~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 16, 2011

**S. 404**

Introduced by Senators Campsen, McConnell, Land, Peeler, Alexander, Bryant, Campbell, Cleary, Coleman, Cromer, Davis, Elliott, Fair, Grooms, Hayes, Hutto, Jackson, Knotts, Leventis, Matthews, L. Martin, Massey, McGill, O’Dell, Pinckney, Rankin, Reese, Rose, Ryberg, Setzler, Sheheen, Thomas, Verdin, Williams, Lourie, Scott and Leatherman

S. Printed 2/16/11--S. [SEC 2/17/11 11:52 AM]

Read the first time January 20, 2011.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 404) relating to reform of the South Carolina election laws by enacting the “South Carolina Uniformed and Overseas Citizens Absentee Voters Act”; to amend Section 7‑15‑400, 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, on page 2, beginning at line 10, by striking SECTION 2 in its entirety and inserting therein:

/ SECTION 2. Section 7-15-400 of the 1976 Code is amended to read:

“Section 7‑15‑400. (A) A qualified ~~absentee~~ elector ~~as provided in subsection (C) of this section~~ of this State who is eligible to vote as provided by the Uniformed and Overseas Citizens Absentee Voting Act, set forth in the United States Code, Title 42, Section 1973ff, et seq., may apply not earlier than ninety days before an election for a special write‑in absentee ballot. This ballot must be used for each general and special election and primaries for federal offices, statewide offices, and members of the General Assembly.

(B) The application for a special write‑in absentee ballot may be made on the federal postcard application form, or its electronic equivalent or on a form prescribed by the State Election Commission.

(C) In order to qualify for a special write‑in absentee ballot, the voter must state that he is unable to vote by regular absentee ballot or in person due to requirements of military service or due to living in isolated areas or extremely remote areas of the world. This statement may be made on the federal postcard application or on a form prepared by the State Election Commission and supplied and returned with the special write‑in absentee ballot.

(D) Upon receipt of this application, the County Board of Registration shall issue the special write‑in absentee ballot which must be prescribed and provided by the State Election Commission. The ballot shall list the offices for election in the general election. It may list the candidates for office if known at the time of election. This ballot shall permit the elector to vote by writing in a party preference for each federal, state, and local office, the names of specific candidates for each federal, state, and local office, or the name of the person whom the voter prefers for each office.

(E) A qualified elector may alternatively submit a federal write‑in absentee ballot for any federal, state, or local office or state or local ballot measure.” /

Amend the bill further, as and if amended, on page 3, SECTION 4, in Section 7-15-406, by striking line 22 and inserting therein:

/ the elector at least forty-five days prior to any election. If a qualified elector requests a ballot within the forty-five day period before an election, an absentee ballot must be sent to the elector no later than the close of the next business day following receipt of the request.” /

Amend the bill further, as and if amended, on page 3, beginning on line 24, by striking SECTION 5 in its entirety and inserting:

/ SECTION 5. Section 7‑15‑460(A) of the 1976 Code is amended to read:

“(A) To ensure that all South Carolina residents eligible to vote as provided by the Uniformed and Overseas Citizens Absentee Voting Act, set forth in the United States Code, Title 42, Section 1973ff, et seq., have the opportunity to receive and cast any ballot they would have been eligible to cast if they resided in and had remained in South Carolina, the State Election Commission must, in cooperation with United States government agencies, take all steps and action as may be necessary including, but not limited to, electronic transmissions of Standard Form 76A, or its successor form, issued by the federal government as an application for voter registration and an application for absentee ballots and electronic transmissions of absentee ballots ~~to or from any elector eligible to vote as provided by the Uniformed and Overseas Citizens Absentee Voting Act~~for all elections for federal, state, and local offices to voters in accordance with his preferred method of transmission.” /

Amend the bill further, as and if amended, on page 4, SECTION 6, in Section 7-15-220, by striking line 27 and inserting:

/ Dated on this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_ ~~19~~20 \_\_\_ /

Amend the bill further, as and if amended, page 5, SECTION 7, in Section 7-15-380, by striking line 16 and inserting:

/ Dated on this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_ ~~19~~20 \_\_\_ /

Amend the bill further, as and if amended, on page 5, beginning on line 28, by striking SECTION 8 in its entirety and inserting therein:

/ SECTION 8. Section 7‑15‑320 of the 1976 Code is amended to read:

“Section 7-15-320. (A) A qualified elector in any of the following categories must be permitted to vote by absentee ballot in all elections when he is absent from his county of residence on election day during the hours the polls are open, to an extent that it prevents him from voting in person ~~except that physically disabled persons, certified poll watchers, poll managers, county voter registration board members and staff, and county election commission members and staff working on election day, a person admitted to a hospital as an emergency patient on the day of an election or within a four day period before an election, and persons whose employment obligations required that they be at their place of employment during the hours that the polls are open and present written certification of that obligation to the county registration board, and persons confined to a jail or pre‑trial facility pending disposition of arrest or trial may vote by absentee ballot whether or not absent from their county of residence~~:

(1) students, their spouses, and dependents residing with them;

