~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

May 19, 2010

**H. 3059**

Introduced by Rep. Herbkersman

S. Printed 5/19/10--S.

Read the first time April 20, 2010.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3059) to amend Section 7‑1‑20, Code of Laws of South Carolina, 1976, relating to definitions used in South Carolina Election Law, so as to delete the, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting language and inserting:

/ SECTION 1. Section 7‑1‑20 of the 1976 Code is amended to read:

“Section 7‑1‑20. The following words and phrases ~~used herein~~, unless the same be plainly inconsistent with the context, shall be construed as follows:

(1) ‘General election’ means the election ~~provided herein~~ to be held for the election of officers to the regular terms of office provided by law, whether State, United States, county, municipal, or of any other political subdivision of the State, and for voting on constitutional amendments proposed by the General Assembly~~;~~.

(2) ‘Special election’ means any other election including any referendum provided by law to be held under the provisions of law applicable to general elections~~;~~.

(3) ‘Primary’ means a party primary election held by a political party under the provisions of this title~~;~~.

(4) ‘Inhabitants’ means the number of inhabitants according to the federal census last taken~~;~~.

(5) ‘Electoral board’ means the board or other authority empowered to hold a general or special election~~;~~.

(6) A ‘voting or polling precinct’ ~~shall mean~~ means an area created by the legislature for convenient localization of polling places and which ~~shall be administered~~ administers and counts votes ~~counted~~ therein as a local unit in all elections~~;~~.

A ‘voting place’ ~~shall be any~~ is a place within a voting or polling precinct ~~wherein~~ where ballots may be cast.

(7) ‘Political party’ means a political party, organization, or association certified ~~as such~~ by the State Election Commission ~~in the manner~~ as provided for in this title~~;~~.

(8) ‘State committee’ means the state executive committee of a political party~~;~~.

(9) ‘State chairman’ means the chairman of the state executive committee of a political party~~;~~.

(10) ‘County committee’ means the county executive committee of a political party~~;~~.

(11) ‘County chairman’ means the chairman of the county executive committee of a political party~~;~~.

(12) ~~‘Club district’ means the territory of the general election voting place or precinct in which the political party club is formed under this Title, whether a ward or township or a subdivision thereof;~~

~~(13)~~ ‘Booth’ includes a voting machine booth, curtain, or enclosure~~; and~~.

~~(14)~~(13) ‘Legal holiday’ means ~~any~~ a holiday recognized by ~~the~~ state or federal law.

~~(15)~~(14) ‘Voter’, ‘registered voter’, ‘elector’, ‘registered elector’, ‘qualified elector’, or ‘qualified registered elector’ means ~~any~~ a person whose name is contained on the active roster of voters maintained by the State Election Commission and whose name has not been removed from the roster for any of the reasons named in ~~items (2) and (3) of subsection (C) of~~ Section 7‑3‑20(C)(2) and (3) and who possesses a valid registration certificate.”

SECTION 2. Section 7‑5‑460 of the 1976 Code is amended to read:

“Section 7‑5‑460. The commissioners of election or the county committee, as the case may be, shall turn over ~~such~~ registration books to the election managers ~~of election~~ of each polling precinct ~~or club~~, who ~~shall be~~ are responsible for the care and custody of ~~such~~ these books and the return ~~thereof~~ of them within three days after ~~such~~ the election. The commissioners of election or the county committee, as the case may be, shall return ~~such~~ the books to the board of registration ~~prior to~~ before the day on which the books of registration are next required by law to be opened by the board of registration and ~~in no event~~ not later than twenty days after ~~such~~ the election.”

SECTION 3. Section 7‑9‑20 of the 1976 Code is amended to read:

“Section 7‑9‑20. The qualifications for membership in a certified party and for voting at a party primary election include the following: The applicant for membership, or voter, must be at least eighteen years of age or become so before the succeeding general election, and must be a registered elector and a citizen of the United States and of this State. ~~No~~ A person may not ~~belong to any party club or~~ vote in ~~any~~ a primary unless he is a registered elector. The state convention of any political party, organization, or association in this State may add by party rules to the qualifications for membership in the party, organization, or association and for voting at the primary elections if ~~such~~ the qualifications do not conflict with the provisions of this section or with the Constitution and laws of this State or of the United States.”

