~~Indicates Matter Stricken~~

Indicates New Matter

AS PASSED BY THE SENATE

May 17, 2012

**S. 1516**

Introduced by Judiciary Committee

S. Printed 5/17/12--S. [SEC 5/18/12 10:55 AM]

Read the first time May 9, 2012.

**A** **BILL**

TO AMEND SECTION 8‑13‑1356, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE FILING OF A STATEMENT OF ECONOMIC INTERESTS BY A CANDIDATE, TO PROVIDE THAT A CANDIDATE WHO IS NOT A PUBLIC OFFICIAL AND A CANDIDATE WHO IS A PUBLIC OFFICIAL SHALL ELECTRONICALLY FILE OR UPDATE A STATEMENT OF ECONOMIC INTERESTS, AS APPLICABLE, PRIOR TO FILING A STATEMENT OF INTENTION OF CANDIDACY OR NOMINATION FOR PETITION; TO AMEND SECTIONS 7‑11‑15, 7‑11‑50 7‑11‑90, 7‑11‑210, 7‑13‑40, 7‑13‑45, 7‑13‑350, AND 7‑13‑370, RELATING TO THE QUALIFICATIONS TO RUN AS A CANDIDATE IN AN ELECTION, TO PROVIDE THAT THE COUNTY ELECTION COMMISSIONS AND STATE ELECTION COMMISSION ACCEPT CANDIDATE FILINGS AND BE RESPONSIBLE FOR CANDIDATE VERIFICATION AND CERTIFICATION; AND TO REPEAL SECTION 7‑11‑220.

Amend Title To Conform

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

SECTION 1. Section 8‑13‑1356 of the 1976 Code is amended to read:

“Section 8‑13‑1356. (A) ~~This section does not apply to a public official who has a current disclosure statement on file with the appropriate supervisory office pursuant to Sections 8‑13‑1110 or 8‑13‑1140.~~

~~(B)~~ A candidate must electronically file a statement of economic interests for the preceding calendar year ~~at the same time and with the same official with whom the candidate files~~ with the State Ethics Commission prior to filing a declaration of candidacy or petition for nomination. Notwithstanding the deadline for filing an updated statement of economic interests pursuant to Section 8‑13‑1140, a candidate who is a public official must electronically file an updated statement of economic interests for the preceding calendar year with the State Ethics Commission prior to filing a declaration of candidacy or petition for nomination.

~~(C)~~ ~~The official with whom the candidate files a declaration of candidacy or petition for nomination, no later than five business days after candidacy books close, must file a copy of the statement with the appropriate supervisory office.~~

(B)~~(D)~~ An individual who becomes a candidate other than by filing must, no later than fifteen business days after becoming a candidate, electronically file a statement of economic interests for the preceding calendar year with the ~~appropriate supervisory office~~ State Ethics Commission.

(C)~~(E)~~ An officer authorized to receive declarations of candidacy and petitions for nominations under the provisions of Chapter 11 of Title 7 may not accept a declaration of candidacy or petition for nomination unless the ~~declaration or petition is accompanied by a statement of economic interests~~ officer verifies that the candidate has complied with subsection (A). If the candidate’s name inadvertently appears on the ballot, the officer authorized to receive declarations of candidacy or petitions for nomination must not certify the candidate subsequent to the election.

~~(F) If the candidate files for office before January first of the year in which the election is held, he must file a supplementary statement covering the preceding calendar year no later than April first of the year in which the election is held.~~

(D)~~(G)~~ A candidate who is not a public official otherwise filing a statement has the same disclosure requirements as a public official with the exception of reporting gifts.

SECTION 2. Section 7‑11‑15 of the 1976 Code is amended to read:

“Section 7‑11‑15. In order to qualify as a candidate to run in the general election, all candidates seeking nomination by political party primary or political party convention must file a statement of intention of candidacy between noon on March sixteenth and noon on March thirtieth as provided in this section.

