signed by the Governor May 16, 2023.

FINDING 3

DCA's industry specific statutes permit the agency to retain revenue generated by fees and fines (e.g., licensing fees, registration fees, violation fines, etc.). The retainment of these funds is meant to create a self-sustaining finance model for these programs. DCA is not permitted to adjust fees and fines unilaterally; the agency requires approval from the General Assembly.

FINDING 4

In 2023, the agency's operating expenses totaled \$1,039,276, of which \$263,543, or 25%, was spent on expert witnesses and consultants.

FINDING 5

From FY2019 to FY2023, DCA staff visited 33 of the state's 46 counties. County visits are largely contingent upon agency resources, consumer requests for presentations, and DCA participation in local events.

FINDING 6

DCA's partnership with the Department of Corrections has provided inmates scheduled for community reentry access to consumer education opportunities (e.g., credit reports, identity theft remediation, etc.).

FINDING 7

Most consumer complaints are captured in the following categories: vehicles, real estate, and contractors. In FY2023, the agency received 1,051 vehicle complaints, 772 real estate complaints, and 483 contractor complaints.

FINDING 8

DCA regulates 12 specific industries and has regulatory authority for Consumer Credit Sellers, Consumer Lenders, Consumer Lessors, and Rent-to-own. Six of these industries are required to provide DCA's name and contact information in contracts or other forms of notification to a consumer.

FINDING 9

Homeowner associations (HOA) are not required to register with DCA or any other state or local agency. Since there is no registration requirement, the number of HOAs operating in the state is unknown.

FINDING 10

DCA is governed by a nine-member Commission and currently has four vacancies and four members serving expired terms. Members serving expired terms may continue to serve until they are reappointed or replaced.

FINDING 11

DCA's Council of Advisors on Consumer Credit has five vacancies and 11 active members serving expired terms. Members serving expired terms may continue to serve until they are reappointed or replaced.

FINDING 12

DCA employs a risked-based system to determine which licensed businesses to visit. This system is in place due to limited agency resources (e.g., staff, funding, etc.).

FINDING 13

DCA does not include recommendations or opinions in an executive summary to contextualize data provided in the Mortgage Log Data Report, State of Credit Report, and Homeowners Association Complaint Report.

FINDING 14

DCA is statutorily required to collect HOA consumer complaint data and report this information to the public, Governor, and General Assembly on an annual basis. DCA does not regulate HOAs, administer the South Carolina Homeowners Association Act (HOA Act), nor enforce the HOA Act, but does provide voluntary mediation to assist with dispute resolution.

FINDING 15

In 1982, the General Assembly passed the Consumer Protection Code Revision Act, which requires creditors charging an Annual Percentage Rate greater than 18% to file a Maximum Rate Schedule with DCA. In some cases, this reporting requirement has not prevented creditors from setting interest rates as high as 850%, a rate considered predatory by DCA.

RECOMMENDATIONS

During the study of the Department of Consumer Affairs, the Healthcare and Regulatory Subcommittee (Subcommittee) of the House Legislative Oversight Committee (Committee) adopts 14 recommendations.

With any study, the Committee recognizes these recommendations (e.g., continue, curtail, improve areas potentially, and/or eliminate agency programs, etc.) will not satisfy everyone nor address every issue or potential area of improvement at the agency. Recommendations are based on the agency's self-analysis requested by the Committee, discussions with agency personnel during multiple meetings, and analysis of the information obtained by the Committee. This information, including, but not limited to, the Initial Request for Information, Accountability Report, Restructuring Report, and videos of meetings with agency personnel, is available on the Committee's website.

RECOMMENDATION 1

DCA should include an executive summary in the following reports: Mortgage Log Data Report, State of Credit Report, and Homeowners Association Complaint Report. The executive summary should state the report's purpose, summarize and highlight the central points, give context to the data elements provided in the report, and include policy recommendations for the General Assembly to consider when consumer protection issues are identified.

RECOMMENDATION 2

The agency should develop metrics and targets to evaluate performance at the division level (e.g., Legal, Public Information & Education, etc.). These metrics should support the agency's broader goals and objectives (e.g., inspections by licensed industry type, online and in-person trainings, etc.).

RECOMMENDATION 3

DCA should develop a comprehensive marketing strategy designed to increase agency visibility and consumer awareness; promote agency programs and services within the state (e.g., licensing, identity theft reporting, etc.); enhance awareness of consumer protection issues (e.g., scams, fraud, etc.); and promote services provided to regulated industries, businesses, and consumers. The department should use any and all mediums, including social media, to promote awareness of the complaint process. The department should refrain from messaging which unfairly targets specific businesses. Agency leadership should seek technical expertise from the South Carolina Department of Parks, Recreation, and Tourism (PRT) as internal resources may not be sufficient for plan development. PRT leadership has agreed to assist DCA with the development of its strategy.

