~~Indicates Matter Stricken~~

Indicates New Matter

The House assembled at 10:00 a.m.

Deliberations were opened with prayer by Rev. Charles E. Seastrunk, Jr., as follows:

Our thought for today is from James 3:17: “The wisdom from above is first pure, then peaceable, gentle, willing to yield.”

Let us pray. Grant these Representatives and staff wisdom, God, to see the difference between the important things and those that are essential. Guide them this day to work together for the good of all the people in this State. Prompt them to be gentle in their dealings with others. Bestow Your blessings upon our Nation, President, State, Governor, Speaker, staff, and all who contribute to the success of what is done here. Protect our defenders of freedom, at home and abroad, as they protect us. Heal the wounds, those seen and those hidden, of our brave warriors. Lord, in Your mercy, hear our prayer. Amen.

Pursuant to Rule 6.3, the House of Representatives was led in the Pledge of Allegiance to the Flag of the United States of America by the SPEAKER.

After corrections to the Journal of the proceedings of yesterday, the SPEAKER ordered it confirmed.

**MOTION ADOPTED**

Rep. BRANHAM moved that when the House adjourns, it adjourn in memory of Nancy Truesdale DeBruhl of Camden, mother of Assistant Sergeant-at-Arms Benny DeBruhl, which was agreed to.

**SILENT PRAYER**

The House stood in silent prayer for our service men and women suffering from the unseen wounds of Post Traumatic Stress Disorder.

**ROLL CALL**

The roll call of the House of Representatives was taken resulting as follows:

|  |  |  |
| --- | --- | --- |
| Allison | Anderson | Anthony |
| Atwater | Bales | Bannister |
| Barfield | Bedingfield | Bowen |
| Branham | Brannon | Burns |
| Clyburn | Cobb-Hunter | Cole |
| Crosby | Daning | Delleney |
| Douglas | Erickson | Felder |
| Finlay | Forrester | Gagnon |
| George | Goldfinch | Govan |
| Hardee | Hardwick | Harrell |
| Herbkersman | Hiott | Hixon |
| Hodges | Horne | Hosey |
| Howard | Jefferson | Kennedy |
| King | Knight | Loftis |
| Long | Lowe | Lucas |
| Mack | McEachern | M. S. McLeod |
| W. J. McLeod | Merrill | D. C. Moss |
| V. S. Moss | Munnerlyn | Murphy |
| Newton | Norman | R. L. Ott |
| Owens | Parks | Patrick |
| Pitts | Ridgeway | Riley |
| Rivers | Robinson-Simpson | Ryhal |
| Sabb | Sandifer | Simrill |
| Skelton | G. R. Smith | J. R. Smith |
| Sottile | Southard | Spires |
| Stringer | Tallon | Taylor |
| Thayer | Toole | Weeks |
| Wells | White | Wood |

**STATEMENT OF ATTENDANCE**

I came in after the roll call and was present for the Session on Wednesday, May 21.

|  |  |
| --- | --- |
| Terry Alexander | Nathan Ballentine |
| Beth Bernstein | Kenny Bingham |
| William Bowers | Grady Brown |
| Robert L. Brown | Bill Chumley |
| Alan D. Clemmons | Heather Crawford |
| Kris Crawford | Chandra Dillard |
| Tracy Edge | Laurie Funderburk |
| Mike Gambrell | Wendell Gilliard |
| Dan Hamilton | Chris Hart |
| Jackie Hayes | P. Henderson |
| Chip Huggins | H. B. "Chip" Limehouse |
| Peter McCoy, Jr. | Harold Mitchell |
| Wendy Nanney | Joseph Neal |
| Mandy Powers Norrell | Thomas "Tommy" Pope |
| Richard "Rick" Quinn | Todd Rutherford |
| Bakari Sellers | G. Murrell Smith |
| James E. Smith | Leon Stavrinakis |
| Jackson "Seth" Whipper | William R. "Bill" Whitmire |
| Mark Willis | Ted Vick |

**Total Present--122**

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. WILLIAMS a leave of absence for the day due to military duty.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. PUTNAM a leave of absence for the day due to family medical reasons.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. WILLIS a temporary leave of absence.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. CLEMMONS a temporary leave of absence.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. VICK a temporary leave of absence.

**STATEMENT OF ATTENDANCE**

Rep. M. S. MCLEOD signed a statement with the Clerk that she came in after the roll call of the House and was present for the Session on Wednesday, May 14.

**SPECIAL PRESENTATION**

Reps. FELDER, NORMAN, DELLENEY, KING, LONG, D. C. MOSS, V. S. MOSS, POPE and SIMRILL presented to the House the Fort Mill High School Boys Varsity Lacrosse Team, the 2014 South Carolina AAAA State Champions, their coaches, and other school officials.

**SPECIAL PRESENTATION**

Rep. LUCAS presented to the House the Hartsville High School and Hartsville Middle School Indoor Percussion Ensembles, the 2014 South Carolina Band Directors Association State Champions, their directors, and other school officials.

RECORD FOR VOTING

I was temporarily out of the Chamber tending to family matters on May 20, 2014, and missed the votes on S. 779, S. 1076, S. 856 and S. 459. If I had been present, I would have voted in favor of these Bills.

Rep. Wm. Weston J. Newton

RECORD FOR VOTING

I was approved for a temporary leave on the afternoon of May 20, 2014, when the votes were taken on H. 3893 and S. 459. If I had been present, I would have voted in favor of these Bills.

Rep. Joe Daning

**ORDERED ENROLLED FOR RATIFICATION**

The following Bills were read the third time, passed and, having received three readings in both Houses, it was ordered that the title of each be changed to that of an Act, and that they be enrolled for ratification:

S. 1032 -- Senators Campsen, Verdin and Reese: A BILL TO AMEND SECTION 48-39-130 OF THE 1976 CODE, RELATING TO PERMITS REQUIRED FOR COASTAL ZONE CRITICAL AREAS, TO INCLUDE TEMPORARY QUALIFIED WAVE DISSIPATION DEVICES AS A TECHNIQUE TO BE USED IN THE BEACH/DUNE CRITICAL AREA TO PROTECT THE PUBLIC HEALTH AND SAFETY; TO AMEND SECTION 48-39-270, RELATING TO TERMS PERTAINING TO COASTAL TIDELANDS AND WETLANDS, TO DEFINE QUALIFIED WAVE DISSIPATION DEVICE; AND TO AMEND SECTION 48-39-290, RELATING TO CONSTRUCTION RESTRICTIONS SEAWARD OF THE BASELINE, TO PROVIDE AN EXCEPTION FOR QUALIFIED WAVE DISSIPATION DEVICES.

S. 446 -- Senators Massey and L. Martin: A BILL TO RATIFY AN AMENDMENT TO SECTION 8, ARTICLE IV OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE ELECTION, QUALIFICATIONS, AND TERM OF THE LIEUTENANT GOVERNOR, TO PROVIDE THAT THE LIEUTENANT GOVERNOR MUST BE ELECTED JOINTLY WITH THE GOVERNOR IN A MANNER PRESCRIBED BY LAW; TO ADD SECTION 37 TO ARTICLE III OF THE CONSTITUTION OF THIS STATE, TO PROVIDE THAT THE SENATE SHALL ELECT FROM AMONG ITS MEMBERS A PRESIDENT TO PRESIDE OVER THE SENATE AND TO PERFORM OTHER DUTIES AS PROVIDED BY LAW; TO DELETE SECTIONS 9 AND 10 OF ARTICLE IV OF THE CONSTITUTION OF THIS STATE, RELATING TO THE LIEUTENANT GOVERNOR BEING PRESIDENT OF THE SENATE AND, WHILE PRESIDING IN THE SENATE, HAVING NO VOTE, UNLESS THE SENATE IS EQUALLY DIVIDED, TO REMOVE INCONSISTENT PROVISIONS; TO AMEND SECTION 11 OF ARTICLE IV OF THE CONSTITUTION OF THIS STATE, RELATING TO THE REMOVAL OF THE LIEUTENANT GOVERNOR FROM OFFICE BY IMPEACHMENT, DEATH, RESIGNATION, DISQUALIFICATION, DISABILITY, OR REMOVAL FROM THE STATE, TO PROVIDE THAT THE GOVERNOR SHALL APPOINT, WITH THE ADVICE AND CONSENT OF THE SENATE, A SUCCESSOR TO FULFILL THE UNEXPIRED TERM; AND TO AMEND SECTION 12 OF ARTICLE IV OF THE CONSTITUTION OF THIS STATE, RELATING TO THE DISABILITY OF THE GOVERNOR, TO CONFORM APPROPRIATE REFERENCES.

S. 561 -- Senator L. Martin: A BILL TO AMEND SECTION 16-17-680 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PURCHASING, SELLING, AND TRANSPORTING OF NONFERROUS METALS, SO AS TO DEFINE THE TERM "COIL" AND PROVIDE THAT A SECONDARY METALS RECYCLER MUST NOT PURCHASE OR OTHERWISE ACQUIRE A COIL.

S. 687 -- Senator L. Martin: A BILL TO AMEND CHAPTER 15, TITLE 63, SOUTH CAROLINA CODE OF LAWS, 1976, RELATING TO CHILD CUSTODY AND VISITATION, TO ENACT THE "SOUTH CAROLINA BLIND PERSON'S RIGHT TO PARENT ACT", BY ADDING ARTICLE 4 TO THE CHAPTER SO AS TO PROVIDE THAT A COURT MAY NOT MAKE A DECISION ON GUARDIANSHIP, CUSTODY, OR VISITATION BASED UPON A SOLE CONSIDERATION OF THE BLINDNESS OF A CHILD'S PARENT OR GUARDIAN, AND THAT DECISIONS CONCERNING ADOPTIONS MAY NOT BE BASED UPON THE SOLE CONSIDERATION THAT THE PERSON SEEKING TO ADOPT A CHILD IS BLIND.

S. 343 -- Senator Hayes: A BILL TO AMEND CHAPTER 7, TITLE 36, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ARTICLE 7 OF THE UNIFORM COMMERCIAL CODE, SO AS TO REVISE THE CHAPTER IN ITS ENTIRETY IN ORDER TO PROVIDE FOR THE USE OF ELECTRONIC DOCUMENTS OF TITLE AND TO MAKE CONFORMING CHANGES.

S. 779 -- Senator Davis: A BILL TO AMEND CHAPTER 19, TITLE 16 OF THE 1976 CODE, RELATING TO GAMBLING AND LOTTERIES, BY ADDING SECTION 16-19-60, TO PROVIDE THAT CERTAIN SOCIAL CARD AND DICE GAMES ARE NOT UNLAWFUL.