SECTION 4. Section 7‑9‑70 of the 1976 Code is amended to read:

“Section 7‑9‑70. A county ~~conventions~~ convention must be held during a twelve‑month period ending March thirty‑first of ~~every~~ each general election year during a month determined by the state committee as provided in Section 7‑9‑100. The county committee shall set the date, time, and location during the month designated by the state committee for the county convention to be held~~;~~. ~~however,~~ The date set by the county committee for the county convention must be at least two weeks ~~prior to~~ before the state convention. When a month in a nongeneral election year is chosen for the county convention, it must be held for the purpose of reorganization only. The date, time, and location that the county convention must be reconvened during the general election year to nominate candidates for public office to be filled in the general election must be set by county committee. Notices, both for the convention to be held for reorganization and for the reconvened convention to nominate candidates, must be published by the county committee, once a week for two consecutive weeks, not more than three nor less than two weeks, before the day in a newspaper having general circulation in the county. ~~The convention must be composed of delegates elected from the clubs in the county, one delegate for every twenty‑five members and major fraction thereof, based upon the number of votes polled in the first primary of the preceding general election year or based upon the number of votes for presidential electors at the last preceding general election therefor from the precinct as determined by the state committee. The same basis must be used in all precincts; or if the last preceding nominations were by convention, the representation must be based upon the number of votes for presidential electors at the last preceding general election therefor from the precinct. The list of delegates certified to by the president and secretary of each club shall constitute the temporary roll of the county convention. Where new precincts have been created or where the areas of precincts have been redefined, the party executive committee of the affected counties shall apportion delegates from the clubs representing the precincts.”~~

SECTION 5. Section 7‑13‑170 of the 1976 Code is amended to read:

“Section 7‑13‑170. ~~In case~~ If all of the managers ~~shall~~ fail to attend at the same time and place appointed for holding ~~such~~ the poll, or shall refuse or fail to act, or ~~in case~~ if no manager has been appointed for ~~such~~ the poll, it ~~shall be~~ is lawful for the voters present at the precinct voting place on that day to appoint from among the qualified voters of ~~such~~ the precinct ~~or club~~ the managers to act as managers in the place and stead of the absent managers, and any one of the managers ~~so~~ appointed shall administer the oath to the other managers. But if the duly appointed managers attend in a reasonable time, they shall take charge of and conduct the election.”

SECTION 6. Sections 7‑9‑30, 7-9-40, 7-9-50, and 7-9-60 of the 1976 Code are repealed.

SECTION 7. This act takes effect upon approval by the Governor.

Renumber sections to conform.

Amend title to conform.

GEORGE E. CAMPSEN III for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The State Election Commission indicates there is no fiscal impact with the adoption of this bill.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND SECTION 7‑1‑20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS USED IN SOUTH CAROLINA ELECTION LAW, SO AS TO DELETE THE DEFINITION “CLUB DISTRICT”; TO AMEND SECTION 7‑5‑460, RELATING TO CUSTODY OF BOOKS AND THEIR RETURN AFTER AN ELECTION, SO AS TO DELETE A REFERENCE TO A “CLUB” AS AN ENTITY TO WHOM THE BOOKS ARE RESPONSIBLE; TO AMEND SECTIONS 7‑9‑20, 7‑9‑30, AS AMENDED, 7‑9‑40, 7‑9‑50, AS AMENDED, 7‑9‑60, AND 7‑9‑70, RELATING TO CLUBS IN PARTY ORGANIZATIONS, SO AS TO DELETE REFERENCES TO PARTY CLUBS WHICH CLARIFIES THE ORGANIZATIONAL RELATIONS WITH ELECTION PRECINCTS; TO PROVIDE THAT ALL ELECTED PRECINCT COMMITTEEMEN MAY VOTE ON QUESTIONS BEFORE THE COUNTY COMMITTEE, TO PROVIDE THAT THE CHAIRMAN MAY VOTE IN THE CASE OF A TIE, AND TO PROVIDE THAT AN ELECTED OFFICER OF THE COUNTY COMMITTEE WHO IS NOT A PRECINCT COMMITTEEMAN MAY VOTE DE FACTO, AND TO CLARIFY THE ELECTION PRECINCTS ORGANIZATIONAL RELATIONSHIP; AND TO AMEND SECTION 7‑13‑170, RELATING TO THE PROCEDURE WHEN A MANAGER FAILS TO ATTEND THE PLACE WHICH HAS BEEN SCHEDULED FOR HOLDING A POLL, SO AS TO DELETE THE TERM “CLUB” FROM THE QUALIFYING MEMBER TO BECOME A MANAGER IN THE PLACE OF ABSENT MANAGERS.