(1) Candidates seeking nomination for a statewide, congressional, ~~or~~ district office that includes more than one county, State Senate, or House of Representatives must file their statements of intention of candidacy with the ~~state executive committee of their respective party~~ election commission in the county of their residence. The county election commission must, within five days of accepting the statement of candidacy, transmit the statement along with the applicable filing fees to the State Election Commission. A county election commission must not accept a statement of intention of candidacy unless the election commission verifies that the candidate filed an electronic statement of economic interests pursuant to Section 8-13-1356.

~~(2)~~ ~~Candidates seeking nomination for the State Senate or House of Representatives must file their statements of intention of candidacy with the county executive committee of their respective party in the county of their residence. The county committees must, within five days of the receipt of the statements, transmit the statements along with the applicable filing fees to the respective state executive committees.~~  However, the county ~~committees~~ election commission must report all filings to the ~~state committees~~ State Election Commission no later than five p.m. on March thirtieth. The ~~state executive committees~~ State Election Commission must certify candidates pursuant to Section 7‑13‑40.

~~(3)~~(2) Candidates seeking nomination for a countywide or less than countywide office shall file their statements of intention of candidacy with the county ~~executive committee of their respective party~~ election commission in the county of their residence. The county election commission must not accept a statement of intention of candidacy unless the county election commission verifies that the candidate filed an electronic statement of economic interests pursuant to Section 8‑13‑1356.

Upon submission and acceptance of all required information, the appropriate election commission must provide the candidate with written verification of the completed submission.

Except as provided herein, the county ~~executive committee of any political party~~ election commission with whom statements of intention of candidacy are filed must file, in turn, all statements of intention of candidacy with the county ~~election commission~~ or state executive committees of the appropriate political parties by noon on the tenth day following the deadline for filing statements by candidates. If the tenth day falls on Saturday, Sunday, or a legal holiday, the statements must be filed by noon the following day. ~~The state executive committee of any political party with whom statements of intention of candidacy are filed must file, in turn, all the statements of intention of candidacy with the State Election Commission by noon on the tenth day following the deadline for filing statements by candidates. If the tenth day falls on Saturday, Sunday, or a legal holiday, the statements must be filed by noon the following day.~~ No candidate’s name may appear on a primary election ballot, convention slate of candidates, general election ballot, or special election ballot, except as otherwise provided by law, if (1) the candidate’s statement of intention of candidacy has not been filed with the county election commission ~~or State Election Commission, as the case may be,~~ by the deadline, and (2) the candidate has not been certified ~~by the~~ ~~appropriate political party~~ as required by Sections 7‑13‑40 and 7‑13‑350, as applicable. The candidate’s name must appear if the candidate produces the signed and dated copy of his timely filed statement of intention of candidacy and written verification from the appropriate election commission of the candidate’s completed submission.

The statement of intention of candidacy required in this section and in Section 7‑13‑190(B) must be on a form designed and provided by the State Election Commission. This form, in addition to all other information, must contain an affirmation that the candidate meets, or will meet by the time of the general election, or as otherwise required by law, the qualifications for the office sought. It must be filed in ~~triplicate~~ multiple copies by the candidate, and the ~~political party committee~~ county election commission with whom it is filed must stamp it with the date and time received, sign it, keep one copy, return one copy to the candidate, and send one copy to ~~either the county election commission or the State Election Commission, as the case may be~~ appropriate political party committee, and the State Election Commission, if applicable.

If, after the closing of the time for filing statements of intention of candidacy, there are not more than two candidates for any one office and one or more of the candidates dies, or withdraws, the state or county committee, as the case may be, if the nomination is by political party primary or political party convention only may, in its discretion, afford opportunity for the entry of other candidates for the office involved~~; however, for the office of State House of Representatives or State Senator, the discretion must be exercised by the state committee~~.

The provisions of this section do not apply to nonpartisan school trustee elections in any school district where local law provisions provide for other dates and procedures for filing statements of candidacy or petitions, and to the extent the provisions of this section and the local law provisions conflict, the local law provisions control.”

