~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 11, 2012

**S. 1124**

Introduced by Senators Rankin and Knotts

S. Printed 4/11/12--S. [SEC 4/12/12 3:33 PM]

Read the first time January 19, 2012.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 1124) to amend Section 1‑30‑10 of the 1976 Code, relating to the departments of state government, to provide that the governing authority of the Department of Insurance shall, etc., respectfully

**REPORT:**

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

Amend the joint resolution, as and if amended, by striking the bill in its entirety and inserting:

/ A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO SECTION 7, ARTICLE VI OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE CONSTITUTIONAL OFFICERS OF THIS STATE, SO AS TO ADD THE COMMISSIONER OF INSURANCE TO THE LIST OF STATE OFFICERS WHICH THE CONSTITUTION REQUIRES TO BE ELECTED AND PROVIDE THAT THE COMMISSIONER OF INSURANCE MUST BE ELECTED BY THE QUALIFIED ELECTORS OF THE STATE IN THE GENERAL ELECTION FOR A TERM COTERMINOUS WITH THE GOVERNOR UPON THE EXPIRATION OF THE TERM OF THE DIRECTOR OF THE DEPARTMENT OF INSURANCE SERVING IN OFFICE ON THE DATE OF THE RATIFICATION OF THIS PROVISION.

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

SECTION 1. It is proposed that Section 7, Article VI of the Constitution of this State be amended by adding the following new paragraph at the end:

“Beginning upon the expiration of the term of the Director of the Department of Insurance serving in office on the date of the ratification of the provisions of this paragraph, the appointed position of the Director of the Department of Insurance is abolished and the duties of the Director of the Department of Insurance are devolved upon a Commissioner of Insurance to be elected by the qualified electors of the State in the General Election. The term of office must be for four years, coterminous with that of the Governor. The General Assembly shall provide by law for the duties, compensation, and qualifications for office, the procedures by which the appointment is made, and the procedures by which the Commissioner of Insurance may be removed from office.”

SECTION 2. The proposed amendment in Section 1 must be submitted to the qualified electors at the next general election for representatives. Ballots must be provided at the various voting precincts with the following words printed or written on the ballot:

“Must Section 7, Article VI of the Constitution of this State relating to state constitutional officers be amended so as to add the Commissioner of Insurance to the list of state officers which the Constitution requires to be elected; provide that upon the expiration of the term of the Director of Insurance serving in office on the date of the ratification of this provision, the duties of the Director of the Department of Insurance devolve upon the Commissioner of Insurance who must be elected by the qualified electors of the State in the General Election; and require the General Assembly to provide by law for the duties, compensation, and qualifications for office, the procedures by which the appointment is made, and the procedures by which the Commissioner of Insurance may be removed from office?

Yes 

No 

Those voting in favor of the question shall deposit a ballot with a check or cross mark in the square after the word ‘Yes’, and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word ‘No’.”/

Renumber sections to conform.

Amend title to conform.

LUKE A. RANKIN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

Minimal (Some additional costs expected but can be absorbed)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

Department of Insurance:

The Department of Insurance indicates that there would be some cost to the department, which can be absorbed.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO AMEND SECTION 1‑30‑10 OF THE 1976 CODE, RELATING TO THE DEPARTMENTS OF STATE GOVERNMENT, TO PROVIDE THAT THE GOVERNING AUTHORITY OF THE DEPARTMENT OF INSURANCE SHALL BE THE “COMMISSIONER OF INSURANCE” ELECTED TO OFFICE UNDER THE LAWS OF THIS STATE; TO AMEND SECTION 38‑1‑20, RELATING TO DEFINITIONS UNDER THE INSURANCE LAWS OF THIS STATE, TO DELETE THE DEFINITION OF “DIRECTOR” OF THE DEPARTMENT OF INSURANCE AND SUBSTITUTE “COMMISSIONER OF INSURANCE”; TO AMEND SECTION 38‑1‑30, TO PROVIDE THAT EVERY REFERENCE TO “DIRECTOR OF THE DEPARTMENT OF INSURANCE” IN THE 1976 CODE SHALL BE DEEMED TO MEAN “COMMISSIONER OF INSURANCE” ; TO AMEND SECTION 38‑3‑10, RELATING TO THE DEPARTMENT OF INSURANCE, TO DELETE CERTAIN PROVISIONS RELATING TO THE DEPARTMENT’S DIRECTOR, TO PROVIDE THAT THE COMMISSIONER OF INSURANCE SHALL BE ELECTED RATHER THAN APPOINTED, AND TO MAKE CHANGES IN THE PROVISIONS CONCERNING THE REMOVAL OF THE COMMISSIONER; TO AMEND SECTION 38‑3‑100, RELATING TO THE DIRECTOR OF THE DEPARTMENT OF INSURANCE, TO, AMONG OTHER CHANGES, SUBSTITUTE “COMMISSIONER OF INSURANCE” FOR “DIRECTOR OF THE DEPARTMENT OF INSURANCE” AND DELETE THE REQUIREMENT THAT, IF THE COMMISSIONER BECOMES A CANDIDATE FOR PUBLIC OFFICE OR BECOMES A MEMBER OF A POLITICAL COMMITTEE DURING TENURE, HIS OFFICE MUST BE IMMEDIATELY VACATED; TO AMEND THE 1976 CODE BY ADDING SECTION 38‑3‑102 TO PROVIDE THAT THE COMMISSIONER OF INSURANCE MUST BE ELECTED TO OFFICE BY THE QUALIFIED ELECTORS OF THE STATE IN THE GENERAL ELECTION AND PROVIDE FOR THE COMMISSIONER’S TERM OF OFFICE, QUALIFICATIONS, VACANCIES, AND RELATED MATTERS; TO PROVIDE THAT THE ELECTION OF THE COMMISSIONER OF INSURANCE BEGINS WITH THE 2014 STATEWIDE ELECTION PROCESS AND THAT THE DIRECTOR SERVING ON THE EFFECTIVE DATE OF THIS ACT SHALL CONTINUE TO SERVE UNTIL HIS SUCCESSOR IS ELECTED AND QUALIFIES FOR OFFICE AS COMMISSIONER OF INSURANCE; TO PROVIDE THAT EVERY REFERENCE TO “DIRECTOR OF THE DEPARTMENT OF INSURANCE” IN THE 1976 CODE SHALL BE DEEMED TO MEAN “COMMISSIONER OF INSURANCE”; AND TO AUTHORIZE AND DIRECT THE CODE COMMISSIONER TO CHANGE CERTAIN REFERENCES.