S. 1076 -- Senators Shealy and Hembree: A BILL TO AMEND ARTICLE 8, CHAPTER 31, TITLE 23 OF THE 1976 CODE, RELATING TO IDENTIFICATION CARDS ISSUED TO AND FIREARM QUALIFICATION PROVIDED FOR RETIRED LAW ENFORCEMENT PERSONNEL, BY AMENDING THE SECTION 23-31-600(A)(2) TO PROVIDE THAT THE DEFINED TERM IS CONSISTENT WITH FEDERAL LAW, TO AMEND SECTION 23-31-600(E) TO REMOVE THE FEE REQUIREMENT FOR ISSUANCE OF AN IDENTIFICATION CARD PURSUANT TO THIS ARTICLE; AND TO MAKE CONFORMING AMENDMENTS.

S. 1036 -- Senator Cleary: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 3 TO CHAPTER 15, TITLE 40 SO AS TO ENACT THE "DENTAL SEDATION ACT", TO PROVIDE REQUIREMENTS CONCERNING THE PROVISION OF VARYING LEVELS OF SEDATION TO DENTAL PATIENTS; TO AMEND SECTION 40-15-85, RELATING TO DEFINITIONS IN THE DENTISTRY PRACTICE ACT, SO AS TO ADD NECESSARY DEFINITIONS; AND TO DESIGNATE THE EXISTING SECTIONS OF CHAPTER 15, TITLE 40 AS ARTICLE 1 "GENERAL PROVISIONS".

S. 1172 -- Senators Nicholson, Hayes, Turner, Sheheen, L. Martin, McGill, Alexander, O'Dell, Johnson, Scott and Williams: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 60-15-75 SO AS TO PROVIDE FOR THE ESTABLISHMENT OF CRITERIA AND GUIDELINES FOR STATE-DESIGNATED CULTURAL DISTRICTS BY THE SOUTH CAROLINA ARTS COMMISSION, TO STATE THE INTENDED PURPOSE OF THE CULTURAL DISTRICTS, AND TO PROVIDE RELATED POWERS AND DUTIES OF THE COMMISSION WITH RESPECT TO THE CULTURAL DISTRICTS.

**RETURNED TO THE SENATE WITH AMENDMENTS**

The following Bills were taken up, read the third time, and ordered returned to the Senate with amendments:

S. 440 -- Senators Fair, Hutto and Jackson: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 63-19-1435 SO AS TO PROVIDE THAT THE USE OF RESTRAINTS ON JUVENILES APPEARING IN COURT ARE PROHIBITED UNLESS THE RESTRAINTS ARE NECESSARY TO PREVENT HARM OR IF THE JUVENILE IS A FLIGHT RISK AND THERE ARE NO LESS RESTRICTIVE ALTERNATIVES AVAILABLE; TO GIVE A JUVENILE'S ATTORNEY THE RIGHT TO BE HEARD BEFORE THE COURT ORDERS THE USE OF RESTRAINTS; AND IF RESTRAINTS ARE ORDERED, TO REQUIRE THE COURT TO MAKE FINDINGS OF FACT IN SUPPORT OF THE ORDER.

S. 872 -- Senators Fair, Hutto, Jackson and L. Martin: A BILL TO AMEND SECTION 63-1-50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE JOINT CITIZENS AND LEGISLATIVE COMMITTEE ON CHILDREN, SO AS TO ESTABLISH IT AS A PERMANENT JOINT COMMITTEE AND TO DELETE OBSOLETE PROVISIONS.

S. 356 -- Senators Alexander and Reese: A BILL TO AMEND CHAPTER 1, TITLE 26, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO NOTARIES PUBLIC, SO AS TO DEFINE TERMS, TO MAKE GRAMMATICAL CORRECTIONS, TO PROVIDE THAT TO BE QUALIFIED FOR A NOTARIAL COMMISSION, A PERSON MUST BE REGISTERED TO VOTE AND READ AND WRITE IN THE ENGLISH LANGUAGE, TO AUTHORIZE AND PROHIBIT CERTAIN ACTS OF A NOTARY PUBLIC, TO PROVIDE MAXIMUM FEE A NOTARY MAY CHARGE, TO PROVIDE THE PROCESS FOR GIVING A NOTARIAL CERTIFICATE, TO SPECIFY CHANGES FOR WHICH A NOTARY MUST NOTIFY THE SECRETARY OF STATE, TO PROVIDE THE ELEMENTS AND PENALTIES OF CERTAIN CRIMES RELATING TO NOTARIAL ACTS, AND TO PROVIDE THE FORM FOR A NOTARIZED DOCUMENT SENT TO ANOTHER STATE, AMONG OTHER THINGS.

S. 459 -- Senators Sheheen, Rankin, Alexander and Lourie: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56-1-55, SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON WHO HOLDS A BEGINNER'S PERMIT OR A RESTRICTED DRIVER'S LICENSE TO DRIVE A MOTOR VEHICLE WHILE USING A CELLULAR TELEPHONE OR TEXT MESSAGING DEVICE; AND TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON TO DRIVE A MOTOR VEHICLE THROUGH A SCHOOL ZONE WHILE USING A CELLULAR TELEPHONE OR TEXT MESSAGING DEVICE WHEN THE SCHOOL ZONE'S WARNING LIGHTS HAVE BEEN ACTIVATED.

**S. 176--RECONSIDERED**

The motion of Rep. BANNISTER to reconsider the vote whereby S. 176 was read the second time, was taken up and agreed to.

**S. 1007--RECONSIDERED**

Rep. CROSBY moved to reconsider the vote whereby debate was adjourned until Tuesday, May 27, on the following Bill, which was agreed to:

S. 1007 -- Senators Campbell and O'Dell: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 29-3-625 SO AS TO PROVIDE A PROCESS FOR EXPEDITING MORTGAGE FORECLOSURES AND TO DEFINE NECESSARY TERMINOLOGY.

**S. 890--DEBATE ADJOURNED**

The following Bill was taken up:

S. 890 -- Senators Cleary and Rankin: A BILL TO AMEND SECTION 48-39-130, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PERMITS REQUIRED FOR COASTAL ZONE CRITICAL AREAS, SO AS TO DELETE THE EMERGENCY ORDER EXCEPTION TO ORDERS BY APPOINTED OFFICIALS OF COUNTIES AND MUNICIPALITIES; TO AMEND SECTION 48-39-280, RELATING TO THE SHORELINE FORTY-YEAR RETREAT POLICY, SO AS TO PROHIBIT THE SEAWARD MOVEMENT OF THE BASELINE AFTER JULY 1, 2014, AND TO ELIMINATE THE RIGHT OF LOCAL GOVERNMENTS AND LANDOWNERS TO PETITION THE ADMINISTRATIVE LAW COURT TO MOVE THE BASELINE SEAWARD UPON COMPLETION OF A BEACH RENOURISHMENT PROJECT; AND TO AMEND SECTION 48-39-290, AS AMENDED, RELATING TO CONSTRUCTION RESTRICTIONS SEAWARD OF THE BASELINE, EXCEPTIONS TO RESTRICTIONS, AND SPECIAL PERMITS, SO AS TO ELIMINATE THE EXCEPTION OF GOLF COURSES FROM A PERMIT REQUIREMENT AND TO SUBSTITUTE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL'S COASTAL DIVISION AS THE DIVISION TO CONSIDER APPLICATIONS FOR SPECIAL PERMITS.

Rep. HIOTT moved to adjourn debate on the Bill until Tuesday, May 27, which was agreed to.

**S. 813--DEBATE ADJOURNED**

The following Bill was taken up:

S. 813 -- Senators Hayes, Peeler, O'Dell, Alexander, McElveen, McGill, Pinckney, Johnson, Williams and Verdin: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 16-11-625 SO AS TO PROVIDE A PERSON WHO, WITHOUT LEGAL CAUSE OR GOOD EXCUSE, ENTERS A PUBLIC LIBRARY AFTER HAVING BEEN WARNED BY AN EMPLOYEE, AGENT, OR REPRESENTATIVE OF THE LIBRARY NOT TO DO SO OR WITHOUT HAVING BEEN WARNED FAILS AND REFUSES, WITHOUT GOOD CAUSE OR GOOD EXCUSE, TO LEAVE IMMEDIATELY UPON BEING ORDERED OR REQUESTED TO DO SO IS GUILTY OF A MISDEMEANOR TRIABLE IN A MUNICIPAL OR MAGISTRATES COURT, AND TO PROVIDE THE PROVISIONS OF THIS SECTION MUST BE CONSTRUED AS IN ADDITION TO, AND NOT AS SUPERSEDING, ANOTHER STATUTE RELATING TO TRESPASS OR UNLAWFUL ENTRY ON LANDS OF ANOTHER.

Rep. WEEKS moved to adjourn debate on the Bill, which was adopted.

Further proceedings were interrupted by expiration of time on the uncontested Calendar.

**H. 4413--RECALLED FROM COMMITTEE ON EDUCATION AND PUBLIC WORKS**

On motion of Rep. BRANNON, with unanimous consent, the following Bill was ordered recalled from the Committee on Education and Public Works:

H. 4413 -- Reps. Limehouse, Sottile, Taylor and Sabb: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "REPORT-A-BULLY IN SCHOOL WEBSITE ACT"; BY ADDING SECTION 59-63-145 SO AS TO PROVIDE EACH SCHOOL DISTRICT SHALL DEVELOP A WEBSITE THROUGH WHICH A PERSON MAY ANONYMOUSLY REPORT ACTS OF HARASSMENT, INTIMIDATION, OR BULLYING OF A STUDENT AT SCHOOL; TO PROVIDE THE DISTRICT SHALL RESPOND TO COMPLAINTS RECEIVED BY MEANS OF THE WEBSITE IN A CERTAIN MANNER; TO IMPOSE RELATED REPORTING REQUIREMENTS ON THE DISTRICT; TO PROVIDE THAT THE DEPARTMENT OF EDUCATION SHALL DEVELOP RELATED GUIDELINES; AND TO PROVIDE THAT INFORMATION RECEIVED THROUGH THE WEBSITE IS NOT SUBJECT TO THE FREEDOM OF INFORMATION ACT.

**H. 4701--DEBATE ADJOURNED**

The Senate Amendments to the following Bill were taken up for consideration:

H. 4701 -- Ways and Means Committee: A BILL TO MAKE APPROPRIATIONS AND TO PROVIDE REVENUES TO MEET THE ORDINARY EXPENSES OF STATE GOVERNMENT FOR THE FISCAL YEAR BEGINNING JULY 1, 2014, TO REGULATE THE EXPENDITURE OF SUCH FUNDS, AND TO FURTHER PROVIDE FOR THE OPERATION OF STATE GOVERNMENT DURING THIS FISCAL YEAR AND FOR OTHER PURPOSES.