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

SECTION 1. Section 7‑1‑20 of the 1976 Code is amended to read:

“Section 7‑1‑20. ~~The following words and phrases used herein~~ For purposes of this chapter, unless the ~~same be plainly inconsistent with the~~ context~~, shall be construed as follows~~ clearly indicates otherwise:

(1) ‘General election’ means the election provided ~~herein~~ in this chapter to be held for the election of officers to the regular terms of office provided by law, whether State, United States, county, municipal, or of any other political subdivision of the State, and for voting on constitutional amendments proposed by the General Assembly~~;~~.

(2) ‘Special election’ means any other election including any referendum provided by law to be held under the provisions of law applicable to general elections~~;~~.

(3) ‘Primary’ means a party primary election held by a political party under the provisions of this title~~;~~.

(4) ‘Inhabitants’ means the number of inhabitants according to the federal census last taken~~;~~.

(5) ‘Electoral board’ means the board or other authority empowered to hold a general or special election~~;~~.

(6) A ‘voting or polling precinct’ ~~shall mean~~ means an area created by the legislature for convenient localization of polling places and which ~~shall be administered~~ administers and counts votes ~~counted therein~~ at a voting or polling precinct as a local unit in all elections~~;~~.

A ‘voting place’ ~~shall be any~~ is a place within a voting or polling precinct ~~wherein~~ where ballots may be cast.

(7) ‘Political party’ means a political party, organization, or association certified ~~as such~~ by the State Election Commission ~~in the manner~~ as provided for in this title~~;~~.

(8) ‘State committee’ means the state executive committee of a political party~~;~~.

(9) ‘State chairman’ means the chairman of the state executive committee of a political party~~;~~.

(10) ‘County committee’ means the county executive committee of a political party~~;~~.

(11) ‘County chairman’ means the chairman of the county executive committee of a political party~~;~~.

(12) ~~‘Club district’ means the territory of the general election voting place or precinct in which the political party club is formed under this Title, whether a ward or township or a subdivision thereof;~~

~~(13)~~ ‘Booth’ includes a voting machine booth, curtain, or enclosure~~; and~~.

~~(14)~~(13) ‘Legal holiday’ means ~~any~~ a holiday recognized by ~~the~~ state or federal law.

~~(15)~~(14) ‘Voter’, ‘registered voter’, ‘elector’, ‘registered elector’, ‘qualified elector’, or ‘qualified registered elector’ means ~~any~~ a person whose name is contained on the active roster of voters maintained by the State Election Commission and whose name has not been removed from the roster for any of the reasons named in ~~items (2) and (3) of subsection (C) of~~ Section 7‑3‑20(C)(2) and (3) and who possesses a valid registration certificate.”

SECTION 2. Section 7‑5‑460 of the 1976 Code is amended to read:

“Section 7‑5‑460. The commissioners of election or the county committee, as the case may be, shall turn over ~~such~~ registration books to the managers of election of each polling precinct ~~or club~~, who ~~shall be~~ are responsible for the care and custody of ~~such~~ these books and the return ~~thereof~~ of them within three days after ~~such~~ the election. The commissioners of election or the county committee, as the case may be, shall return ~~such~~ the books to the board of registration ~~prior to~~ before the day on which the books of registration are next required by law to be opened by the board of registration and ~~in no event~~ not later than twenty days after ~~such~~ the election.”

SECTION 3. Section 7‑9‑20 of the 1976 Code is amended to read:

“Section 7‑9‑20. The qualifications for membership in a certified party and for voting at a party primary election include the following: The applicant for membership, or voter, must be at least eighteen years of age or become so before the succeeding general election, and must be a registered elector and a citizen of the United States and of this State. ~~No~~ A person may not belong to ~~any party club~~ a precinct or vote in ~~any~~ a primary unless he is a registered elector. The state convention of any political party, organization, or association in this State may add by party rules to the qualifications for membership in the party, organization, or association and for voting at the primary elections if ~~such~~ the qualifications do not conflict with the provisions of this section or with the Constitution and laws of this State or of the United States.”

