

## Session 116 - (2005-2006)

**H 3184 (Rat #0285) General Bill, By Harrison, G.R. Smith, Whipper, Cato, G.M. Smith and Weeks**

**Similar (H 3285)**

**Summary:** Administrative Procedures appeals to go to the Court of Appeals

AN ACT TO AMEND SECTION 1-13-90, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO HEARINGS AND ORDERS OF THE STATE HUMAN AFFAIRS COMMISSION, SO AS TO PROVIDE FOR APPEAL OF A COMMISSION DECISION TO THE ADMINISTRATIVE LAW COURT; TO AMEND SECTION 1-23-320, AS AMENDED, RELATING TO NOTICE AND HEARING IN A CONTESTED CASE, SO AS TO PROVIDE THAT THE STANDARD OF PROOF IN A CONTESTED CASE IS BY A PREPONDERANCE OF THE EVIDENCE EXCEPT IN A CONTESTED CASE INVOLVING THE DETERMINATION OF A CERTIFICATE OF NEED FOR NEW OPEN HEART SURGERY SERVICES WHEN A LEGALLY CONCLUSIVE PRESUMPTION IS CREATED IN FAVOR OF APPROVAL WHEN CERTAIN CIRCUMSTANCES ARE MET; TO AMEND SECTIONS 1-23-380, 1-23-390, 1-23-600, ALL AS AMENDED, AND SECTION 1-23-610, ALL RELATING TO JUDICIAL REVIEW OF ADMINISTRATIVE DECISIONS, SO AS TO PROVIDE THAT JUDICIAL REVIEW OF AN ADMINISTRATIVE DECISION MUST BE MADE BY AN ADMINISTRATIVE LAW JUDGE, TO PROVIDE THAT DECISION MAY BE APPEALED TO THE SOUTH CAROLINA COURT OF APPEALS, AND TO PROVIDE EXCEPTIONS; TO AMEND SECTION 1-23-650, AS AMENDED, RELATING TO PROMULGATION OF RULES GOVERNING THE OPERATIONS OF THE ADMINISTRATIVE LAW COURT, SO AS TO PROVIDE RULES OF PROCEDURE FOR THE HEARING OF CONTESTED CASES OR APPEALS BY INDIVIDUAL AGENCIES ARE OF NO FORCE AND EFFECT IN PROCEEDINGS BEFORE AN ADMINISTRATIVE LAW JUDGE; TO AMEND SECTION 1-23-660, AS AMENDED, RELATING TO HEARINGS OF THE DIVISION OF THE MOTOR VEHICLES, SO AS TO CREATE THE DIVISION OF MOTOR VEHICLE HEARINGS WITHIN THE ADMINISTRATIVE LAW COURT AND TO PROVIDE FOR ITS COMPOSITION AND OPERATION; TO AMEND SECTION 8-13-320, RELATING TO AN ORDER OF THE STATE ETHICS COMMISSION, SO AS TO PROVIDE FOR APPEAL FROM A FINAL DECISION OF THE COMMISSION TO THE SOUTH CAROLINA COURT OF APPEALS AS PROVIDED IN THE SOUTH CAROLINA APPELLATE COURT RULES; TO AMEND SECTION 8-17-340, AS AMENDED, RELATING TO THE STATE EMPLOYEE GRIEVANCE COMMITTEE, SO AS TO PROVIDE FOR APPEAL OF A COMMISSION'S DECISION TO THE ADMINISTRATIVE LAW COURT; TO AMEND SECTION 9-21-70, RELATING TO APPEALS FROM A DECISION OF THE ADMINISTRATIVE LAW COURT, SO AS TO APPEAL TO THE COURT OF APPEALS AS PROVIDED IN THE SOUTH CAROLINA APPELLATE COURT RULES; TO AMEND SECTION 11-35-4410, AS AMENDED, RELATING TO APPEALS REGARDING PROCUREMENT BY THE PROCUREMENT REVIEW PANEL, SO AS TO PROVIDE THAT THE ADMINISTRATIVE PROCEDURES ACT DOES NOT APPLY TO THE PANEL UNDER CERTAIN CIRCUMSTANCES AND APPEAL FROM A PANEL DECISION IS ONLY TO THE CIRCUIT COURT; TO AMEND SECTIONS 12-60-3370, 12-60-3380, AND 12-60-3390, ALL AS AMENDED, RELATING TO TAXPAYER APPEALS, ALL SO AS TO PROVIDE THAT APPEALS ARE TO THE COURT OF APPEALS RATHER THAN THE CIRCUIT COURT; TO AMEND SECTION 14-8-200, AS AMENDED, RELATING TO THE JURISDICTION OF THE COURT OF APPEALS, SO AS TO ADD FINAL DECISIONS OF AN AGENCY, OR A FINAL DECISION OF AN ADMINISTRATIVE LAW JUDGE TO THE LIST OF CASES THE COURT OF APPEALS HAS JURISDICTION OVER; TO AMEND SECTION 31-21-130, RELATING TO APPEALS TO THE HUMAN AFFAIRS COMMISSION REGARDING THE SOUTH CAROLINA FAIR HOUSING LAW, SO AS TO PROVIDE THAT APPEAL IS TO THE ADMINISTRATIVE LAW COURT RATHER THAN THE CIRCUIT COURT; TO AMEND SECTION 33-56-140, RELATING TO INVESTIGATIONS, HEARINGS, AND APPEALS REGARDING SOLICITATION OF CHARITABLE FUNDS, SO AS TO PROVIDE THAT ACTIONS BROUGHT BY THE SECRETARY OF STATE FOR CERTAIN CHARITABLE SOLICITATION VIOLATIONS ARE TO BE BROUGHT BEFORE AN ADMINISTRATIVE LAW JUDGE; TO AMEND SECTION 39-37-100, AS AMENDED, RELATING TO APPEALS OF THE DEPARTMENT OF AGRICULTURE REGARDING LICENSES OF MANUFACTURERS OF CERTAIN FROZEN DESSERTS, SO AS TO PROVIDE THAT APPEAL IS TO THE ADMINISTRATIVE LAW COURT RATHER THAN THE CIRCUIT COURT; TO AMEND SECTION 41-35-750, AS AMENDED, RELATING TO THE PROCEDURE TO OBTAIN JUDICIAL REVIEW OF A DECISION BY THE EMPLOYMENT SECURITY COMMISSION, SO AS TO PROVIDE THAT A PARTY TO THE PROCEEDING MAY APPEAL A COMMISSION DECISION WITHIN THIRTY DAYS FROM THE DATE OF THE MAILING OF THE COMMISSION'S DECISION; TO AMEND SECTION 43-25-90, RELATING TO A DECISION OF THE COMMISSION FOR THE BLIND, SECTION 45-9-75, RELATING TO A DETERMINATION BY A PANEL OF THE STATE HUMAN AFFAIRS COMMISSION, SECTION 46-3-220, RELATING TO AN ORDER OR DECISION BY THE COMMISSIONER OF AGRICULTURE, SECTION 46-9-90, AS AMENDED, RELATING TO PENALTIES FOR VIOLATING A PROVISION OF THE CHAPTER ON THE STATE CROP PEST COMMISSION, SECTION 47-4-130, AS AMENDED, RELATING TO PENALTIES FOR VIOLATING A PROVISION OF TITLE 47 DEALING WITH ANIMALS, LIVESTOCK, AND POULTRY, SECTIONS 47-17-50 AND 47-19-60,