Rep. WHITE moved to adjourn debate upon the Senate Amendments until Tuesday, May 27, which was agreed to.

**H. 4702--DEBATE ADJOURNED**

The Senate Amendments to the following Joint Resolution were taken up for consideration:

H. 4702 -- Ways and Means Committee: A JOINT RESOLUTION TO APPROPRIATE MONIES FROM THE CAPITAL RESERVE FUND FOR FISCAL YEAR 2013-2014, AND TO ALLOW UNEXPENDED FUNDS APPROPRIATED TO BE CARRIED FORWARD TO SUCCEEDING FISCAL YEARS AND EXPENDED FOR THE SAME PURPOSES.

Rep. WHITE moved to adjourn debate upon the Senate Amendments until Tuesday, May 27, which was agreed to.

**H. 5272--ADOPTED AND SENT TO SENATE**

The following Concurrent Resolution was taken up:

H. 5272 -- Reps. Hardee and Edge: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION RENAME "STALVEY BELLAMY INTERSECTION" WHICH IS LOCATED AT THE JUNCTURE OF SOUTH CAROLINA HIGHWAYS 9 AND 57 IN HORRY COUNTY "STEVENS CROSSROADS" TO REFLECT ITS HISTORICAL DESIGNATION AND ERECT APPROPRIATE MARKERS OR

SIGNS AT THIS INTERSECTION THAT CONTAIN THIS DESIGNATION.

The Concurrent Resolution was adopted and sent to the Senate.

**MOTION PERIOD**

The motion period was dispensed with on motion of Rep. WELLS.

**S. 815--DEBATE ADJOURNED**

The following Bill was taken up:

S. 815 -- Senators L. Martin and Campsen: A BILL TO AMEND SECTION 7-11-30, SOUTH CAROLINA CODE OF LAWS, 1976, TO PROVIDE THAT A PARTY MAY CHOOSE TO CHANGE NOMINATION OF CANDIDATES BY PRIMARY TO A CONVENTION IF THREE-FOURTHS OF THE CONVENTION MEMBERSHIP APPROVES OF THE CONVENTION NOMINATION PROCESS, AND A MAJORITY OF THE VOTERS IN THAT PARTY'S NEXT PRIMARY ELECTION APPROVES THE USE OF A CONVENTION.

Rep. SKELTON moved to adjourn debate on the Bill until Thursday, May 22, which was agreed to.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. J. E. SMITH a temporary leave of absence.

**H. 4839--DEBATE ADJOURNED**

The following Bill was taken up:

H. 4839 -- Reps. Pitts, Goldfinch, Spires, Finlay, Gagnon, Hosey, Lowe, McCoy, Putnam, Ridgeway, Ryhal, Thayer, White, Whitmire, Willis and Vick: A BILL TO AMEND SECTION 50-1-60, AS AMENDED, SECTIONS 50-11-120, 50-11-150, AND SECTIONS 50-11-310, 50-11-335, 50-11-430, ALL AS AMENDED, RELATING TO THE DIVISION OF THE STATE INTO GAME ZONES, SMALL GAME SEASONS, SMALL GAME BAG LIMITS, THE OPEN SEASON FOR ANTLERED DEER, THE BAG LIMIT ON ANTLERED DEER, AND BEAR HUNTING, SO AS TO DECREASE THE NUMBER OF GAME ZONES, REVISE THE DATES FOR THE VARIOUS SMALL GAME SEASONS, TO REVISE THE SMALL GAME BAG LIMITS FOR THE VARIOUS GAME ZONES, REVISE THE DATES FOR THE VARIOUS ANTLERED DEER OPEN SEASON; AND TO REPEAL SECTION 50-11-2110, RELATING TO FIELD TRIALS IN AND PERMIT FOR GAME ZONE NINE.

Rep. HARDWICK moved to adjourn debate on the Bill until Tuesday, May 27, which was agreed to.

**H. 5072--DEBATE ADJOURNED**

The following Bill was taken up:

H. 5072 -- Reps. K. R. Crawford, Hosey, Anderson, Bannister, Finlay, Brannon, Burns, Clyburn, Erickson, Sandifer, Bales, Barfield, Clemmons, Crosby, Daning, Goldfinch, Hamilton, Hardwick, Hayes, Henderson, Loftis, Lowe, V. S. Moss, Nanney, Pitts, Ryhal, G. R. Smith, Sottile, Stringer, Thayer, Wells, White and Whitmire: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 14-7-1655 SO AS TO ESTABLISH PROTOCOLS FOR THE APPOINTMENT OF A SPECIAL PROSECUTOR FOR CONSTITUTIONAL OFFICERS AND CERTAIN OTHER OFFICERS ALLEGED TO HAVE COMMITTED CRIMINAL VIOLATIONS OF CHAPTER 13, TITLE 8 OR ALLEGED TO HAVE COMMITTED AN ACT OF PUBLIC CORRUPTION.

Rep. K. R. CRAWFORD moved to adjourn debate on the Bill until Tuesday, May 27, which was agreed to.

**H. 5073--DEBATE ADJOURNED**

The following Joint Resolution was taken up:

H. 5073 -- Reps. K. R. Crawford, Anderson, Finlay, Brannon, Bannister, Erickson, Burns, Williams, Hosey, Sandifer, Bales, Barfield, Clemmons, Crosby, Daning, Goldfinch, Hamilton, Hardwick, Hayes, Henderson, Loftis, Lowe, V. S. Moss, Nanney, Pitts, Ryhal, G. R. Smith, Sottile, Stringer, Thayer, Wells, White and Whitmire: A JOINT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 24, ARTICLE V OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THOSE CONSTITUTIONAL OFFICERS PROVIDED FOR THE ENFORCEMENT AND PROSECUTION OF THE CRIMINAL LAWS OF THIS STATE, ADMINISTRATIVE FUNCTIONS OF THE COURTS, THE AUTHORITY OF THE GENERAL ASSEMBLY TO PROVIDE FOR THEIR QUALIFICATIONS, DUTIES, AND COMPENSATION, AND THE AUTHORITY OF THE ATTORNEY GENERAL AS THE CHIEF PROSECUTING OFFICER OF THE STATE WITH SUPERVISORY AUTHORITY OVER THE PROSECUTION OF ALL CRIMINAL CASES IN COURTS OF RECORD, SO AS TO DELETE LANGUAGE PROVIDING THAT THE ATTORNEY GENERAL IS THE CHIEF PROSECUTING OFFICER OF THE STATE WITH AUTHORITY TO SUPERVISE THE PROSECUTION OF ALL CRIMINAL CASES IN COURTS OF RECORD.

Rep. K. R. CRAWFORD moved to adjourn debate on the Joint Resolution until Tuesday, May 27, which was agreed to.

**S. 1070--DEBATE ADJOURNED**

The following Bill was taken up:

S. 1070 -- Senator Campsen: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50-11-525 SO AS TO PROVIDE THE DEPARTMENT OF NATURAL RESOURCES THE AUTHORITY TO PROMULGATE REGULATIONS GOVERNING CERTAIN AREAS TO ESTABLISH SEASONS, DATES, AREAS, BAG LIMITS, AND OTHER RESTRICTIONS FOR HUNTING AND TAKING WILD TURKEY; AND TO AMEND SECTION 50-11-520, AS AMENDED, 50-11-530, 50-11-540, AND 50-11-544, ALL RELATING TO THE DEPARTMENT OF NATURAL RESOURCES' REGULATION OF THE HUNTING OF WILD TURKEYS, SO AS TO REVISE THE SEASON FOR THE HUNTING AND TAKING OF MALE WILD TURKEYS, TO ESTABLISH "SOUTH CAROLINA YOUTH TURKEY HUNTING DAY", TO ESTABLISH BAG LIMITS FOR THE TAKING OF MALE WILD TURKEYS, TO PROVIDE THAT THE DEPARTMENT MUST CONDUCT AN ANALYSIS OF THE STATE'S WILD TURKEY RESOURCES AND ISSUE A REPORT TO THE GENERAL ASSEMBLY WHICH RECOMMENDS CHANGES TO THE WILD TURKEY SEASON AND BAG LIMITS, TO REVISE THE DEPARTMENT'S AUTHORITY TO REGULATE THE HUNTING OF WILD TURKEYS, AND TO ALLOW IT TO PROMULGATE EMERGENCY REGULATIONS FOR THE PROPER CONTROL OF THE HARVESTING OF WILD TURKEYS, TO REVISE THE PENALTIES FOR VIOLATING THE PROVISIONS THAT REGULATE THE HUNTING OF WILD TURKEY, AND TO PROVIDE THAT ALL WILD TURKEY TRANSPORTATION TAGS MUST BE VALIDATED AS PRESCRIBED BY THE DEPARTMENT BEFORE A TURKEY IS MOVED FROM THE POINT OF KILL.

Rep. ANDERSON moved to adjourn debate on the Bill until Thursday, May 22, which was agreed to.

**H. 5126--DEBATE ADJOURNED**

The following Bill was taken up:

H. 5126 -- Reps. Tallon, Allison, Patrick, Burns, Atwater, Bannister, Chumley, Erickson, Forrester, Gagnon, Hardee, Loftis, D. C. Moss, Norrell and Ryhal: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 24-13-180 SO AS TO PROVIDE THAT ANY PUBLIC, PRIVATE, OR NONPROFIT ENTITY WHICH IS ENGAGED IN HELPING TO REHABILITATE AND REINTRODUCE PAROLED PRISON INMATES INTO THE COMMUNITY AND WHICH AS A PART OF ITS PROGRAM PROVIDES RESIDENTIAL HOUSING IN THE COMMUNITY TO THESE PAROLEES MUST PROVIDE NOTICE IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COMMUNITY OF THE ADDRESSES WHERE THESE RESIDENTIAL HOUSING FACILITIES WILL BE LOCATED, AND ALSO MUST CONDUCT A PUBLIC HEARING REGARDING THE PROGRAM AND THE LOCATION OF THESE RESIDENTIAL HOUSING FACILITIES IN THE COMMUNITY WHERE THEY WILL BE LOCATED.

Rep. TALLON moved to adjourn debate on the Bill until Thursday, May 22, which was agreed to.