SECTION 3. Section 7‑11‑50 of the 1976 Code is amended to read:

“Section 7-11-50. If a party nominee who was nominated by a method other than party primary election dies, becomes disqualified after his nomination, or resigns his candidacy for a legitimate nonpolitical reason as defined in this section and sufficient time does not remain to hold a convention to fill the vacancy or to nominate a nominee to enter a special election, the respective state or county party executive committee may nominate a nominee for the office~~, who must be duly certified by the respective county or state chairman~~. A nominee for statewide, congressional, district office, the State Senate or the House of Representatives must be duly certified by the State Election Commission. A nominee for countywide or less than countywide office must be duly certified by the county election commission in the county of his residence.

‘Legitimate nonpolitical reason’ as used in this section is limited to:

(a) reasons of health, which include any health condition which, in the written opinion of a medical doctor, would be harmful to the health of the candidate if he continued;

(b) family crises, which include circumstances which would substantially alter the duties and responsibilities of the candidate to the family or to a family business;

(c) substantial business conflict, which includes the policy of an employer prohibiting employees being candidates for public offices and an employment change which would result in the ineligibility of the candidate or which would impair his capability to carry out properly the functions of the office being sought.

A candidate who withdraws based upon a legitimate nonpolitical reason which is not covered by the inclusions in (a), (b), or (c) has the strict burden of proof for his reason. A candidate who wishes to withdraw for a legitimate nonpolitical reason shall submit his reason by sworn affidavit.

This affidavit must be filed with the ~~state party chairman of the nominee’s party and also with the~~ election commission of the county ~~if the office concerned is countywide or less and with the State Election Commission if the office is statewide, multi‑county, or for a member of the General Assembly~~  in which the candidate resides. The county election commission must forward a copy of the affidavit to the state party chairman of the nominee’s party and the State Election Commission within five days after receipt of the affidavit. A substitution of candidates is not authorized, except for death or disqualification, unless the election commission to which the affidavit is submitted approves the affidavit as constituting a legitimate nonpolitical reason for the candidate’s resignation within ten days of the date the affidavit is submitted to the commission. However, where this party nominee is unopposed, each political party registered with the State Election Commission has the privilege of nominating a candidate for the office involved. If the nomination is certified two weeks or more before the date of the general election, that office is to be filled at the general election. If the nomination is certified less than two weeks before the date of the general election, that office must not be filled at the general election but must be filled in a special election to be held on the second Tuesday in the month following the election, provided that the date of the special election to be conducted after the general election may be combined with other necessary elections scheduled to occur within a twenty‑eight day period in the manner authorized by Section 7‑13‑190(D).”

SECTION 4. Section 7‑11‑90 of the 1976 Code is amended to read:

“Section 7-11-90. After the closing of entries if any candidates shall be unopposed, the state committee in the case of state offices and the county committees in the case of county offices shall declare such unopposed candidates as party nominees, and the names of unopposed candidates shall not be placed upon the primary election ballots but shall be certified by the appropriate election commission for the general election ballots.”

SECTION 5. Section 7‑11‑210 of the 1976 Code is amended to read:

“Section 7-11-210. Every candidate for selection as a nominee of any political party for any state office, United States Senator, member of Congress, district office that includes more than one county, or solicitor, to be voted for in any party primary election or political party convention, shall file with and place in the possession of ~~the treasurer of the state committee~~  the county election commission in the county which the candidate resides, by twelve o’clock noon on March thirtieth a notice or pledge in the following form, the blanks being properly filled in and the notice or pledge signed by the candidate: ‘I hereby file my notice as a candidate for the nomination as \_\_\_\_\_\_\_\_\_\_ in the primary election or convention to be held on \_\_\_\_\_\_\_\_\_\_. I affiliate with the \_\_\_\_\_\_\_\_\_\_ Party, and I hereby pledge myself to abide by the results of the primary or convention. I shall not authorize my name to be placed on the general election ballot by petition and will not offer or campaign as a write‑in candidate for this office or any other office for which the party has a nominee. I authorize the issuance of an injunction upon ex parte application by the party chairman, as provided by law, should I violate this pledge by offering or campaigning in the ensuing general election for election to this office or any other office for which a nominee has been elected in the party primary election, unless the nominee for the office has become deceased or otherwise disqualified for election in the ensuing general election. I hereby affirm that I meet, or will meet by the time of the general or special election, or as otherwise required by law, the qualifications for this office’. The county election commission must forward a copy of the affidavit to the state party chairman of the nominee’s party and the State Election Commission within five days after receipt of the affidavit.