BOTH RELATING TO A DETERMINATION BY THE DIRECTOR OF THE LIVESTOCK-POULTRY HEALTH DEPARTMENT OF CLEMSON UNIVERSITY, SECTIONS 48-20-160, 48-20-190, BOTH AS AMENDED, AND 48-20-200, ALL RELATING TO A DECISION OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SECTION 48-39-150, AS AMENDED, RELATING TO THE APPROVAL OR DENIAL OF A PERMIT BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SECTION 54-3-470, RELATING TO AN ORDER OF THE STATE PORTS AUTHORITY, SECTIONS 55-5-230, 55-5-240, 55-5-250, ALL AS AMENDED, AND SECTION 55-8-20, ALL RELATING TO AN ORDER OF THE DIVISION OF AERONAUTICS, ALL SO AS TO PROVIDE FOR JUDICIAL REVIEW OF THE ADMINISTRATIVE DECISION BY AN ADMINISTRATIVE LAW JUDGE AND THAT DECISION APPEALED TO THE SOUTH CAROLINA COURT OF APPEALS; TO AMEND SECTION 56-5-2952, AS AMENDED, RELATING TO THE FILING FEE FOR A HEARING BEFORE THE DEPARTMENT OF MOTOR VEHICLES, SO AS TO INCREASE THE FEE AND PROVIDE FOR ITS RETENTION BY THE ADMINISTRATIVE LAW COURT; TO AMEND SECTIONS 58-5-330, 58-5-340, 58-5-990, 58-9-1410, AND 58-27-2310, ALL RELATING TO AN ORDER OR DECISION BY THE PUBLIC SERVICE COMMISSION, SO AS TO PROVIDE FOR APPEAL FROM A FINAL DECISION OF THE COMMISSION TO THE SOUTH CAROLINA SUPREME COURT OR COURT OF APPEALS AS PROVIDED BY STATUTE OR THE SOUTH CAROLINA APPELLATE COURT RULES; TO AMEND SECTIONS 59-25-260, 59-25-830, AND 59-40-90, ALL RELATING TO DECISIONS BY THE STATE BOARD OF EDUCATION, AND SECTION 59-58-120, RELATING TO A DECISION OF THE COMMISSION ON HIGHER EDUCATION, ALL SO AS TO PROVIDE FOR JUDICIAL REVIEW OF THE ADMINISTRATIVE DECISION BY AN ADMINISTRATIVE LAW JUDGE AND THAT DECISION APPEALED TO THE SOUTH CAROLINA COURT OF APPEALS; TO AMEND SECTION 44-1-50, RELATING TO APPEALS FROM THE BOARD OF HEALTH AND ENVIRONMENTAL CONTROL, SO AS TO PROVIDE FOR ADMINISTRATIVE REVIEW BY THE BOARD AND FOR FINAL AGENCY DETERMINATIONS; AND BY ADDING SECTION 44-1-60 SO AS TO PROVIDE PROCEDURES IN A CONTESTED CASE BEFORE THE BOARD; AND TO REPEAL SECTIONS 58-5-350, 58-5-360, 58-9-1420, 58-9-1440, 58-9-1460, 58-9-1470, 58-9-1480, AND 58-27-2330, ALL RELATING TO JUDICIAL REVIEW OF A DECISION BY THE PUBLIC SERVICE COMMISSION. - ratified title