**S. 275--DEBATE ADJOURNED**

The following Bill was taken up:

S. 275 -- Senators L. Martin, Hembree and Malloy: A BILL TO AMEND SECTION 23-1-210, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TEMPORARY TRANSFER OR ASSIGNMENT OF A MUNICIPAL OR COUNTY LAW ENFORCEMENT OFFICER TO A MULTIJURISDICTIONAL TASK FORCE, SO AS TO MAKE A TECHNICAL CHANGE, DELETE THE PROVISION THAT REQUIRES A COUNTY OR MUNICIPALITY THAT SENDS AN OFFICER TO ANOTHER COUNTY OR MUNICIPALITY TO BE REIMBURSED FOR SERVICES BY THE COUNTY OR MUNICIPALITY TO WHICH THE OFFICER IS TRANSFERRED OR ASSIGNED, AND TO PROVIDE THAT THE GOVERNING BODIES OF THE POLITICAL SUBDIVISIONS AFFECTED BY THIS PROVISION MUST BE NOTIFIED BY THEIR LAW ENFORCEMENT DIVISIONS OF ANY MULTIJURISDICTIONAL TASK FORCE AGREEMENT EXECUTION AND TERMINATION.

Rep. BRANNON moved to adjourn debate on the Bill until Thursday, May 22, which was agreed to.

**H. 3945--AMENDED AND INTERRUPTED DEBATE**

The following Bill was taken up:

H. 3945 -- Reps. G. M. Smith, Harrell, Lucas, Bannister, Toole, Stringer, Hamilton, Sottile, Barfield, Bingham, Spires, Hardwick, Owens, Hiott, Long, Erickson, Murphy, Horne, Willis, Gagnon, Simrill, Funderburk, Henderson and W. J. McLeod: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 4 TO CHAPTER 13, TITLE 8 SO AS TO ESTABLISH THE SOUTH CAROLINA COMMISSION ON ETHICS ENFORCEMENT AND DISCLOSURE, TO PROVIDE FOR ITS POWERS, DUTIES, PROCEDURES, AND JURISDICTION, AND TO PROVIDE PENALTIES FOR CERTAIN VIOLATIONS; TO REPEAL ARTICLE 3, CHAPTER 13, TITLE 8 RELATING TO THE STATE ETHICS COMMISSION; TO REPEAL ARTICLE 5, CHAPTER 13, TITLE 8 RELATING TO THE HOUSE OF REPRESENTATIVES AND SENATE ETHICS COMMITTEES; TO AMEND SECTION 8-13-100, AS AMENDED, RELATING TO DEFINITIONS IN REGARD TO ETHICS, GOVERNMENT ACCOUNTABILITY, AND CAMPAIGN REFORM, SO AS TO REVISE CERTAIN DEFINITIONS; TO AMEND SECTION 8-13-700, AS AMENDED, RELATING TO USE OF AN OFFICIAL POSITION OR OFFICE FOR FINANCIAL GAIN, SO AS TO PROVIDE THAT IF A MEMBER OF THE GENERAL ASSEMBLY DETERMINES THAT HE HAS A CONFLICT OF INTEREST, HE MUST COMPLY WITH CERTAIN REQUIREMENTS BEFORE ABSTAINING FROM ALL VOTES ON THE MATTER, AND TO PROVIDE FOR WHEN A PUBLIC OFFICIAL WHO IS REQUIRED TO RECUSE HIMSELF FROM A MATTER MUST DO SO; TO AMEND SECTION 8-13-740, AS AMENDED, RELATING TO REPRESENTATION OF ANOTHER PERSON BY A PUBLIC OFFICIAL BEFORE A GOVERNMENTAL ENTITY, SO AS TO FURTHER DELINEATE WHAT IS CONSIDERED A CONTESTED CASE WHEN REPRESENTATION BY A MEMBER OF THE GENERAL ASSEMBLY IS PERMITTED; TO AMEND SECTION 8-13-745, RELATING TO PAID REPRESENTATION OF CLIENTS AND CONTRACTING BY A MEMBER OF THE GENERAL ASSEMBLY OR AN ASSOCIATE IN PARTICULAR SITUATIONS, SO AS TO DELETE A PROHIBITION AGAINST CERTAIN CONTRACTS WITH AN ENTITY FUNDED WITH GENERAL FUNDS; TO AMEND SECTION 8-13-1120, AS AMENDED, RELATING TO CONTENTS OF STATEMENTS OF ECONOMIC INTEREST, SO AS TO FURTHER PROVIDE FOR THESE CONTENTS; TO AMEND SECTION 8-13-1300, AS AMENDED, RELATING TO DEFINITIONS IN REGARD TO CAMPAIGN PRACTICES, SO AS TO REVISE CERTAIN DEFINITIONS; TO AMEND SECTION 8-13-1318, RELATING TO ACCEPTANCE OF CONTRIBUTIONS TO RETIRE CAMPAIGN DEBTS, SO AS TO REQUIRE ANY SUCH CONTRIBUTIONS TO BE USED FOR THIS PURPOSE ONLY; TO AMEND SECTION 8-13-1338, RELATING TO PERSONS WHO MAY NOT SOLICIT CONTRIBUTIONS, SO AS TO INCLUDE THE HEAD OF ANY STATE AGENCY WHO IS SELECTED BY THE GOVERNOR, THE GENERAL ASSEMBLY, OR AN APPOINTED OR ELECTED BOARD; TO AMEND SECTION 8-13-1340, AS AMENDED, RELATING TO RESTRICTIONS ON CONTRIBUTIONS BY ONE CANDIDATE TO ANOTHER OR THROUGH COMMITTEES CONTROLLED BY A CANDIDATE, SO AS TO DELETE AN EXCEPTION FOR A COMMITTEE CONTROLLED BY A CANDIDATE IF IT IS THE ONLY SUCH COMMITTEE, AND TO MAKE CONFORMING CHANGES; TO AMEND SECTIONS 8-13-1510 AND 8-13-1520, BOTH AS AMENDED, RELATING TO PENALTIES FOR ETHICAL AND OTHER VIOLATIONS, AND BY ADDING SECTION 8-13-1530 SO AS TO FURTHER PROVIDE FOR THE PENALTIES FOR VIOLATIONS AND FOR WHERE CERTAIN WILFUL VIOLATIONS MUST BE TRIED; AND TO REPEAL SECTIONS 8-13-710 AND 8-13-715 RELATING TO REPORTING OF PARTICULAR GIFTS AND AUTHORIZED REIMBURSEMENTS FOR SPEAKING ENGAGEMENTS.

The Committee on Judiciary proposed the following Amendment No. 1A to H. 3945 (COUNCIL\NL\3945C015.NL.SD14), which was adopted:

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

/ SECTION 1. (A) The General Assembly by this act has determined to create one commission, to be known as the South Carolina Commission on Ethics Enforcement and Disclosure, to administer, supervise and if necessary investigate the ethical conduct and ethics requirements imposed by law or rule on members of the General Assembly and others, now administered by the House of Representatives and Senate Ethics Committees. The authority of this new commission shall specifically include the authority to receive, regulate, and supervise all statements of economic interests and other ethics filings required of these individuals by law or rule, the compliance by these individuals with all ethical requirements imposed by law or rule, and the receipt and investigation of ethics complaints regarding these individuals. However, the punishment or sanctions, if any, for violations and the authority to adjudicate alleged violations shall rest with the House or Senate Ethics Committee, as applicable.

(B) The General Assembly by this act also has determined to vest in the South Carolina Commission on Ethics Enforcement and Disclosure the authority to administer, supervise, and if necessary investigate the ethical conduct and ethics requirements imposed by law on public officials, public members, public employees, and others by the provisions of Chapter 17, Title 2 and Chapter 13, Title 8 of the 1976 Code now administered by the State Ethics Commission. The authority of this new commission shall specifically include the authority to receive, regulate, and supervise all statements of economic interests and other ethics filings required of these individuals by law, the compliance by these individuals with all ethical requirements imposed by law, and the receipt and investigation of ethics complaints regarding these individuals. However, the punishment or sanctions, if any, for violations and the authority to adjudicate alleged violations shall rest with the State Ethics Commission.

(C) The duties and responsibilities of the commission as provided in subsection (A) the General Assembly has also determined to extend to the ethical conduct and ethical requirements imposed by law, rule, and the Cannons of Judicial Conduct on judges and other judicial officials of the unified judicial system now administered by the Supreme Court through its Commission on Judicial Conduct. However, the punishment or sanctions, if any, for violations and the authority to adjudicate alleged violations shall rest with the Supreme Court.

SECTION 2. Chapter 13, Title 8 of the 1976 Code is amended by adding:

“Article 4

South Carolina Commission on Ethics Enforcement and Disclosure

Section 8‑13‑410. (A) There is created the South Carolina Commission on Ethics Enforcement and Disclosure composed of the members provided for in this section.

(B)(1) Two members must be of the House of Representatives elected by the House. One member elected by the House must be from the largest minority party represented in the House. Members from the House shall serve a term of two years coterminous with their terms of office as a member of the House.

(2) Two members must be of the Senate elected by the Senate. One member elected by the Senate must be from the largest minority party represented in the Senate. Members from the Senate must serve a term of four years coterminous with their terms of office as a member of the Senate.

(C) Four members must be appointed by the Governor, none of whom may be a public official, to serve for terms of four years each coterminous with that of the Governor.

(D) Four members must be elected by majority vote of the Supreme Court, each of whom must be an actively serving judge in one of the courts of record of this State. Members of the Supreme Court are not eligible to be elected to the commission and retired judges sitting or permitted to sit as judges in the courts of this State also are not eligible to be elected to serve on this commission. These judges shall serve initial terms of two years on the commission and thereafter, such judicial members of the commission shall be elected for terms of four years.

(E) The members of the commission, except for the members appointed by the Governor, shall serve ex‑officio. No person shall serve consecutive terms on the commission, except that the members who serve an initial term of less than four years are eligible to serve for a single additional term. Members appointed by the Governor shall receive no compensation but shall receive the usual mileage, subsistence, and per diem as is paid by law to members of state boards, commission, and committees to be paid from the approved accounts of the commission. Vacancies must be filled in the manner of the original selection for the unexpired portion of the term only.

(F) The chairman of the commission must be elected by the members of the commission. The commission may elect a vice chairman and such other officers as it considers necessary. A majority of the members of the commission shall constitute a quorum. The commission shall adopt a policy concerning the attendance of its members at commission meetings. the commission meets at the call of the chairman or a majority of its members. Members may set their own policy related to the rotation of the selection of officers.

(G) The terms of members of the commission not otherwise specified begin on July first of the applicable year and end on June thirtieth.

(H) The commission shall receive such appropriations for its operations and responsibilities as may be provided by the General Assembly in the annual general appropriations act, in addition to the other sources of revenue available to it as provided by law.