Every candidate for selection in a primary election as the nominee of any political party for member of the Senate, member of the House of Representatives, and all countywide or less than countywide ~~and township~~ offices shall file with and place in the possession of the county election commission in the county ~~chairman or other officer as may be named by the county committee of the county~~ in which they reside by twelve o’clock noon on March thirtieth a like notice and pledge. The county election commission must forward a copy of the affidavit to the county party chairman of the nominee’s party and the State Election Commission within five days after receipt of the affidavit.

The notice of candidacy required by this section to be filed by a candidate in a primary must be signed personally by the candidate, and the signature of the candidate must be signed in the presence of ~~the county chairman or other officer as may be named by the county committee~~ a county election commissioner, or his designee, as applicable, with whom the candidate is filing, or a candidate must have his signature on the notice of the candidacy acknowledged and certified by any officer authorized to administer an oath. Any notice of candidacy of any candidate signed by an agent in behalf of a candidate shall not be valid.

In the event that a person who was defeated as a candidate for nomination to an office in a party’s primary election shall thereafter offer or campaign as a candidate against any nominee for election to any office in the ensuing general election, the state chairman of the party which held the primary (if the office involved is one voted for in the general election by the electors of more than one county), or the county chairman of the party which held the primary (in the case of all other offices), shall forthwith institute an action in a court of competent jurisdiction for an order enjoining the person from so offering or campaigning in the general election, and the court is hereby empowered upon proof of these facts to issue an order.”

SECTION 6. Section 7‑13‑40 of the 1976 Code is amended to read:

“Section 7-13-40. In the event that a party nominates candidates by party primary, a party primary must be held by the party and conducted by the State Election Commission and the respective county election commissions on the second Tuesday in June of each general election year, and a second and third primary each two weeks successively thereafter, if necessary. Written certification of the names of all candidates to be placed on primary ballots must be made by the ~~political party chairman, vice chairman, or secretary to the~~ State Election Commission or the county election commission, whichever is responsible under law for preparing the ballot, not later than twelve o’clock noon on April ninth, or if April ninth falls on a Saturday or Sunday, not later than twelve o’clock noon on the following Monday. A copy of the certification must be provided to the political party chairman or vice chairman. ~~Political parties nominating candidates by party primary must verify the qualifications of those candidates prior to certification to the appropriate election commission of the names of candidates to be placed on primary ballots.~~ The written verification required by this section must contain a statement that each candidate certified meets, or will meet by the time of the general election, or as otherwise required by law, the qualifications for office for which he has filed. ~~Political parties~~ The State Election Commission and county election commission must not accept the filing of any candidate who does not or will not by the time of the general election, or as otherwise required by law, meet the qualifications for the office for which the candidate desires to file, and such candidate’s name shall not be placed on a primary ballot. The filing fees for all candidates filing to run in all primaries, except municipal primaries, must be transmitted by the ~~respective political parties~~  county election commission to the State Election Commission and placed by the executive director of the commission in a special account designated for use in conducting primary elections and must be used for that purpose. The filing fee for each office is one percent of the total salary for the term of that office or one hundred dollars, whichever amount is greater.”