(2) members of the Armed Forces and Merchant Marines of the United States, their spouses, and dependents residing with them;

(3) persons serving with the American Red Cross or with the United Service Organizations (USO) who are attached to and serving with the Armed Forces of the United States, their spouses, and dependents residing with them;

~~(4)~~ ~~persons in employment;~~

~~(5)~~ ~~physically disabled persons;~~

~~(6)~~(4) governmental employees, their spouses, and dependents residing with them;

~~(7)~~ ~~electors with a death or funeral in the family within a three day period before the election;~~

~~(8)~~(5) persons on vacation (who by virtue of vacation plans will be absent from their county of residence on election day); or

~~(9)~~ ~~certified poll watchers, poll managers, county voter registration board members and staff, county~~~~election commission members and staff working on election day;~~

~~(10)~~(6) overseas citizens~~;~~

~~(11)~~ ~~persons attending sick or physically disabled persons;~~

~~(12)~~ ~~persons admitted to hospitals as emergency patients on the day of an election or within a four day period before the election;~~

~~(13)~~ ~~persons who will be serving as jurors in a state or federal court on election day;~~

~~(14)~~ ~~persons sixty‑five years of age or older;~~

~~(15)~~ ~~persons confined to a jail or pre‑trial facility pending disposition of arrest or trial~~.

(B) A qualified elector in any of the following categories must be permitted to vote by absentee ballot in all elections, whether or not he is absent from his county of residence on election day:

(1) physically disabled persons;

(2) persons whose employment obligations require that they be at their place of employment during the hours that the polls are open and present written certification of that obligation to the county registration board;

(3) certified poll watchers, poll managers, county voter registration board members and staff, countyand state election commission members and staff working on election day;

(4) persons attending sick or physically disabled persons;

(5) persons admitted to hospitals as emergency patients on the day of an election or within a four-day period before the election;

(6) persons with a death or funeral in the family within a three-day period before the election;

(7) persons who will be serving as jurors in a state or federal court on election day;

(8) persons sixty‑five years of age or older; or

(9) persons confined to a jail or pre‑trial facility pending disposition of arrest or trial.” /

Amend the bill further, as and if amended, by adding the following SECTIONS immediately following SECTION 8 to read:

/ SECTION 9. 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 this act, the General Assembly hereby declaring that it would have passed this chapter and 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, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 10. 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. /

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**

RELATING TO REFORM OF THE SOUTH CAROLINA ELECTION LAWS BY ENACTING THE “SOUTH CAROLINA UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTERS ACT”; TO AMEND SECTION 7‑15‑400, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO APPLICATIONS AND ISSUANCE OF WRITE‑IN ABSENTEE BALLOTS, SO AS TO ALLOW A VOTER TO MAKE A STATEMENT ON A FEDERAL WRITE‑IN ABSENTEE BALLOT THAT HE IS UNABLE TO VOTE BY REGULAR ABSENTEE BALLOT OR IN PERSON DUE TO THE REQUIREMENTS OF MILITARY SERVICE, LIVING IN AN ISOLATED AREA, OR AN EXTREMELY REMOTE AREA OF THE WORLD, AND TO ADD THAT A QUALIFIED ABSENTEE ELECTOR MAY ALTERNATIVELY SUBMIT A FEDERAL WRITE‑IN ABSENTEE BALLOT FOR ANY FEDERAL, STATE, OR LOCAL OFFICE OR BALLOT INITIATIVE; TO ADD SECTION 7‑15‑406 TO ARTICLE 5, CHAPTER 13, TITLE 7, SO AS TO REQUIRE ALL ABSENTEE BALLOTS MUST BE MAILED TO THE ELECTOR AT LEAST FORTY‑FIVE DAYS PRIOR TO ANY ELECTION; TO AMEND SECTION 7‑15‑460, RELATING TO ABSENTEE BALLOTS AS PROVIDED BY THE UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT, SO AS TO MAKE THE PROVISIONS APPLICABLE TO FEDERAL, STATE, AND LOCAL OFFICES, AND TO REQUIRE THAT AN ELECTRONIC FREE ACCESS BALLOT TRACKING SYSTEM IS AVAILABLE TO ELECTORS; AND TO AMEND SECTION 7‑15‑220, RELATING TO THE SIGNING AND WITNESSING OF THE OATH BY THE ABSENTEE BALLOT APPLICANT, SO AS TO PROVIDE AN EXCEPTION FOR WITNESS REQUIREMENTS FOR VOTERS QUALIFIED UNDER THE UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTERS ACT.

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

SECTION 1. This act may be cited as the “South Carolina Uniformed and Overseas Citizens Absentee Voters Act”.

SECTION 2. Section 7‑15‑400 of the 1976 Code is amended to read:

“Section 7‑15‑400. (A) A qualified absentee elector as provided in subsection (C) of this section may apply not earlier than ninety days before an election for a special write‑in absentee ballot. This ballot must be used for each general and special election and primaries for federal offices, statewide offices, and members of the General Assembly.

