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COMMITTEE REPORT

April 22, 2009

**H. 3746**

Introduced by Rep. Clemmons

S. Printed 4/22/09--H.

Read the first time March 24, 2009.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3746) to amend Section 7‑11‑70, Code of Laws of South Carolina, 1976, relating to the nomination of candidates by a petition, so as to provide that no qualified, etc., respectfully

**REPORT:**

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

JAMES H. HARRISON for Committee.

**A** **BILL**

TO AMEND SECTION 7‑11‑70, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE NOMINATION OF CANDIDATES BY A PETITION, SO AS TO PROVIDE THAT NO QUALIFIED ELECTOR WHO VOTED IN A PRIMARY ELECTION IS ELIGIBLE TO SIGN A PETITION FOR A CANDIDATE TO RUN FOR AN OFFICE TO BE FILLED AT THE GENERAL ELECTION FOLLOWING THAT PRIMARY AND TO PROVIDE THAT A QUALIFIED ELECTOR OTHERWISE ELIGIBLE TO SIGN A PETITION FOR A CANDIDATE TO APPEAR ON A GENERAL ELECTION BALLOT MAY NOT SIGN MORE THAN ONE PETITION PER GENERAL ELECTION PER OFFICE; BY ADDING SECTION 7‑11‑75 SO AS TO PROVIDE THAT A PERSON OFFERING FOR ELECTION AS A PETITION CANDIDATE IN ANY GENERAL ELECTION MUST HAVE FIRST NOTIFIED THE ENTITY TO WHICH THE PETITION IS REQUIRED TO BE FILED BY THE BEGINNING DATE OF THE PRIMARY ELECTION PRECEDING THAT GENERAL ELECTION OF HIS INTENTION TO FILE AS A PETITION CANDIDATE FOR THAT OFFICE, AND TO PROVIDE THAT FAILURE TO DO SO DISQUALIFIES HIM AS A PETITION CANDIDATE FOR THAT GENERAL ELECTION; TO AMEND SECTION 7‑11‑80, AS AMENDED, RELATING TO THE FORM OF NOMINATING PETITIONS, SO AS TO REQUIRE ALL THE SIGNATURES TO BE LEGIBLE SO THAT THE NAME OF THE VOTER CAN BE IDENTIFIED BEYOND A REASONABLE DOUBT; TO AMEND SECTION 7‑11‑85, RELATING TO VERIFICATION OF THE SIGNATURES ON PETITIONS, SO AS TO REVISE THE VERIFICATION PROCESS, TO PROVIDE THAT ALL QUALIFIED ELECTORS SIGNING A PETITION FOR A CANDIDATE TO APPEAR ON A GENERAL ELECTION BALLOT FOR ELECTION TO A PARTICULAR OFFICE MUST HAVE BEEN A QUALIFIED ELECTOR WHO REGISTERED TO VOTE AT LEAST THIRTY DAYS BEFORE SUBMISSION OF THE PETITION, AND TO REQUIRE THE REGISTRATION BOARD TO VERIFY THE VOTER IS A QUALIFIED ELECTOR IN THAT JURISDICTION; BY ADDING SECTION 7‑11‑95 SO AS TO PROVIDE THAT THE ENTITY TO WHICH A PETITION MUST BE FILED MAY REJECT THE PETITION IF, AFTER A HEARING, THE ENTITY FINDS THAT BY A PREPONDERANCE OF THE EVIDENCE FRAUD WAS COMMITTED IN THE EXECUTION OF THE PETITION, AND TO PROVIDE THAT THE VALIDATION OF THE SIGNATURES ON A PETITION AND THE DETERMINATION OF WHETHER OR NOT FRAUD WAS COMMITTED IN THE EXECUTION OF THE PETITION MUST BE CONDUCTED IN PUBLIC AFTER NOTICE; AND BY ADDING SECTION 7‑11‑100 SO AS TO PROVIDE THAT DECISIONS OF A LOCAL ENTITY TO WHICH A PETITION MUST BE FILED MAY BE APPEALED TO THE STATE ELECTION COMMISSION AND THEREAFTER TO A COURT OF COMPETENT JURISDICTION IN THE MANNER IN WHICH APPEALS FROM THE STATE ELECTION COMMISSION MAY BE TAKEN.

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

SECTION 1. Section 7‑11‑70 of the 1976 Code is amended to read:

“Section 7‑11‑70. (A) A candidate’s nominating petition for any office in this State shall contain the signatures of at least five percent of the qualified registered electors of the geographical area of the office for which he offers as a candidate; provided, that no petition candidate is required to furnish the signatures of more than ten thousand qualified registered electors for any office. The official number of qualified registered electors of the geographical area of any office must be the number of registered electors of such area registered one hundred twenty days prior to the date of the election for which the nomination petition is being submitted.

(B) The petition must be certified to the State Election Commission in the case of national, state, circuit, and multicounty district offices; with the county election commission in the case of countywide or less than countywide offices with the exception of municipal offices; with the clerk of a municipality in case of a municipal office, and the certified petition shall constitute and be kept as a public record.

