**South Carolina General Assembly**

119th Session, 2011-2012

**H. 3922**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Erickson, Patrick and Herbkersman

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Companion/Similar bill(s): 4242

Introduced in the House on March 14, 2011

Currently residing in the House Committee on **Judiciary**

Summary: Probate judge has absolute control over office and budget

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/14/2011 House Introduced and read first time ([House Journal‑page 2](file:///h:\hj%20archive\2011\03-14-11.docx))

3/14/2011 House Referred to Committee on **Judiciary** ([House Journal‑page 2](file:///h:\hj%20archive\2011\03-14-11.docx))

**VERSIONS OF THIS BILL**

[3/14/2011](file:///p:\pprever\2011-12\3922_20110314.docx)

**A** **BILL**

TO AMEND SECTION 14‑23‑1130, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REQUIREMENT THAT THE GOVERNING BODY OF EACH COUNTY PROVIDE THE JUDGE OF PROBATE WITH THE NECESSARY OFFICE EQUIPMENT, BOOKS, OFFICE SPACE, AND PERSONNEL FOR THE OPERATION OF THE COURT, SO AS TO PROVIDE THAT THESE JUDGES HAVE ABSOLUTE CONTROL OVER THESE MATTERS, INCLUDING USE OF BUDGETED FUNDS, EMPLOYEE CLASSIFICATIONS, COMPENSATION, AND PROMOTIONS.

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

SECTION 1. Section 14‑23‑1130 of the 1976 Code, as last amended by Act 412 of 1994, is further amended to read:

“Section 14‑23‑1130. (A)The governing body of each county shall provide and the judge of probate shall keep the seal of the probate court, the necessary office equipment of the probate court, and those books as are necessary for keeping the records of the probate court and for reference to these records, including index books, appropriately labeled, referring to the records of the probate court pertaining to:

(1~~.~~) wills;

(2~~.~~) intestate estates;

(3~~.~~) estates of minors and incompetents;

(4~~.~~) bonds;

(5~~.~~) inventories and appraisements;

(6~~.~~) returns or accountings;

(7~~.~~) liens;

(8~~.~~) admissions and commitments to facilities for the care and treatment of mentally ill, mentally retarded, alcoholics, and drug addicts;

(9~~.~~) marriage licenses and marriages;

(10~~.~~) decrees; and

(11~~.~~) general or miscellaneous matters.

(B)(1) In addition, the governing body of each county shall provide office space and additional support personnel as necessary or appropriate, or both, for the orderly conduct of the business of the probate court. The governing body shall effectuate, expeditiously, all requests and directions from the probate judge concerning the needs and operation of the judge’s judicial agency. Included in the scope of these requests and directions are the following:

(a) control over equipping and maintenance of office space;

(b) the hiring and termination of employees; and

(c) the compensation, classification, promotion, working hours, time off, and other personnel matters of employees.

(2) The provisions of this subsection are subject to the availability of budgeted funds as determined annually.

(3) The governing body shall make every effort to adopt, approve, and effectuate the annual budget as proposed by the probate judge. Barring extraordinary circumstances, the annual budget proposed by the judge, in toto, may not exceed by more than six percent of the previous fiscal year. Failure of the governing body and the probate judge to agree on a budget, or any other matter, must be resolved by an expeditious determination in the State Supreme Court. If there is disagreement or litigation, the probate judge may engage the services of counsel of his choice. All related and reasonable fees and costs must be borne by the governing body. The probate judge may adopt or not adopt, fully or partially, the office management and personnel policies and procedures established by the governing body of each county, and may make adjustments to them applicable to the judge’s office and staff at any time as the judge determines necessary. The probate judge has control over the use of all of the judge’s budgeted funds, on an annual basis and as determined annually, regardless of how they may be earmarked, and may allocate and reallocate these funds for those purposes as the judge considers necessary. However, the judge may not allocate or reallocate these funds to increase his own compensation or for any other improper purpose.

(C) If the probate court maintains the original of a document in the master file of a matter and a copy of that document on microfilm, a computer system, or on another similar system, it is not necessary for the probate court to maintain a second separate record with copies of those types of documents, provided a general index or an index for those types of documents is maintained.”

SECTION 2. This act takes effect upon approval by the Governor.

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