SECTION 7. Section 7‑13‑45 of the 1976 Code is amended to read:

“Section 7-13-45. In every general election year, the county chairman shall~~:~~

~~(1)~~ ~~designate a specified place other than a private residence where persons may file a statement of intention of candidacy;~~

~~(2)~~ ~~designate a specified place other than a private residence where persons may file as candidates;~~

~~(3)~~ ~~establish regular hours of not less than four hours a day during the final seventy‑two hours of the filing period in which he or some person he designates must be present at the designated place to accept filings;~~

~~(4)~~ place an advertisement to appear two weeks before the filing period begins in a newspaper of general circulation in the county at least five by seven inches in size that notifies the public of the dates of the filing periods, the offices which may be filed for, the place and street address where filings may be made, and the hours that an authorized person will be present to receive filings.”

SECTION 8. Section 7‑13‑350 of the 1976 Code is amended to read:

“Section 7-13-350. (A) Except as otherwise provided in this section, the nominees in a party primary or party convention held under the provisions of this title by any political party certified by the commission for one or more of the offices, national, state, circuit, multi‑county district, countywide, less than countywide, or municipal to be voted on in the general election, held on the first Tuesday following the first Monday in November, must be placed upon the appropriate ballot for the election as candidates nominated by the party by the authority charged by law with preparing the ballot if the names of the nominees are certified, in writing, by the political party chairman, vice‑chairman, or secretary to the authority, for general elections held under Section 7‑13‑10, not later than twelve o’clock noon on August fifteenth or, if August fifteenth falls on Saturday or Sunday, not later than twelve o’clock noon on the following Monday; and for a special or municipal general election, by at least twelve o’clock noon on the sixtieth day prior to the date of holding the election, or if the sixtieth day falls on Sunday, by twelve o’clock noon on the following Monday. The county election commission or State Election Commission must verify the qualifications of ~~Political parties nominating candidates by primary or convention must verify the qualifications of those~~ candidates nominated by a party primary or convention prior to certification ~~to the authority charged by law with preparing the ballot~~, whichever is the authority charged by law to prepare the ballot. The written certification required by this section must contain a statement that each candidate certified meets, or will meet by the time of the general election, or as otherwise required by law, the qualifications for the office for which he has filed. Any candidate who does not, or will not by the time of the general election, or as otherwise required by law, meet the qualifications for the office for which he has filed shall not be nominated and certified, and such candidate’s name shall not be placed on a general, special, or municipal election ballot.

(B) Candidates for President and Vice President must be certified not later than twelve o’clock noon on September tenth to the State Election Commission, or if September tenth falls on Sunday, not later than twelve o’clock noon on the following Monday.”

SECTION 9. Section 7‑13‑370 of the 1976 Code is amended to read:

“Section 7-13-370. If any candidate dies, withdraws, or otherwise becomes disqualified after his name has been printed on an official election ballot and if any person is nominated, as authorized by law, to fill such vacancy, the name of the candidate so nominated to fill such vacancy need not be printed upon the ballots, but the name of such candidate so nominated shall be certified by the ~~party executive committee making the nomination to the officer, commissioners or other~~ authority charged with the duty of printing such ballots. ~~and a~~ A vote cast by a voter for the name of the candidate printed on the ballot who has either died, withdrawn, or otherwise become disqualified shall be counted as a vote for the candidate subsequently nominated to fill such vacancy whose name is on file with such officer, commissioners, or other authority.”

SECTION 10. Chapter 1, Title 7 of the 1976 Code is amended to read:

“Section 7-11-16. Each county election commission must, no later than the close of the business day in which the county election commission accepts a declaration of candidacy, update its website with the candidate’s name and office sought, and notify the State Election Commission of the candidate’s name and office sought. The State Election Commission must update its website with each candidate’s name and office sought no later than the close of the business day in which the information is received from the county election commission.”

SECTION 11. Section 7‑11‑220 is repealed.

SECTION 12. The provisions of this act are severable. If any section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of the act, the General Assembly hereby declaring that it would have passed each and every section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, items, subitems, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 13. This act takes effect upon preclearance approval by the United States Department of Justice or approval by a declaratory judgment issued by the United States District Court for the District of Columbia, whichever occurs first.

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