SECTION 4. Section 7‑9‑30 of the 1976 Code, as last amended by Act 359 of 1990, is further amended to read:

“Section 7‑9‑30. (A) One party ~~club~~ precinct may be organized in each general election voting precinct provided for by law and each of the clubs shall have a distinct title: ‘The \_\_\_\_\_\_\_\_\_\_ ~~Club~~ Precinct of the \_\_\_\_\_\_\_\_\_\_ Party~~.~~’. Each ~~club~~ precinct shall elect a president and one or more vice‑presidents, a secretary, and treasurer, ~~a precinct or club secretary,~~ and a district executive committeeman for each polling place within a precinct and may have ~~such~~ working committees as it considers necessary.

(B) In the absence of the precinct ~~or club~~ district executive committeeman or in case of his inability to act, unless it is otherwise provided in the party rules, the ~~club~~ precinct district executive committeeman shall designate another member of the ~~club~~ precinct to perform his duties or the members of the ~~club~~ precinct shall elect a ~~club~~ precinct district executive committeeman to take his place.

(C) The officers of the ~~party club~~ precinct ~~shall~~ must be reported to the clerk of court of the county ~~prior to~~ before the county convention~~;~~. ~~any club~~ A precinct ~~which~~ that does not reorganize before the county convention but reorganizes ~~thereafter~~ after that time as provided in Section 7‑9‑50 shall report the names of its officers to the clerk of court within seven days. The reports ~~shall be~~ are public record.”

SECTION 5. Section 7‑9‑40 of the 1976 Code is amended to read:

“Section 7‑9‑40. ~~Members~~ A member of a political party ~~must~~ shall belong to the ~~club~~ precinct in the voting precinct set forth in ~~their~~ his respective registration records. The poll list of the primary of the preceding primary election is the prima facie list of the members of each ~~club~~ precinct for the purpose of ~~club~~ precinct organization and the election of delegates to the county convention. There may not be more than one voting place for each ~~club~~ precinct. A federal, state, and county ~~officers~~ officer temporarily residing at or near the capital or county seat may retain ~~their~~ his membership and voting rights in ~~their~~ his former home ~~clubs~~ precinct. ~~No~~ A person may not take part in ~~any club~~ a precinct meeting, vote in any primary, or be elected a delegate to any county convention except in the ~~club~~ precinct of the voting precinct set forth in his ~~or her~~ registration record.”

SECTION 6. Section 7‑9‑50 of the 1976 Code, as last amended by Act 434 of 1996, is further amended to read:

“Section 7‑9‑50. (A) The president or five members may call all special meetings of the ~~club~~ precinct, except for reorganization, provided for in ~~the succeeding paragraph~~ subsection (B). At least forty‑eight hours’ public notice of all special meetings must be given in a newspaper of general circulation in the area where the ~~club~~ precinct is situated.

(B) The ~~clubs must~~ precinct shall meet for reorganization at the usual place of meeting, at the time and on the day as determined by the county committee no later than two weeks ~~prior to~~ before the county convention. A notice must be published by the county committee once a week for two consecutive weeks not more than three weeks nor less than two weeks before the meeting date in a newspaper having general circulation in the county. If an existing ~~club~~ precinct fails to reorganize on the day fixed, the county chairman may fix a day for the ~~club~~ precinct to meet for reorganization by giving two weeks’ notice.”

SECTION 7. Section 7‑9‑60 of the 1976 Code is amended to read:

“Section 7‑9‑60. The ~~clubs~~ precinct in each county ~~shall be~~ is held together and ~~operate~~ operates under the control of a county committee, which ~~shall consist~~ consists of one member from each ~~club~~ precinct to be elected by the ~~club~~ precinct and ~~shall~~ also ~~include~~ includes the State Executive Committeeman from ~~such~~ each county. The committee, when elected, shall appoint its own officers, ~~(~~except the chairman, who ~~shall be~~ is elected by the county convention~~)~~, who ~~shall not~~ necessarily may not be members of the committee. A vacancy in the membership of the committee ~~shall~~ must be filled by the ~~club~~ precinct through the loss of whose member by death, resignation, or otherwise the vacancy occurs, except that if the office of the county chairman ~~shall become~~ becomes vacant by death, resignation, or otherwise, the committee may fill the vacancy by electing a chairman to serve until the organization of the next regular county convention. An officer of the county committee who is not a member of the committee shall not be entitled to vote on any question, except the chairman and then only in case of a tie vote. The tenure of office of the committee ~~shall be~~ is until the day of the county convention in each general election year.”