RECOMMENDATION 4

DCA should update the SCDCA Divisions page on its website to include names, position titles, and pictures of current agency leadership.

RECOMMENDATION 5

DCA should study the efficacy of state law requiring mortgage brokers to annually submit a mortgage log to the agency. The agency's study should include an analysis of the mortgage environment during the time the law was enacted; the purpose, intent, and effect of S.C. Code Section 40-58-65 since enactment; and evaluation of the industry's perceived value of submitting mortgage log data. Agency staff shall submit this report to the Committee within one year of approval of the study report.

RECOMMENDATION 6

DCA should post conspicuously on its website a statement to inform entities licensed and registered by the agency of the right to contest an administrative order pursuant to applicable state law.

RECOMMENDATION 7

DCA should post minutes from Commission meetings on its website and archive agendas and minutes for public access.

RECOMMENDATION 8

DCA should host annual meetings with trade associations, businesses, and regulated industries licensed or registered by the agency. Agency staff may use these meetings to provide updates regarding consumer protection issues specific to each industry, to seek feedback regarding agency communication and services, and to give updates regarding statutory or regulatory changes. When feasible, these meetings should be held in person with the option to participate

via web conferencing technologies (e.g., Zoom, Webex, conference calls, etc.).

RECOMMENDATION 9

The Committee recommends the General Assembly consider requiring regulated industries licensed or registered by DCA to provide a disclosure notice (i.e., agency's contact information) to consumers who are engaged in official business with the licensed or registered entity.

RECOMMENDATION 10

The Committee recommends the General Assembly consider deleting statutes requiring the Department of Consumer Affairs to enforce laws specific to dispensing of an ophthalmic contact lens or lenses.

RECOMMENDATION 11

The Committee recommends the General Assembly consider amending code sections specific to vacation timesharing plans by changing the right to cancel from five days to 10 days.

RECOMMENDATION 12

The Committee recommends the General Assembly consider amending state law to require HOAs have internal dispute resolution processes, comply with certain voting provisions of the Nonprofit Corporations Act, submit certain documents when responding to a complaint filed with DCA, and permit magistrates to hear all HOA disputes, regardless of the amount in controversy.

RECOMMENDATION 13

The Committee recommends the General Assembly consider amending code sections to require the inclusion of DCA's contact information and certain data elements in notifications of a security breach and to remove safe harbor and sync business and agency requirements for breach notifications.

RECOMMENDATION 14

The Committee recommends the General Assembly consider changes to the Consumer Protection Code to address issues specific to predatory lending in the consumer lending market.

Executive Summary – South Carolina Workers' Compensation Commission



South Carolina
House of Representatives
Legislative Oversight Committee

WORKERS' COMPENSATION COMMISSION

Internal Changes, Findings, & Recommendations

INTERNAL CHANGES

HUMAN RESOURCES

1. The Commission expanded its Human Resources Manager position to include management of the financial accounting, budgeting, and procurement programs along with human resources.

BUDGET REQUEST

2. In its FY 2024-2025 Agency Budget Plan, the Commission proposed a proviso suspending, for the current fiscal year, the provision in section 42-5-190 requiring the Commission to remit the entirety of the maintenance tax revenues to the General Fund.

EFFICIENT AND EFFECTIVE FINE COLLECTION

3. The Commission applied for and has been approved for enrollment in SCDOR's new pilot program that enables qualified agencies to pursue corporate entities for delinquent fines using federal tax identification numbers.

DEFAULT METHOD OF PAYMENT OF BENEFITS

4. On November 13, 2023, the Commission submitted proposed language and Notice of a Public Hearing to the State Register to amend S.C. Code Regs. 67-1602, which will allow payment of temporary disability and reimbursements for expenses under S.C. Code Regs. 67-1601 to be made by electronic payment systems subject to certain conditions. On January 24, 2024, following a public hearing, the

Commission submitted a proposed amendment to the State Register providing for temporary disability and reimbursements for expenses under S.C. Code Regs. 67-1601 to be made by electronic payment systems.

FORM LANGUAGE

5. The Commission revised WCC Form 19, adding language that states, "A Claimant whose case has been denied may file a WCC Form 50 Employee Request for Hearing to request a hearing and file the claim with the Commission."

PROVISO REVISION

6. In its FY 2024-2025 Agency Budget Plan, the Commission requested a proviso revision exempting the Commission from the provisions of S.C. Code Ann. § 1-7-170 so that it no longer must seek approval from the Attorney General's Office to engage outside counsel to represent the Commission or individual employees of the Commission when actions are brought against them for decisions made in the course of their employment.

FINDINGS

LEADERSHIP

1. Since its inception, 65 individuals have served on the Commission, 29 of whom have been attorneys and 36 of whom have been non-attorneys.
2. From 2009-2023, the executive director of the Commission served as the chief financial officer, chief procurement officer, and ombudsman for the Commission.