(I) Members of the commission while serving on the commission may not make political contributions in any manner prohibited by law and shall conduct themselves in accordance with the Cannons of Judicial Conduct. The provisions of Section 8‑13‑330(B) and (C) also apply to members of the commission except for its legislative members.

Section 8‑13‑415. (A) On the effective date of this article, the functions, duties, and powers of the House of Representatives and Senate Ethics Committees in regard to the authority to receive, regulate, and supervise all statements of economic interests and other ethics filings required by law or rule for individuals now under their jurisdiction, the compliance by these individuals with all ethical requirements imposed by law or rule including those contained in Chapter 17, Title 2 and Chapter 13, Title 8, and the receipt and investigation of ethics complaints regarding these individuals are devolved upon the South Carolina Commission on Ethics Enforcement and Disclosure. However, the punishment or sanctions, if any, for violations and the authority to adjudicate alleged violations shall rest with the House or Senate Ethics Committee, as applicable.

(B) On the effective date of this article, the functions, duties, and powers of the State Ethics Commission in regard to the authority to receive, regulate, and supervise all statements of economic interests and other ethics filings required by law for individuals now under their jurisdiction, the compliance by these individuals with all ethical requirements imposed by law including those contained in Chapter 17, Title 2 and Chapter 13, Title 8, and the receipt and investigation of ethics complaints regarding these individuals are devolved upon the South Carolina Commission on Ethics Enforcement and Disclosure. However, the punishment or sanctions, if any, for violations and the authority to adjudicate alleged violations shall rest with the State Ethics Commission.

(C) On the effective date of this article, the functions, duties, and powers of the Supreme Court of this State acting through its Commission on Judicial Conduct in regard to the authority to receive, regulate, and supervise all statements of economic interests and other ethics filings required by law or rule for judges and other individuals now under its jurisdiction, the compliance by these judges or other individuals with all ethical requirements imposed by law or rule including the Cannons of Judicial Conduct and Chapter 17, Title 2 and Chapter 13, Title 8, and the receipt and investigation of ethics complaints regarding these judges or other individuals are devolved upon the South Carolina Commission on Ethics Enforcement and Disclosure. However, the punishment or sanctions, if any, for violations and the authority to adjudicate alleged violations shall rest with the Supreme Court.

Section 8‑13‑420. (A) Beginning July 1, 2015, pursuant to the provisions of Section 8‑13‑415, the Commission on Ethics Enforcement and Disclosure shall have the specified jurisdiction over and may receive complaints involving, but not limited to, the following individuals:

(1) all statewide or constitutional officers of the state and their staffs;

(2) any person who holds an elected or appointed position for any political subdivision of the state and their staffs;

(3) members of all boards and commissions of the State and its political subdivisions and their staffs;

(4) any lobbyist or lobbyist principal or any person acting as a lobbyist or lobbyist principal who has failed to register as such; and

(5) candidates for a state or local public office, except for the General Assembly, filled by popular election whether or not elected to such office.

(B) Beginning July 1, 2015, pursuant to the provisions of Section 8‑13‑415, the Commission on Ethics Enforcement and Disclosure shall have the specified jurisdiction over and may receive complaints involving, but not limited to, the following individuals:

(1) judges and other judicial officials of the unified judicial system and their staffs whose conduct is now regulated and supervised by the Commission on Judicial Conduct as governed by the Supreme Court; and

(2) judges of the Administrative Law Court and their staffs.

(C) Beginning July 1, 2015, pursuant to the provisions of Section 8‑13‑415, the Commission on Ethics Enforcement and Disclosure shall have the specified jurisdiction over and may receive complaints involving, but not limited to, the following individuals:

(1) all members of the General Assembly and their staffs, including employees of caucuses; and

(2) candidates for election to the General Assembly whether or not elected.

Section 8‑13‑425. The commission has these duties and powers:

(1) to prescribe online forms for statements required to be filed by this chapter and make these forms available in a publicly accessible online format;

(2) to prepare and publish a manual setting forth recommended uniform methods of reporting for use by persons required to file statements required by this chapter;

(3) to accept and file information voluntarily supplied that exceeds the requirements of this chapter;

(4) to develop and maintain a searchable, online database of all filings received by the commission. At a minimum. the database must be searchable by the name of any filer, contributor, or recipient of campaign funds, office sought, or position held;

(5) to ascertain whether a person has failed to comply fully and accurately with the disclosure requirements of this chapter and to notify promptly the person to file the necessary notices and reports to satisfy the requirements of this chapter or regulations promulgated by the commission under this chapter;

(6)(a) to initiate or receive complaints alleging ethical violations of law or rule by those individuals subject to its jurisdiction;

(b)(i) no complaint may be accepted by the commission concerning a candidate for elective office during the fifty‑day period before an election in which the person is a candidate. During this fifty‑day period, any person may petition the court of common pleas alleging the violations complained of and praying for appropriate relief by way of mandamus or injunction, or both. Within ten days, a rule to show cause hearing must be held, and the court must either dismiss the petition or direct that a mandamus order or an injunction, or both, be issued. A violation of this chapter by a candidate during this fifty‑day period must be considered to be an irreparable injury for which no adequate remedy at law exists. The institution of an action for injunctive relief does not relieve any party to the proceeding from any penalty prescribed for violations of this chapter. The court must award reasonable attorney’s fees and costs to the nonpetitioning party if a petition for mandamus or injunctive relief is dismissed based upon a finding that the:

(i) petition is being presented for an improper purpose such as harassment or to cause delay;

(ii) claims, defenses, and other legal contentions are not warranted by existing law or are based upon a frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and

(iii) allegations and other factual contentions do not have evidentiary support or, if specifically so identified, are not likely to have evidentiary support after reasonable opportunity for further investigation or discovery.

(vi) action on a complaint filed against a member or candidate for the General Assembly which was received more than fifty days before the election but which cannot be processed by the commission, must be postponed until after the election;

(c) if an alleged violation is found to be groundless by the commission, the entire matter must be stricken from public record. If the commission finds that the complaining party willfully filed a groundless complaint, the finding must be reported to the Attorney General. The willful filing of a groundless complaint is a misdemeanor and, upon conviction, a person must be fined not more than one thousand dollars or imprisoned not more than one year;

(d) action may not be taken on a complaint filed more than four years after the alleged violation occurred unless a person, by fraud or other device, prevents discovery of the violation;

(7) to issue, upon request from persons covered by this chapter, and publish advisory opinions on the requirements of this chapter, based on real or hypothetical sets of circumstances; provided, that an opinion rendered by the commission, until amended or revoked, is binding on the commission in any subsequent charges concerning the person who requested the opinion and who acted in reliance on it in good faith unless material facts were omitted or misstated by the person in the request for the opinion. Advisory opinions must be in writing and are considered rendered when approved by a majority of commission members. Advisory opinions must be made available to the public unless the commission, by majority vote of the total membership of the commission, requires an opinion to remain confidential. However, the identities of the parties involved must be withheld upon request; and

(8) to promulgate regulations to carry out the provisions of this chapter. However, with respect to complaints, investigations, and hearings the rights of due process as expressed in the rules governing the practice of law must be followed.

Section 8‑13‑430. All complaints received by the commission must:

(1) be in written form;

(2) contain specific factual allegations of a violation of law or rule against an individual subject to its jurisdiction;

(3) contain any and all supporting documentation or evidence in the possession of the complainant that supports the allegations contained in the complaint;

(4) be signed by the person filing the complaint; and

(5) contain a signed statement that the complainant will abide by the procedures established by the commission for the investigation and disposition of complaints.

Section 8‑13‑440. (A) All complaints, documents, meetings, correspondence, memorandums, or other items in the possession of the commission relating to a specific complaint are considered confidential until the complaint is referred by a vote of the full commission as provided in Section 8‑13‑465. If the matter is not referred, it remains confidential.

(B) The release, in any manner, of any information by any person in violation of subsection (A) is a considered a misdemeanor and, upon conviction, the person must be fined one thousand dollars or imprisoned sixty days, or both.

(C) The commission is authorized through its staff to prosecute violations of this section before the appropriate magistrate’s court of Richland County.

Section 8‑13‑445. A respondent, at any time after being notified of the existence of a complaint against them, may waive their right to confidentiality. This waiver must be made in writing and signed by the respondent or their counsel. All waivers are considered complete and shall apply to all materials, except internal commission communications or attorney work product unrelated to the staff’s investigation of the complaint, that is the possession of the commission and its staff. Partial waivers are not allowed.

Section 8‑13‑450. Upon the receipt of a complaint, the director of the commission shall:

(1) within ten business days forward a copy of the complaint and all supporting evidence or documentation submitted by the complainant to the subject of the complaint;

(2) evaluate the allegations of the complaint, assuming all alleged facts are accurate, to determine if the complaint contains an allegation of a violation of law or rule. If the complaint does not contain facts sufficient to constitute a violation of law or rule, the director shall cause the complaint to be dismissed and notify the complainant and respondent of his decision, in writing. If the matter is dismissed, the director shall have no further duties related to the specific complaint;

(3) cause a panel of three commissioners, with at least one from each of the appointing authorities, to be assigned to oversee the commission’s investigation of the complaint;

(4) notify the respondent, in writing, that they shall reply to the allegations in writing within thirty calendar days of this notification. The director also shall advise the respondent, in writing, of their right to obtain counsel and the investigation and hearing procedures used by the commission,

(5) cause the commission staff to begin the investigation of the complaint. Staff assigned to investigate a complaint shall report directly to the three member panel assigned for that complaint.

Section 8‑13‑455. (A) The staff may request and receive information in any form from any party relevant to the complaint being investigated.

(B) The commission staff, through an affirmative vote of the three member panel, may issue subpoenas to testify and subpoenas for documents in the possession of either the complainant or respondent in a matter or in possession of any relevant witness identified by either party in their initial filing with the commission.

(C) The commission staff, through an affirmative vote of the three member panel, may request the assistance of specialized staff from the Department of Revenue or the South Carolina Law Enforcement Division, as the matter may require. Upon a request from the commission, the Department of Revenue or SLED may temporarily assign the necessary staff to the commission. Any temporarily assigned staff shall abide by the policy and procedures for investigation set out by the commission and shall report to the three member panel.

(D) The staff, under the supervision of the three member panel, shall compile the results of its investigation, including all supporting documentation, depositions, or other evidence for presentation to the full commission.

Section 8‑13‑460. (A) The results of an investigation by the three member panel, along with the complaint, respondents response, and all documentation accompanying both, then must be presented to the full commission in executive session, unless the respondent has waived their right to confidentiality, by the commission staff.

