**South Carolina General Assembly**

125th Session, 2023-2024

**H. 3866**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Rutherford

Companion/Similar bill(s): 486

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Introduced in the House on February 2, 2023

Introduced in the Senate on March 8, 2023

Last Amended on February 20, 2024

Currently residing in the House

Summary: Attorney General

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 2/2/2023 House Introduced and read first time (House Journal‑page 6)

 2/2/2023 House Referred to Committee on **Judiciary** (House Journal‑page 6)

 3/1/2023 House Committee report: Favorable with amendment **Judiciary** (House Journal‑page 38)

 3/7/2023 House Amended (House Journal‑page 36)

 3/7/2023 House Read second time (House Journal‑page 36)

 3/7/2023 House Roll call Yeas-114 Nays-0 (House Journal‑page 37)

 3/8/2023 House Read third time and sent to Senate (House Journal‑page 18)

 3/8/2023 Senate Introduced and read first time (Senate Journal‑page 12)

 3/8/2023 Senate Referred to Committee on **Judiciary** (Senate Journal‑page 12)

 3/8/2023 Scrivener's error corrected

 3/17/2023 Senate Referred to Subcommittee: Senn (ch), McLeod,
 Loftis, Adams, Stephens

 3/29/2023 Senate Committee report: Favorable with amendment **Judiciary** (Senate Journal‑page 13)

 3/30/2023 Scrivener's error corrected

 2/14/2024 Senate Committee Amendment Adopted (Senate Journal‑page 19)

 2/15/2024 Senate Amended (Senate Journal‑page 11)

 2/20/2024 Senate Amended (Senate Journal‑page 7)

 2/20/2024 Senate Read second time (Senate Journal‑page 7)

 2/20/2024 Senate Roll call Ayes-41 Nays-0 (Senate Journal‑page 7)

 2/21/2024 Senate Read third time and returned to House with amendments (Senate Journal‑page 13)

 2/21/2024 Scrivener's error corrected

 2/27/2024 House Non-concurrence in Senate amendment (House Journal‑page 36)

 2/27/2024 House Roll call Yeas-0 Nays-110 (House Journal‑page 36)

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**VERSIONS OF THIS BILL**

[02/02/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3866_20230202.docx)

[03/01/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3866_20230301.docx)

[03/07/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3866_20230307.docx)

[03/08/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3866_20230308.docx)

[03/29/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3866_20230329.docx)

[03/30/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3866_20230330.docx)

[02/14/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/3866_20240214.docx)

[02/15/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/3866_20240215.docx)

[02/20/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/3866_20240220.docx)

[02/21/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/3866_20240221.docx)

Indicates Matter Stricken

Indicates New Matter

Amended

February 20, 2024

H. 3866

Introduced by Rep. Rutherford

S. Printed 02/20/24--S. [SEC 2/21/2024 7:10 PM]

Read the first time March 08, 2023

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A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 1-7-95 SO AS TO CLARIFY THAT, WHEN THE ATTORNEY GENERAL PROCEEDS IN THE PUBLIC INTEREST, THE ATTORNEY GENERAL DOES NOT UNDERTAKE REPRESENTATION OF STATE AGENCIES AND CANNOT BE CONSIDERED TO HAVE POSSESSION, CUSTODY, OR CONTROL OVER STATE AGENCY DOCUMENTS OR ELECTRONICALLY STORED INFORMATION; AND BY ADDING SECTION 39-5-55 SO AS TO SPECIFY that THE ATTORNEY GENERAL IS ACTING IN THE PUBLIC INTEREST OF THE STATE IN UNFAIR TRADE PRACTICE PROCEEDINGs, AND TO PROVIDE AN EXCEPTION.

 Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 7, Title 1 of the S.C. Code is amended by adding:

 Section 1-7-95. (A) Notwithstanding any other provision of law, when the Attorney General brings or defends an action in the name of the State of South Carolina pursuant to any power granted by common law, the Constitution of this State, or any provision of law, the Attorney General acts in the public interest of the State of South Carolina and not as the legal representative or attorney of any department or agency of state government, including the executive, legislative, and judicial branches, or any of the boards connected therewith. Such departments, agencies, or boards are not parties to these actions, and the documents or electronically stored information of such departments, agencies, or boards are not in the possession, custody, or control of the Attorney General. However, when documents in the possession, custody, or control of any department, agency, or board of state government are requested in discovery in such an action, the Attorney General shall identify the department, agency, or board and their counsel and facilitate the production of such documents from the department, agency, or board of state government in response to a subpoena.

 (B)(1) This section does not affect the ability of the Attorney General to bring or defend an action in a proprietary capacity on behalf of and representing any such department, agency, or board.

(2) This section does not affect the Attorney General’s duty to represent an officer or employee of the State, or any of the state’s political subdivisions, pursuant to Section 1-7-50.

SECTION 2. Article 1, Chapter 5, Title 39 of the S.C. Code is amended by adding:

 Section 39-5-55. Proceedings instituted by the Attorney General under this article are proceedings in the public interest of the State of South Carolina for purposes of Section 1-7-95, except actions expressly brought under Section 39-5-140 in the name and on behalf of a department or agency of state government or any of the boards connected therewith.

SECTION 3. This act takes effect upon approval by the Governor.

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