<b>12/22/04</b>	<b>House</b>	<b>Prefiled</b>
<b>12/22/04</b>	<b>House</b>	<b>Referred to Committee on Judiciary</b>
<b>01/11/05</b>	<b>House</b>	<b>Introduced and read first time HJ-115</b>
<b>01/11/05</b>	<b>House</b>	<b>Referred to Committee on Judiciary HJ-117</b>
<b>01/19/05</b>	<b>House</b>	<b>Member(s) request name added as sponsor: Cato</b>
<b>04/06/05</b>	<b>House</b>	<b>Committee report: Favorable with amendment Judiciary HJ-35</b>
<b>04/07/05</b>	<b>House</b>	<b>Member(s) request name added as sponsor: G.M.Smith, Weeks</b>
<b>04/07/05</b>		<b>Scrivener's error corrected</b>
<b>04/12/05</b>	<b>House</b>	<b>Requests for debate-Rep(s). McLeod HJ-19</b>
<b>04/12/05</b>	<b>House</b>	<b>Amended HJ-19</b>
<b>04/12/05</b>	<b>House</b>	<b>Read second time HJ-30</b>
<b>04/13/05</b>	<b>House</b>	<b>Read third time and sent to Senate HJ-30</b>
<b>04/13/05</b>		<b>Scrivener's error corrected</b>
<b>04/13/05</b>	<b>Senate</b>	<b>Introduced and read first time SJ-5</b>
<b>04/13/05</b>	<b>Senate</b>	<b>Referred to Committee on Judiciary SJ-5</b>
<b>04/15/05</b>	<b>Senate</b>	<b>Referred to Subcommittee: Moore (ch), Ford, Mescher, Rankin, Scott</b>
<b>05/18/05</b>	<b>Senate</b>	<b>Committee report: Favorable with amendment Judiciary SJ-13</b>
<b>05/25/05</b>	<b>Senate</b>	<b>Amended SJ-116</b>
<b>03/08/06</b>	<b>Senate</b>	<b>Special order, set for 030806 SJ-41</b>
<b>03/09/06</b>	<b>Senate</b>	<b>Debate interrupted SJ-37</b>
<b>03/15/06</b>	<b>Senate</b>	<b>Amended SJ-43</b>
<b>03/15/06</b>	<b>Senate</b>	<b>Read second time SJ-43</b>
<b>03/16/06</b>	<b>Senate</b>	<b>Amended SJ-38</b>
<b>03/16/06</b>	<b>Senate</b>	<b>Read third time and returned to House with amendments SJ-38</b>
<b>03/23/06</b>	<b>House</b>	<b>Debate adjourned until Wednesday, April 5, 2006 HJ-35</b>
<b>04/05/06</b>	<b>House</b>	<b>Debate adjourned until Thursday, April 6, 2006 HJ-24</b>
<b>04/06/06</b>	<b>House</b>	<b>Debate adjourned until Tuesday, April 18, 2006 HJ-31</b>
<b>04/18/06</b>	<b>House</b>	<b>Debate interrupted HJ-40</b>
<b>04/19/06</b>	<b>House</b>	<b>Senate amendment amended HJ-20</b>

04/19/06	House	Debate interrupted HJ-38
04/20/06	House	Reconsider vote whereby amendment to Senate amendment (amendment 14a) was adopted HJ-55
04/20/06	House	Amendment to Senate amendment (amendment 14a) tabled HJ-55
04/20/06	House	Concurred in Senate amendment and enrolled HJ-57
04/20/06	House	Roll call Yeas-55 Nays-43 HJ-57
04/27/06		Ratified R 285
05/03/06		Vetoed by Governor
05/10/06	House	Debate adjourned on veto consideration until Wednesday, May 24, 2006 HJ-37
05/10/06	House	Reconsider vote whereby debated adjourned HJ-48
05/10/06	House	Veto sustained Yeas-49 Nays-58 HJ-48