(B) The full commission shall consider whether the evidence presented has raised facts sufficient to potentially constitute a violation of law or rule, including any technical violations. The commission then, by a majority vote of the membership, may refer the matter to the appropriate entity having jurisdiction as provided in Section 8‑13‑465.

(C) The commission is not authorized to adjudicate any issues or violations raised or alleged by the complaint.

Section 8‑13‑465. (A) If a person who is the subject of the Commission’s investigation is a member of the General Assembly, their staff, or other person subject to the jurisdiction of the House of Representatives or Senate Ethics Committees in regard to ethical conduct, that matter upon the conclusion of the Commission’s investigation may be referred to the appropriate Ethics Committee for such further action as it considers appropriate, consistent with the penalty or sanction provisions, if any, provided by law or rule for that conduct.

(B) If a person who is the subject of the commission’s investigation is a member of the executive branch or was otherwise subject to the jurisdiction of the State Ethics Commission in regard to ethical conduct, that matter upon conclusion of the commission’s investigation may be referred to the State Ethics Commission and brought to a conclusion by the State Ethics Commission consistent with any penalties or sanctions authorized and provided by law for that conduct.

(C) If a person who is the subject of the Commission’s investigation is a member of the state judiciary or is another individual subject to the jurisdiction of the Supreme Court in regard to ethical conduct, that matter upon the conclusion of the commission’s investigation may be referred to the Supreme Court for such further action as the Supreme Court considers appropriate, consistent with the penalty or sanction provisions, if any, provided by law or rule for that conduct.

(D) The commission may make a referral as provided in this section for further action if it determines the investigation has raised facts sufficient to potentially constitute a violation of law or of rule, including any technical violations. The referral must be accompanied by the commission’s investigation report. If a referral by the commission is made, all records and information of the commission relating to the complaints, its investigation, and its investigation report become public information. If a referral is not made, the complaint is considered dismissed and no further action regarding the complaint may be taken. The commission also shall notify the complainant and the respondent of its decision to make or not make a referral.

(E) Nothing in this section or article prevents the commission after completion of its investigation from referring the matter to the Attorney General for further action rather than to the appropriate entity required by this section where a criminal violation may have occurred based on the results of the investigation.

Section 8‑13‑470. The commission may employ and remove, at its pleasure, a director. The director has the responsibility for employing and terminating other personnel as may be necessary. The director administers the daily business of the commission and performs duties assigned by the commission.

Section 8‑13‑475. When hired, filing for office, or appointed and upon assuming the duties of employment, office, or position in state government, a public official, public member, and public employee shall receive a brochure prepared by the commission describing the general application of this chapter.

Section 8‑13‑480. Upon request, the commission shall make statements and reports filed with the commission available for public inspection and copying during regular office hours. The commission shall provide copying facilities at a cost not to exceed the actual cost. A statement may be requested by mail, and the commission shall mail a copy of the requested information to the individual making the request upon payment of appropriate postage, copying costs, and employee labor costs. The commission shall publish and make available to the public and to persons subject to this chapter explanatory information concerning this chapter, the duties imposed by this chapter, and the means for enforcing this chapter.

Section 8‑13‑485. The commission shall establish a system of electronic filing for all disclosures and reports required pursuant to Chapter 13, Title 8 and Chapter 17, Title 2 from all persons and entities subject to its jurisdiction. These disclosures and reports must be filed using an Internet‑based filing system as prescribed by the commission. The information contained in the reports and disclosure forms, with the exception of social security numbers, campaign bank account numbers, and tax ID numbers, must be publicly accessible, searchable, and transferable.”

SECTION 3. (A) The employees, assets, and liabilities of the State Ethics Commission are transferred to the newly created South Carolina Commission on Ethics Enforcement and Disclosure on the effective date of Article 4, Chapter 13, Title 8. The executive director of the State Ethics Commission on the effective date of Article 4, Chapter 13, Title 8 shall become the Director of the Commission on Ethics Enforcement and Disclosure.

(B) Both the State Ethics Commission, the newly created Commission on Ethics Enforcement and Disclosure, and their staffs shall meet and be provided space at the offices of the State Ethics Commission.

(C) Regulations promulgated by the State Ethics Commission are continued and are considered to be promulgated by the newly created South Carolina Commission on Ethics Enforcement and Disclosure.

SECTION 4. Article 3, Chapter 13, Title 8 of the 1976 Code is amended to read:

“Article 3

State Ethics Commission

Section 8‑13‑310. (A) The State Ethics Commission as constituted under law in effect before July 1, 1992, is reconstituted to continue in existence with the appointment and qualification of the at‑large members as prescribed in this section and with the changes in duties and powers as prescribed in this chapter. On July 1, 1993, when the duties and powers given to the Secretary of State in Chapter 17 of Title 2 are transferred to the State Ethics Commission, the Code Commissioner is directed to change all references to "this chapter" in Article 3 of Chapter 13 of Title 8 to "this chapter and Chapter 17 of Title 2".

(B) There is created the State Ethics Commission composed of nine members appointed by the Governor, upon the advice and consent of the General Assembly. One member shall represent each of the seven congressional districts, and two members must be appointed from the State at large. No member of the General Assembly or other public official must be eligible to serve on the State Ethics Commission. The Governor shall make the appointments based on merit regardless of race, color, creed, or gender and shall strive to assure that the membership of the commission is representative of all citizens of the State of South Carolina.

(C) The terms of the members are for five years and until their successors are appointed and qualify. The members of the State Ethics Commission serving on this chapter’s effective date may continue to serve until the expiration of their terms. These members may then be appointed to serve one full five‑year term under the provisions of this chapter. Members representing the first, third, and sixth congressional districts on this chapter’s effective date are eligible to be appointed for a full five‑year term in or after 1991. Members currently representing the second, fourth, and fifth congressional districts on this chapter’s effective date are eligible to be appointed for a full five‑year term in or after 1993. The initial appointments for the at‑large members of the commission created by this chapter must be for a one‑, two‑, or three‑year term, but these at‑large members are eligible subsequently for a full five‑year term. Under this section, the at‑large members of the commission are to be appointed to begin service on or after July 1, 1992. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term only. Members of the commission who have completed a full five‑year term are not eligible for reappointment.

(D) The commission shall elect a chairman, a vice‑chairman, and such other officers as it considers necessary. Five members of the commission shall constitute a quorum. The commission must adopt a policy concerning the attendance of its members at commission meetings. The commission meets at the call of the chairman or a majority of its members. Members of the commission, while serving on business of the commission, receive per diem, mileage, and subsistence as is provided by law for members of state boards, committees, and commissions.

Section 8‑13‑320. (A) Beginning July 1, 2015, the State Ethics Commission has the duty and power to adjudicate complaint referrals from the Commission on Ethics Enforcement and Disclosure as provided in Section 8‑13‑465 and also has the power and duty to impose penalties or other punishments as authorized in this chapter in regard to violations found which result therefrom. Otherwise, the duties and functions of the State Ethics Commission under this chapter, unless otherwise stated, are devolved upon the Commission on Ethics Enforcement and Disclosure and the provisions of this chapter shall be construed accordingly and shall apply mutatis mutandis.

(B) Beginning July 1, 2015, the State Ethics Commission has these duties and powers:

~~(1) to prescribe forms for statements required to be filed by this chapter and to furnish these forms to persons required to file them;~~

~~(2) to prepare and publish a manual setting forth recommended uniform methods of reporting for use by persons required to file statements required by this chapter;~~

~~(3) to accept and file information voluntarily supplied that exceeds the requirements of this chapter;~~

~~(4) to develop a filing, coding, and cross‑indexing system consonant with the purposes of this chapter;~~

~~(5) to make the notices of registration and reports filed available for public inspection and copying as soon as may be practicable after receipt of them and to permit copying of a report or statement by hand or by duplicating machine, as requested by a person, at the expense of the person;~~

~~(6)~~(1) to preserve the originals or copies of notices and reports for four years from date of receipt;

~~(7)~~ ~~to ascertain whether a person has failed to comply fully and accurately with the disclosure requirements of this chapter and promptly to notify the person to file the necessary notices and reports to satisfy the requirements of this chapter or regulations promulgated by the commission under this chapter;~~

~~(8)~~(2) to request the Attorney General, in the name of the commission, to initiate, prosecute, defend, or appear in a civil or criminal action for the purpose of enforcing the provisions of this chapter, including a civil proceeding for injunctive relief and presentation to a grand jury. Action may not be taken on a complaint filed more than four years after the violation is alleged to have occurred unless a person, by fraud or other device, prevents discovery of the violation. The Attorney General may initiate an action to recover a fee, compensation, gift, or profit received by a person as a result of a violation of the chapter no later than one year after a determination by the commission that a violation of this chapter has occurred;

~~(9) to initiate or receive complaints and make investigations, as provided in item (10), of statements filed or allegedly failed to be filed under the provisions of this chapter and Chapter 17 of Title 2 and, upon complaint by an individual, of an alleged violation of this chapter or Chapter 17 of Title 2 by a public official, public member, or public employee except members or staff, including staff elected to serve as officers of or candidates for the General Assembly unless otherwise provided for under House or Senate rules. Any person charged with a violation of this chapter or Chapter 17 of Title 2 is entitled to the administrative hearing process contained in this section.~~

~~(a) The commission may commence an investigation on the filing of a complaint by an individual or by the commission, as provided in item (10)(d), upon a majority vote of the total membership of the commission.~~

~~(b)(1) No complaint may be accepted by the commission concerning a candidate for elective office during the fifty‑day period before an election in which he is a candidate. During this fifty‑day period, any person may petition the court of common pleas alleging the violations complained of and praying for appropriate relief by way of mandamus or injunction, or both. Within ten days, a rule to show cause hearing must be held, and the court must either dismiss the petition or direct that a mandamus order or an injunction, or both, be issued. A violation of this chapter by a candidate during this fifty‑day period must be considered to be an irreparable injury for which no adequate remedy at law exists. The institution of an action for injunctive relief does not relieve any party to the proceeding from any penalty prescribed for violations of this chapter. The court must award reasonable attorneys fees and costs to the nonpetitioning party if a petition for mandamus or injunctive relief is dismissed based upon a finding that the:~~

~~(i) petition is being presented for an improper purpose such as harassment or to cause delay;~~

~~(ii) claims, defenses, and other legal contentions are not warranted by existing law or are based upon a frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and~~

~~(iii) allegations and other factual contentions do not have evidentiary support or, if specifically so identified, are not likely to have evidentiary support after reasonable opportunity for further investigation or discovery.~~