STAFF AND BUDGET

3. Compared to surrounding states, the Commission operates with a modest staff and budget.

REQUIRED EMPLOYER COVERAGE

4. With certain exceptions, South Carolina employers with four or more employees employed in the state are required to maintain workers' compensation coverage.

COVERAGE OPTIONS

5. Five compensation coverage options are available to employers in South Carolina: (1) commercial insurance carriers; (2) the self-insured fund; (3) individual self-insurance; (4) the State Accident Fund; and (5) the South Carolina Assigned Risk Pool.

APPROPRIATIONS

6. Less than 25% of the Commission's funding comes from general appropriations.

SELF-INSURANCE TAX

7. Prior to January 2024, the Commission had not requested an increase in the amount of funds received from the self-insurance tax in nearly a decade.

COMPLIANCE FINES

8. In FY 2022, the Commission's Compliance Division assessed \$4.9 million in fines and penalties but collected only \$686,000 from noncompliant employers.

FINE COLLECTION

9. The Commission lacks an effective means of collecting assessed fines.

JURISDICTIONAL DISTRICTS

10. It is not known when or by what method of determination the Commission created the seven long-existing jurisdictional districts.

VENUES

11. The Commission lacks designated venues in which to hold single commissioner hearings.

SECURITY

12. The Commission lacks recurring funding for security (e.g., officers, technology).

DEFAULT PAYMENT OF BENEFITS

13. Payment of benefits by paper check remains the default method of payment.

FILING A CLAIM

14. Regulation 67-206, which governs the filing of a claim, does not properly reflect the parties who may file a claim.

E-CASE

15. The Commission is replacing its claims management system, which will allow all parties involved in workers' compensation claims to submit claims, complete required reports and forms, and pay applicable fines and fees electronically.

FRAUD TRAINING

16. The Commission has not invested in training designed to improve commissioners' ability to identify and mitigate workers' compensation fraud.

LEGAL REPRESENTATION FOR COMMISSIONERS

17. The Commission encounters difficulty obtaining approval from the South Carolina Attorney General's Office to hire counsel.

STAFFING

18. Fifty percent of the Commission's employees are eligible for retirement in five years.

RECOMMENDATIONS

EFFICIENCY

1. The Committee recommends that the Commission conduct a study to determine the effectiveness of the SCDOR pilot program.
2. Once the Commission's case management system is fully upgraded, the Committee recommends that the Commission conduct a study to evaluate the efficiency of online payment of claims and report the findings to the House Oversight Committee within six months of publication of this report.
3. The Committee recommends that the Commission conduct a study to determine the funding needed for Commission security.

FRAUD

4. The Committee recommends that the Commission post contact information for the Insurance Fraud Division of the Department of Insurance conspicuously on the agency's website to provide a way for the public to report fraud, waste, abuse, and wrongdoing specific to workers' compensation benefits.

HUMAN RESOURCES

5. The Committee recommends that the Commission identify key positions within the Commission that may be vacant within the next five years and develop a plan for individuals to assume those positions.
6. The Committee recommends that the Commission request the Office of the State

Inspector General (SIG) conduct an employee satisfaction survey.

MODERNIZATION OF LAWS

7. The Committee recommends that the Commission amend the title to S.C. Code Regs. 67-206 to clarify that the provisions of the regulation apply only to a claimant filing a claim with the Commission. The Committee further recommends that following the submission of the amended regulation to the General Assembly, the General Assembly approve S.C. Code Regs. 67-206 as amended.
8. The Committee recommends that the Commission amend S.C. Code Regs. 67-411 to provide that an employer files a claim when the employer files a WCC Form 12A with the Commission and that a claim is deemed to have been filed even if the employer's representative subsequently denies the case by filing a WCC Form 19 pursuant to S.C. Code Regs. 67-414(B). The Committee further recommends that following the submission of the amended regulation to the General Assembly, the General Assembly approve S.C. Code Regs. 67-411 as amended.

9. The Committee recommends the General Assembly consider amending Section 1-7-170 of the South Carolina Code (Supp. 2023) to expressly exempt the Commission from the requirement of seeking approval from the Attorney General to engage on a fee basis an attorney at law.

10. As noted in Internal Change #4, the Commission submitted proposed language and Notice of a Public Hearing to the State Register to amend S.C. Code Regs. 67-1602, which will allow payment of temporary disability and reimbursements for expenses under S.C. Code Regulations. The Committee recommends the General Assembly consider approving the amended regulation.

Committee Contact Information

Legislative Oversight Committee



South Carolina House of Representatives

Committee Mission

Determine if agency laws and programs are being implemented and carried out in accordance with the intent of the General Assembly and whether they should be continued, curtailed or eliminated. Inform the public about state agencies.

Website: <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php>

Phone Number: 803-212-6810

Email Address: HCommLegOv@schouse.gov

Location: Blatt Building, Room 228