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

SECTION 1. Section 1‑30‑10(B)(1)(iii) of the 1976 Code is amended to read:

“(iii) in the case of the Department of Agriculture and the Department of Education, the State Commissioner of Agriculture and the State Superintendent of Education, respectively, elected to office under the Constitution of this State, and, in the case of the Department of Insurance, the Commissioner of Insurance elected to office under the laws of this State; or”

SECTION 2. Section 38‑1‑20(19) of the 1976 Code, is amended to read:

“(19) ~~‘Director~~’ ‘Commissioner of Insurance’ means the person who is ~~appointed by the Governor upon the advice and consent of the Senate~~ elected by the qualified electors of this State and who is responsible for the operation and management of the ~~department~~ Department of Insurance. The ~~director~~ commissioner has the authority to appoint or designate the person or persons who shall serve at the pleasure of the ~~director~~ commissioner to carry out the objectives or duties of the department as provided by law. Furthermore, the ~~directo~~r commissioner may bestow upon his designee or deputy ~~director~~ commissioner any duty or function required of him by law to manage and supervise the department.”

SECTION 3. Section 38‑1‑30 of the 1976 Code is amended to read:

“Section 38‑1‑30. Whenever in any other chapter of Title 38 the term ‘~~Chief Insurance Commissioner~~ Director of the Department of Insurance’ or ‘~~Commissioner~~ Director’ appears or is used, is shall be deemed to mean the ~~Director of the Department of Insurance~~ Chief Insurance Commissioner or his designee.”

SECTION 4. Section 38‑3‑10 of the 1976 Code is amended to read:

“Section 38‑3‑10. There is established a separate and distinct department of this State, known as the Department of Insurance. The department must be managed and operated by a ~~director~~ ~~appointed by the Governor upon the advice and consent of the Senate~~ commissioner elected by the qualified electors of this State. The ~~director~~ commissioner is subject to removal ~~by the Governor as provided in Section 1‑3‑240(B)~~ from office as may be provided by law for the other officers of the executive department of this State. ~~The director shall be selected with special reference to his training, experience, technical knowledge of the insurance industry, and demonstrated administrative ability.~~ The ~~director~~ commissioner may appoint or designate the person or persons who shall serve at the pleasure of the ~~director~~ commissioner to carry out the objectives or duties of the department as provided by law. Furthermore, the ~~director~~ commissioner may bestow upon his designee or deputy ~~director~~ commissioner any duty or function required of him by law in managing or supervising the Department of Insurance.”

SECTION 5. Section 38‑3‑100 of the 1976 Code is amended to read:

“Section 38‑3‑100. The ~~director or his designee~~ Commissioner of Insurance is not subject to the State Employee Grievance Committee or any internal grievance procedure established at the ~~Insurance~~ Department of Insurance. The ~~director or his designee~~ commissioner shall devote all of his working time to the duties of his office. Before taking the oath of office he shall sever all connections, either direct or indirect, except as a policyholder, with any insurance company or agency and shall maintain the severance during his tenure of office. ~~If he becomes a candidate for public office or becomes a member of a political committee during tenure, his office as director or his designee must be immediately vacated.~~”

SECTION 6. Chapter 3, Title 38 of the 1976 Code is amended by adding:

“Section 38‑3‑102. The Commissioner of Insurance must be elected by the qualified electors of the State in the general election. He may succeed himself in the office. His term begins at noon on the first Wednesday following the second Tuesday in January next following his election and ends at noon on the first Wednesday following the second Tuesday in January four years later. He must be at least thirty years of age at the time his term of office commences. He shall not hold any other public office while serving as commissioner. No candidate for or person elected to the office of commissioner shall accept campaign contributions or anything of value, directly or indirectly, from insurance companies regulated by the Department of Insurance, or their subsidiaries, or from insurance agents or any other insurance professionals regulated pursuant to Title 38 including, but not limited to, employees or immediate family members of such insurance agents, other insurance professionals, and officers, directors, and managers of such insurance companies or subsidiaries. Notwithstanding any other provision of law, a vacancy in the office of commissioner must be filled by the Governor for the unexpired portion of the term.”

SECTION 7. The election of the Commissioner of Insurance provided in Section 38‑3‑102 of the 1976 Code, as contained in Section 6 of this act, begins with the 2014 statewide election process. The director serving on the effective date of this act shall continue to serve until his successor is elected and qualifies for office as Commissioner of Insurance.

SECTION 8. (A) Every reference of any kind whatever to “Director of the Department of Insurance” in Title 38 and in any other provision of law contained in the 1976 Code of Laws shall be deemed to mean “Commissioner of Insurance”.

(B) The Code Commissioner is authorized and directed to change in a timely manner all references to “Director of the Department of Insurance” to “Commissioner of Insurance”.

SECTION 9. Except as otherwise specifically provided herein, this act takes effect January 1, 2013.

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