~~(2)~~ ~~Action on a complaint filed against a candidate which was received more than fifty days before the election but which cannot be disposed of or dismissed by the commission at least thirty days before the election must be postponed until after the election.~~

~~(c)~~ ~~If an alleged violation is found to be groundless by the commission, the entire matter must be stricken from public record. If the commission finds that the complaining party wilfully filed a groundless complaint, the finding must be reported to the Attorney General. The wilful filing of a groundless complaint is a misdemeanor and, upon conviction, a person must be fined not more than one thousand dollars or imprisoned not more than one year. In lieu of the criminal penalty provided by this item, a civil penalty of not more than one thousand dollars may be assessed against the complainant upon proof, by a preponderance of the evidence, that the filing of the complaint was wilful and without just cause or with malice.~~

~~(d)~~ ~~Action may not be taken on a complaint filed more than four years after the violation is alleged to have occurred unless a person, by fraud or other device, prevents discovery of the violation. The Attorney General may initiate an action to recover a fee, compensation, gift, or profit received by a person as a result of a violation of the chapter no later than one year after a determination by the commission that a violation of this chapter has occurred;~~

~~(10)~~(3) to conduct ~~its investigations,~~ inquiries~~,~~ and hearings in this manner:

~~(a)~~ ~~The commission shall accept from an individual, whether personally or on behalf of an organization or governmental body, a verified complaint, in writing, that states the name of a person alleged to have committed a violation of this chapter and the particulars of the violation. The commission shall forward a copy of the complaint, a general statement of the applicable law with respect to the complaint, and a statement explaining the due process rights of the respondent including, but not limited to, the right to counsel to the respondent within ten days of the filing of the complaint.~~

~~(b)~~ ~~If the commission or its executive director determines that the complaint does not allege facts sufficient to constitute a violation, the commission must dismiss the complaint and notify the complainant and respondent. The entire matter must be stricken from public record unless the respondent, by written authorization to the State Ethics Commission, waives the confidentiality of the existence of the complaint and authorizes the release of information about the disposition of the complaint.~~

~~(c)~~ ~~If the commission or its executive director determines that the complaint alleges facts sufficient to constitute a violation, an investigation may be conducted of the alleged violation.~~

~~(d)~~(a) If the commission, upon the receipt of ~~any information~~ a referral from the Commission on Ethics Enforcement and Disclosure as provided in Section 8‑13‑465, finds probable cause to believe that a violation of the chapter has occurred, it may, upon its own motion and an affirmative vote of the majority of the total membership of the commission, file a verified complaint, in writing, that states the name of the person alleged to have committed a violation of this chapter and the particulars of the violation. The commission shall forward a copy of the complaint, a general statement of the applicable law with respect to the complaint, and a statement explaining the due process rights of the respondent including, but not limited to, the right to counsel to the respondent within ten days of the filing of the complaint.

~~(e)~~(b) If the commission determines that assistance is needed in conducting ~~an investigation~~ a hearing, the commission shall request the assistance of appropriate agencies.

~~(f)~~(c) The commission may order testimony to be taken in any ~~investigation or~~ hearing by deposition before a person who is designated by the commission and has the power to administer oaths and, in these instances, to compel testimony. The commission may administer oaths and affirmation for the testimony of witnesses and issue subpoenas by approval of the chairman, subject to judicial enforcement, and issue subpoenas for the procurement of witnesses and materials including books, papers, records, documents, or other tangible objects relevant to the agency’s investigation by approval of the chairman, subject to judicial enforcement. A person to whom a subpoena has been issued may move before a commission panel or the commission for an order quashing a subpoena issued under this section.

~~(g)~~(d) All ~~investigations,~~ inquiries, hearings, and accompanying documents ~~must remain confidential until a finding of probable cause or dismissal unless the respondent waives the right to confidentiality. The wilful release of confidential information is a misdemeanor, and any person releasing confidential information, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year~~ are open to the public or are considered to be public information upon the referral of a matter to the commission as provided in Section 8‑13‑465.

~~(h)~~(e) The commission must afford a public official, public member, public employee, lobbyist, or lobbyist’s principal who is the subject of a complaint the opportunity to be heard on the alleged violation under oath, the opportunity to offer information, and the appropriate due process rights including, but not limited to, the right to counsel. The commission, in its discretion, may turn over to the Attorney General for prosecution apparent evidence of a violation of the chapter.

~~(i)~~(f) ~~At the conclusion of its investigation~~ Upon a referral from the Commission on Ethics Enforcement and Disclosure as provided in Section 8‑13‑465, the commission staff, in a preliminary written decision with findings of fact and conclusions of law, must make a recommendation whether probable cause exists to believe that a violation of this chapter has occurred. If the commission determines that probable cause does not exist, it shall send a written decision with findings of fact and conclusions of law to the respondent and the complainant. If the commission determines that there is probable cause to believe that a violation has been committed, its preliminary decision may contain an order setting forth a date for a hearing before a panel of three commissioners, selected at random, to determine whether a violation of the chapter has occurred. If the commission finds probable cause to believe that a violation of this chapter has occurred, the commission may waive further proceedings if the respondent takes action to remedy or correct the alleged violation.

~~(j)~~(g) If a hearing is to be held, the respondent must be allowed to examine and make copies of all evidence in the commission’s possession relating to the charges. The same discovery techniques which are available to the commission must be equally available to the respondent, including the right to request the commission to subpoena witnesses or materials and the right to conduct depositions as prescribed by subitem ~~(f)~~(c). A panel of three commissioners must conduct a hearing in accordance with Chapter 23 of Title 1 (Administrative Procedures Act), except as otherwise expressly provided. Panel action requires the participation of the three panel members. During a commission panel hearing conducted to determine whether a violation of the chapter has occurred, the respondent must be afforded appropriate due process protections, including the right to be represented by counsel, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross‑examine opposing witnesses. All evidence, including records the commission considers, must be offered fully and made a part of the record in the proceedings. The hearings must be held in executive session unless the respondent requests an open hearing.

~~(k)~~(h) No later than sixty days after the conclusion of a hearing to determine whether a violation of the chapter has occurred, the commission panel must set forth its determination in a written decision with findings of fact and conclusions of law. The commission panel, where appropriate, shall recommend disciplinary or administrative action, or in the case of an alleged criminal violation, refer the matter to the Attorney General for appropriate action. The Attorney General may seek injunctive relief or may take other appropriate action as necessary. In the case of a public employee, the commission panel shall file a report to the administrative department executive responsible for the activities of the employee. If the complaint is filed against an administrative department executive, the commission panel shall refer the case to the Governor.

~~(l)~~(i) The written decision as provided for in subitem ~~(k)~~(h) may set forth an order:

(i) requiring the public official, public member, or public employee to pay a civil penalty of not more than two thousand dollars for each violation;

(ii) requiring the forfeiture of gifts, receipts, or profits, or the value thereof, obtained in violation of the chapter, voiding nonlegislative state action obtained in violation of the chapter; or

(iii) requiring a combination of subitems (i) and (ii) above, as necessary and appropriate.

~~(m)~~(j) Within ten days after service of an order, report, or recommendation, a respondent may apply to the commission for a full commission review of the decision made by the commission panel. The review must be made on the record established in the panel hearings. This review is the final disposition of the complaint before the commission. An appeal to the court of appeals, pursuant to Section 1‑23‑380 and as provided in the South Carolina Appellate Court Rules, stays all actions and recommendations of the commission unless otherwise determined by the court.

~~(n)~~(k) A fine imposed by the commission, disciplinary action taken by an appropriate authority, or a determination not to take disciplinary action made by an appropriate authority is public record. This section does not limit the power of either chamber of the General Assembly to impeach a public official or limit the power of a department to discipline its own officials or employees. This section does not preclude prosecution of public officials, public members, or public employees for violation of any law of this State.

~~(o)~~(l) All actions taken by the commission on complaints, except on alleged violations which are found to be groundless by the commission, are a matter of public record upon final disposition;

~~(11) to issue, upon request from persons covered by this chapter, and publish advisory opinions on the requirements of this chapter, based on real or hypothetical sets of circumstances; provided, that an opinion rendered by the commission, until amended or revoked, is binding on the commission in any subsequent charges concerning the person who requested the opinion and who acted in reliance on it in good faith unless material facts were omitted or misstated by the person in the request for the opinion. Advisory opinions must be in writing and are considered rendered when approved by five or more commission members subscribing to the advisory opinion. Advisory opinions must be made available to the public unless the commission, by majority vote of the total membership of the commission, requires an opinion to remain confidential. However, the identities of the parties involved must be withheld upon request;~~

~~(12)~~(4) to promulgate and publish ~~rules and~~ regulations to carry out the provisions of this chapter. Provided, that with respect to ~~complaints, investigations, and~~ hearings, the rights of due process as expressed in the Rules Governing the Practice of Law must be followed;

~~(13)~~(5) on and after July 1, 1993, to administer Chapter 17 of Title 2 by use of the duties and powers listed in this section in regard to punishment for violations of these provisions and the adjudication of alleged violations;

~~(14)~~(6) to file, in the court of common pleas of the county in which the respondent of a complaint resides, a certified copy of an order or decision of the commission, whereupon the court must render judgment in accordance with the order or decision without charge to the commission and must notify the respondent of the judgment imposed. The judgment has the same effect as though it had been rendered in a case duly heard and determined by the court.

Section 8‑13‑325. In order to offset costs associated with the: (1) administration and regulation of lobbyists and lobbyist’s principals, and (2) enforcement of Chapter 17 of Title 2, the ~~State Ethics~~ Commission on Ethics Enforcement and Disclosure shall retain fees generated by the registration of lobbyists and lobbyists’ principals and the initial fine of one hundred dollars, as provided in Section 2‑17‑50(A)(2)(a), and the initial fine of one hundred dollars, as provided in Section 8‑13‑1510(1), for reports received by the ~~State Ethics~~ Commission on Ethics Enforcement and Disclosure.

Section 8‑13‑330. (A) The commission may employ and remove such staff as may be authorized and provided by the General Assembly in the annual general appropriations act~~, at its pleasure, an executive director. The executive director has the responsibility for employing and terminating other personnel as may be necessary. The executive director administers the daily business of the commission and performs duties assigned by the commission~~.

(B) No member or employee of the State Ethics Commission may be a candidate, an official in a political party, or a lobbyist. Other than by virtue of membership on or employment with the State Ethics Commission, no member or employee of the State Ethics Commission may be a public official, public member, or public employee.

(C) No member of the State Ethics Commission or its staff may participate in political management or in a political campaign during the member’s or employee’s term of office or employment. No member of the State Ethics Commission or its staff may make a contribution to a candidate or knowingly attend a fundraiser held for the benefit of a candidate. Violation of this provision subjects the employee to immediate dismissal and the commissioner to removal by the Governor.