SECTION 8. Section 7‑9‑70 of the 1976 Code is amended to read:

“Section 7‑9‑70. A county ~~conventions~~ convention must be held during a twelve‑month period ending March thirty‑first of ~~every~~ each general election year during a month determined by the state committee as provided in Section 7‑9‑100. The county committee shall set the date, time, and location during the month designated by the state committee for the county convention to be held~~;~~. ~~however,~~ The date set by the county committee for the county convention must be at least two weeks ~~prior to~~ before the state convention. When a month in a nongeneral election year is chosen for the county convention, it must be held for the purpose of reorganization only. The date, time, and location that the county convention must be reconvened during the general election year to nominate candidates for public office to be filled in the general election must be set by county committee. Notices, both for the convention to be held for reorganization and for the reconvened convention to nominate candidates, must be published by the county committee, once a week for two consecutive weeks, not more than three nor less than two weeks, before the day in a newspaper having general circulation in the county. The convention must be composed of delegates elected from the ~~clubs~~ precincts in the county, one delegate for every twenty‑five members and major fraction ~~thereof~~ of it, based upon the number of votes polled in the first primary of the preceding general election year or based upon the number of votes for presidential electors at the last preceding general election ~~therefor~~ from the precinct as determined by the state committee. The same basis must be used in all precincts; or if the last preceding nominations were by convention, the representation must be based upon the number of votes for presidential electors at the last preceding general election ~~therefor~~ from the precinct. The list of delegates certified to by the president and secretary of each ~~club~~ precinct ~~shall constitute~~ constitutes the temporary roll of the county convention. Where new precincts have been created or where the areas of precincts have been redefined, the party executive committee of the affected counties shall apportion delegates from the ~~clubs~~ precincts representing the precincts.”

SECTION 9. Section 7‑13‑170 of the 1976 Code is amended to read:

“Section 7‑13‑170. ~~In case~~ If all of the managers ~~shall~~ fail to attend at the same time and place appointed for holding ~~such~~ the poll or shall refuse or fail to act or ~~in case~~ if no manager has been appointed for ~~such~~ the poll, it ~~shall be~~ is lawful for the voters present at the precinct voting place on that day to appoint from among the qualified voters of ~~such~~ the precinct ~~or club~~ the managers to act as managers in the place and stead of the absent managers, and any one of the managers ~~so~~ appointed shall administer the oath to the other managers. But if the duly appointed managers attend in a reasonable time, they shall take charge of and conduct the election.”

SECTION 10. A. Section 48‑9‑1220 of the 1976 Code is amended to read:

“Section 48‑9‑1220. (A) Effective November, 1982, and in November of the appropriate years thereafter, three commissioners from each district must be elected. The election must be nonpartisan and must be conducted by the county election commission at the same time as other county officers are elected in the general election.

(B)(1) To be placed on the ballot for county offices, each candidate shall submit to the county election commission a nominating petition with the signatures of one hundred qualified registered electors or one percent of the qualified registered electors of the district, whichever is lesser.

(2) The official number of qualified registered electors of the geographical area of any office is the number of registered electors of the area registered one hundred twenty days before the date of the election for which the nomination petition is being submitted.

(C) The nominees in the petition must be placed on the appropriate official ballot for the election if the petition is submitted to the county election commission not later than twelve noon on ~~August first~~ July fifteenth or, if ~~August first~~ July fifteenth falls on Sunday, not later than twelve noon on the following Monday. The form of the petition must comply with the requirements in Section 7‑11‑80 pertaining to the conduct of general elections not conflicting with this section. Candidates must be qualified registered electors and residents of the district in which elected.

(D) The three candidates who receive the largest number of votes cast in the election are elected and shall assume office the following February first.

This election must be conducted pursuant to Title 7, mutatis mutandi, except as otherwise provided for in this section.

(E) Effective with the 1990 election, the two candidates who receive the highest number of votes shall serve for terms of four years each and the other candidate who receives the next highest number of votes shall serve for a term of two years. Thereafter, their successors must be elected in a nonpartisan election to be held at the same time as the general election for terms of four years each.”

B. This section takes effect upon approval by the Governor and applies to elections held after January 1, 2011.

SECTION 11. This act takes effect upon approval by the Governor.

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