(B) The application for a special write‑in absentee ballot may be made on the federal postcard application form, or its electronic equivalent or on a form prescribed by the State Election Commission.

(C) In order to qualify for a special or federal write‑in absentee ballot, the voter must state that he is unable to vote by regular absentee ballot or in person due to requirements of military service or due to living in isolated areas or extremely remote areas of the world. This statement may be made on the federal postcard application, federal write‑in absentee ballot, or on a form prepared by the State Election Commission and supplied and returned with the special write‑in absentee ballot.

(D) Upon receipt of this application, the County Board of Registration shall issue the special write‑in absentee ballot which must be prescribed and provided by the State Election Commission. The ballot shall list the offices for election in the general election. It may list the candidates for office if known at the time of election. This ballot shall permit the elector to vote by writing in a party preference for each federal, state, and local office, the names of specific candidates for each federal, state, and local office, or the name of the person whom the voter prefers for each office.

(E) A qualified absentee elector may alternatively submit a federal write‑in absentee ballot for any federal, state, or local office or state or local ballot measure.

(F) A qualified absentee elector may use the declaration accompanying a federal write‑in absentee ballot simultaneously to register to vote and as an application for an absentee ballot.”

SECTION 3. Section 7‑15‑405(A) of the 1976 Code is amended to read:

“(A) For the qualified electors of this State who are eligible to vote as provided by the Uniformed and Overseas Citizens Absentee Voting Act, set forth in the United States Code, Title 42, Section 1973ff, et seq., an absentee ballot with an absentee instant runoff ballot for each potential second primary must be ~~mailed~~sent to the elector at least forty‑five days prior to the primary election.”

SECTION 4. Article 5, Chapter 15, Title 7 of the 1976 Code is amended by adding:

“Section 7‑15‑406. For the qualified electors of this State who are eligible to vote as provided by the Uniformed and Overseas Citizens Absentee Voting Act, set forth in the United States Code, Title 42, Section 1973ff, et seq., an absentee ballot must be sent to the elector at least forty‑five days prior to any election.”

SECTION 5. Section 7‑15‑460 of the 1976 Code is amended to read:

“Section 7‑15‑460. (A) To ensure that all South Carolina residents eligible to vote as provided by the Uniformed and Overseas Citizens Absentee Voting Act, set forth in the United States Code, Title 42, Section 1973ff, et seq., have the opportunity to receive and cast any ballot they would have been eligible to cast if they resided in and had remained in South Carolina, the State Election Commission must, in cooperation with United States government agencies, take all steps and action as may be necessary including, but not limited to, electronic transmissions of Standard Form 76 issued by the federal government as an application for voter registration and an application for absentee ballots and electronic transmissions of absentee ballots ~~to or from any elector eligible to vote as provided by the Uniformed and Overseas Citizens Absentee Voting Act~~for all elections for federal, state, and local offices to voters in accordance with their preferred method of transmission.

(B) The State Election Commission shall provide an electronic free access ballot tracking system for all South Carolina residents eligible to vote as provided by the Uniformed and Overseas Citizens Absentee Voting Act.

~~(B)~~(C) The State Election Commission shall promulgate all regulations necessary for the implementation of this section.”

SECTION 6. Section 7‑15‑220 of the 1976 Code is amended to read:

“Section 7‑15‑220. (A) The oath, a copy of which is required by item (2) of Section 7‑15‑200 to be sent each absentee ballot applicant and which is required by Section 7‑15‑230 to be returned with the absentee ballot applicant’s ballot, shall be signed by the absentee ballot applicant and witnessed. The oath shall be in the following form:

‘I hereby swear (or affirm) that I am duly qualified to vote at this election according to the Constitution of the State of South Carolina, that I have not voted during this election, that the ballot or ballots with which this oath is enclosed is my ballot and that I have received no assistance in voting my ballot that I would not have been entitled to receive had I voted in person at my voting precinct.’

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Voter

Dated on this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_ 19\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Witness

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address of Witness

(B) Qualified voters under the Uniformed and Overseas Citizens Absentee Voters Act are exempt from witness requirements in subsection (A).”

SECTION 7. Section 7‑15‑380 of the 1976 Code is amended to read:

“Section 7‑15‑380. (A) The oath, which is required by Section 7‑15‑370 to be imprinted on the return‑addressed envelope, furnished each absentee ballot applicant, must be signed by the absentee ballot applicant and witnessed. The address of the witness shall appear on the oath. In the event the voter cannot write because of a physical handicap or illiteracy, the voter must make his mark and have the mark witnessed by someone designated by the voter. The oath must be in the following form:

‘I hereby swear (or affirm) that I am duly qualified to vote at this election according to the Constitution of the State of South Carolina, that I have not voted during this election, that the ballot or ballots contained in this envelope is my ballot and that I have received no assistance in voting my ballot that I would not have been entitled to receive had I voted in person at my voting precinct.’

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Voter

Dated on this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_, 19\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Witness

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address of Witness

(B) Qualified voters under the Uniformed and Overseas Citizens Absentee Voters Act are exempt from witness requirements in subsection (A).”

SECTION 8. 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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