(C) No qualified elector who voted in a primary election is eligible to sign a petition for a candidate to run for an office to be filled at the general election following that primary.

(D) A qualified elector otherwise eligible to sign a petition for a candidate to appear on a general election ballot may not sign more than one petition per general election per office.”

SECTION 2. Article 1, Chapter 11, Title 7 of the 1976 Code is amended by adding:

“Section 7‑11‑75. A person offering for election as a petition candidate in any general election must have first notified the entity to which the petition is required to be filed by the beginning date of the primary election preceding that general election, of his intention to file as a petition candidate for that office. This notification shall be in writing and is considered in the public domain and not confidential. Failure to provide notification disqualifies that person as a petition candidate for the office for that general election.”

SECTION 3. Section 7‑11‑80 of the 1976 Code, as last amended by Act 510 of 1984, is further amended to read:

“Section 7‑11‑80. All nominating petitions for any political office or petition of any political party seeking certification ~~as such~~ in the State of South Carolina shall be standardized as follows:

(1) shall be on good quality original bond paper sized 8 1/2 x 14~~.~~;

(2) shall contain a concise statement of purpose; in the case of nomination of candidates, the name of the candidate, the office for which he offers, and the date of the election for ~~such~~ the office shall be contained in ~~such~~ the petition~~.~~;

(3) shall contain in separate columns from left to right the following:

(a) signature of voter and printed name of voter;

(b) address of residence where registered; and

(c) precinct of voter~~.~~;

(4) no single petition page shall contain the signatures of registered voters from different counties~~.~~;

(5) all signatures of registered voters shall be numbered consecutively and legible so that the name of the voter can be identified beyond a reasonable doubt~~.~~;

(6) petitions with more than one page must have the pages consecutively numbered upon filing with the appropriate authority. The State Election Commission may furnish petition forms to the county election officials and to interested persons.”

SECTION 4. Section 7‑11‑85 of the 1976 Code, as added by Act 263 of 1984, is further amended to read:

“Section 7‑11‑85. (A) Every signature on a petition requiring five hundred or less signatures must be checked for validity by the respective county board of voter registration against the signatures of the voters on the original applications for registration on file in the registration board office. When a petition requires more than five hundred signatures, ~~every one of the first~~ five hundred consecutive signatures chosen randomly must be checked for validity and at least one out of every other group of ten signatures ~~thereafter beginning with the five hundred and first signature~~ appearing before and after the five hundred signature block also must be chosen randomly and ~~must be~~ checked for validity. If the projected number of valid signatures, using this percentage method for the signatures over five hundred plus the number of valid signatures in the ~~first~~ five hundred signature block, total at least the number of signatures required by law on the petition, it must be certified as a valid petition. No petition, however, may be rejected if the number of signatures over five hundred checked using the percentage method plus the number of valid signatures in the ~~first~~ five hundred signature block does not total at least the number required by law. If insufficient signatures are found using the percentage method in order to certify as a valid petition, the board of voter registration must check every signature over five hundred separately, or ~~such~~ the number over five hundred until the required number of valid signatures is found.

(B) If it is a petition seeking to certify a new political party or if the office for which the petition has been submitted comprises more than one county, and using the percentage method of checking does not result in the required number of valid signatures, the executive director of the commission shall designate which counties must check additional signatures.

(C) No signatures on a petition may be rejected if the address of a voter, registration certificate number of a voter, or the precinct of a voter, as required by Section 7‑11‑80, is missing or incorrect if the signature is otherwise valid, and if the board can otherwise verify that the voter is currently a qualified elector in that jurisdiction who registered to vote at least thirty days before submission of the petition. The signature of a voter may ~~only~~ be rejected if it is illegible and cannot be found in the records of the board of voter registration, is missing from the petition, or is not that of the voter, or if the registration of the voter has been deleted for any of the reasons named in items (2) or (3) of subsection (C) of Section 7‑3‑20.

(D) The board of voter registration shall complete a summary form containing the results of checking any petition and must give the completed form to the requesting authority. The form used for this purpose must be prescribed and provided by the executive director.

(E) In addition to all other requirements, all qualified electors signing a petition for a candidate to appear on a general election ballot for election to a particular office must have been a qualified elector who registered to vote at least thirty days before submission of the petition.”

SECTION 5. Article 1, Chapter 11, Title 7 of the 1976 Code is amended by adding:

“Section 7‑11‑95. (A) The entity to which a petition must be filed may reject the petition if, after a hearing with notice to all parties, the entity finds that by a preponderance of the evidence fraud of any kind or degree was committed in the execution of the petition. The entity must give all parties supporting and objecting to the petition an opportunity to be heard at the hearing.

(B) The validation of the signatures on a petition and the determination of whether or not fraud was committed in the execution of the petition must be conducted in public after notice required by the Freedom of Information Act.”

SECTION 6. Article 1, Chapter 11, Title 7 of the 1976 Code is amended by adding:

“Section 7‑11‑100. Decisions of a local entity to which a petition must be filed under this article may be appealed to the State Election Commission and thereafter to a court of competent jurisdiction in the manner in which appeals from the State Election Commission may be taken.”

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

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