Section 8‑13‑340. The State Ethics Commission at the close of each fiscal year shall report to the General Assembly and the Governor concerning the action it has taken, the names, salaries, and duties of all persons in its employ, and the money it has disbursed and shall make other reports on matters within its jurisdiction and recommendations for further legislation as may appear desirable.

Section 8‑13‑350. ~~When hired, filing for office, or appointed and upon assuming the duties of employment, office, or position in state government, a public official, public member, and public employee shall receive a brochure prepared by the State Ethics Commission describing the general application of this chapter.~~

~~Section 8‑13‑360.~~ Upon request, the commission shall make statements and reports filed with the commission available for public inspection and copying during regular office hours. The commission shall provide copying facilities at a cost not to exceed the actual cost. A statement may be requested by mail, and the commission shall mail a copy of the requested information to the individual making the request upon payment of appropriate postage, copying costs, and employee labor costs. ~~The commission shall publish and make available to the public and to persons subject to this chapter explanatory information concerning this chapter, the duties imposed by this chapter, and the means for enforcing this chapter.~~”

~~Section 8‑13‑365.~~ ~~The commission shall establish a system of electronic filing for all disclosures and reports required pursuant to Chapter 13, Title 8 and Chapter 17, Title 2 except for forms and reports required pursuant to Article 9, Chapter 13, Title 8. These disclosures and reports must be filed using an Internet‑based filing system as prescribed by the commission. The information contained in the reports and disclosure forms, with the exception of social security numbers, campaign bank account numbers, and tax ID numbers, must be publicly accessible, searchable, and transferable.~~”

SECTION 5. Article 5, Chapter 13, Title 8 of the 1976 Code is amended to read:

“Article 5

Senate and House of Representatives Ethics Committees

Section 8‑13‑510. There is created a House of Representatives Legislative Ethics Committee and a Senate Legislative Ethics Committee. Each ethics committee is composed of six members unless otherwise provided by rule of the respective House. Terms are coterminous with the term for which members are elected to the House or Senate. Vacancies must be filled for the unexpired term in the manner of the original selection. The members of each ethics committee must be elected by the House or the Senate, as appropriate. One member of each ethics committee must be elected as chairman by a majority of the members of the ethics committee.

Section 8‑13‑520. Each ethics committee shall meet and recommend any changes in the law or rules relating to ethics considered proper to their respective houses. Changes recommended must be consistent with the Constitution of the State of South Carolina, the provisions of this chapter, and any other applicable law.

Section 8‑13‑530. (A) Beginning July 1, 2015, the Ethics Committees of the House and Senate have the duty and power to adjudicate complaint referrals from the Commission on Ethics Enforcement and Disclosure as provided in Section 8‑13‑465 and also have the power and duty to impose penalties or other punishments as authorized in this article in regard to violations found which result therefrom. Otherwise, the duties and functions of the Ethics Committees of the House and Senate under this chapter, unless otherwise stated, are devolved upon the Commission on Ethics Enforcement and Disclosure and the provisions of this chapter shall be construed accordingly and shall apply mutatis mutandis.

(B) Each ethics committee shall~~:~~

~~(1)~~ ~~ascertain whether a person has failed to comply fully and accurately with the disclosure requirements of this chapter and promptly notify the person to file the necessary notices and reports to satisfy the requirements of this chapter;~~

~~(2)~~ ~~receive complaints filed by individuals and, upon a majority vote of the total membership of the committee, file complaints when alleged violations are identified;~~

~~(3)~~ ~~upon the filing of a complaint, investigate possible violations of breach of a privilege governing a member or staff of the appropriate house, the alleged breach of a rule governing a member of, legislative caucus committees for, or a candidate, or staff for the appropriate house, misconduct of a member or staff of, legislative caucus committees for, or a candidate for the appropriate house, or a violation of this chapter or Chapter 17 of Title 2;~~

~~(4)~~(1) ~~receive and~~ hear, upon a referral from the Commission on Ethics Enforcement and Disclosure as provided in Section 8‑13‑465, a complaint which alleges a breach of a privilege governing a member or staff of the appropriate house, the alleged breach of a rule governing a member or staff of or candidate for the appropriate house, misconduct of a member or staff of or candidate for the appropriate house, or a violation of this chapter or Chapter 17 of Title 2. ~~No complaint may be accepted by the ethics committee concerning a member of or candidate for the appropriate house during the fifty‑day period before an election in which the member or candidate is a candidate. During this fifty‑day period, any person may petition the court of common pleas alleging the violations complained of and praying for appropriate relief by way of mandamus or injunction, or both. Within ten days, a rule to show cause hearing must be held, and the court must either dismiss the petition or direct that a mandamus order or an injunction, or both, be issued. A violation of this chapter by a candidate during this fifty‑day period must be considered to be an irreparable injury for which no adequate remedy at law exists. The institution of an action for injunctive relief does not relieve any party to the proceeding from any penalty prescribed for violations of this chapter. The court must award reasonable attorney’s fees and costs to the nonpetitioning party if a petition for mandamus or injunctive relief is dismissed based upon a finding that the:~~

~~( i)~~ ~~petition is being presented for an improper purpose such as harassment or to cause delay;~~

~~(ii)~~ ~~claims, defenses, and other legal contentions are not warranted by existing law or are based upon a frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and~~

~~(iii)~~ ~~allegations and other factual contentions do not have evidentiary support or, if specifically so identified, are not likely to have evidentiary support after reasonable opportunity for further investigation or discovery.~~

~~Action on a complaint filed against a member or candidate which was received more than fifty days before the election but which cannot be disposed of or dismissed by the ethics committee at least thirty days before the election must be postponed until after the election;~~

~~(5)~~(2) ~~obtain information and investigate complaints as provided in Section 8‑13‑540 with respect to any complaint filed pursuant to this chapter or Chapter 17 of Title 2 and to that end may~~ compel if necessary by subpoena in conducting hearings the attendance and testimony of witnesses and the production of pertinent books and papers;

~~(6)~~(3) administer or recommend sanctions appropriate to a particular member or staff of or candidate for the appropriate house pursuant to Section 8‑13‑540 or dismiss the charges; and

~~(7)~~(4) act as an advisory body to the General Assembly and to individual members of or candidates for the appropriate house on questions pertaining to the disclosure and filing requirements of members of or candidates for the appropriate house.

Section 8‑13‑540. ~~Unless otherwise provided for by House or Senate rule, as appropriate, each ethics committee must conduct its investigation of a complaint filed pursuant to this chapter or Chapter 17 of Title 2 in accordance with this section.~~

~~(1)~~ ~~When a complaint is filed with or by the ethics committee, a copy must promptly be sent to the person alleged to have committed the violation. If the ethics committee determines the complaint does not allege facts sufficient to constitute a violation, the complaint must be dismissed and the complainant and respondent notified. If the ethics committee finds that the complaining party wilfully filed a groundless complaint, the finding must be reported to appropriate law enforcement authorities. The wilful filing of a groundless complaint is a misdemeanor and, upon conviction, a person must be fined not more than one thousand dollars or imprisoned not more than one year. In lieu of the criminal penalty provided by this subsection, a civil penalty of not more than one thousand dollars may be assessed against the complainant upon proof, by a preponderance of the evidence, that the filing of the complaint was wilful and without just cause or with malice. If the ethics committee determines the complaint alleges facts sufficient to constitute a violation, it shall promptly investigate the alleged violation and may compel by subpoena the attendance and testimony of witnesses and the production of pertinent books and papers.~~

(1) If after ~~such preliminary investigation~~ receipt of a referral from the Commission on Ethics Enforcement and Disclosure as provided in Section 8‑13‑465, the ethics committee finds that probable cause exists to support an alleged violation, it shall, as appropriate:

(a) render an advisory opinion to the respondent and require the respondent’s compliance within a reasonable time; or

(b) convene a formal hearing on the matter within thirty days of the respondent’s failure to comply with the advisory opinion. All ethics committee ~~investigations and~~ records ~~relating to the preliminary investigation~~ on a matter are confidential until receipt of a referral from the Commission on Ethics Enforcement and Disclosure as provided in Section 8‑13‑465. ~~No complaint shall be accepted which is filed later than four years after the alleged violation occurred.~~

(2) If a hearing is to be held, the respondent must be allowed to examine and make copies of all evidence in the ethics committee’s possession relating to the charges. At the hearing the charged party must be afforded appropriate due process protections, including the right to be represented by counsel, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross‑examine opposing witnesses. All hearings must be conducted in ~~executive~~ open session.

(3) After the hearing, the ethics committee shall determine its findings of fact. If the ethics committee, based on competent and substantial evidence, finds the respondent has violated this chapter or Chapter 17 of Title 2, it shall:

(a) administer a public or private reprimand;

(b) determine that a technical violation as provided for in Section 8‑13‑1170 has occurred;

(c) recommend expulsion of the member; and/or,

(d) in the case of an alleged criminal violation, refer the matter to the Attorney General ~~for investigation~~. The ethics committee shall report its findings in writing to the Speaker of the House or President *Pro Tempore* of the Senate, as appropriate. The report must be accompanied by an order of punishment and supported and signed by a majority of the ethics committee members. If the ethics committee finds the respondent has not violated a code or statutory provision, it shall dismiss the charges.

(4) An individual has ten days from the date of the notification of the ethics committee’s action to appeal the action to the full legislative body.

(5) No ethics committee member may participate in any matter in which he is involved.

(6) The ethics committee shall establish procedures which afford respondents appropriate due process protections, including the right to be represented by counsel, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross‑examine opposing witnesses.

Section 8‑13‑550. (A) Upon receipt of a recommendation of expulsion or an appeal from an order of the ethics committee made pursuant to the provisions of Section 8‑13‑540, the presiding officer of the House or Senate shall call the House or Senate into open session at a time to be determined at his discretion or in executive session if the House or Senate chooses, as a committee of the whole, to consider the action of the ethics committee. The House or Senate shall sustain or overrule the ethics committee’s action or order other action consistent with this chapter or Chapter 17 of Title 2.

(B) Upon consideration of an ethics committee report by the House or the Senate, whether in executive or open session, the results of the consideration, except in the case of the issuance of a private reprimand, are a matter of public record.

Section 8‑13‑560. Unless otherwise currently or hereafter provided for by House or Senate rule, as is appropriate:

(1) A member of the General Assembly who is indicted in a state court or a federal court for a crime that is a felony, a crime that involves moral turpitude, a crime that has a sentence of two or more years, or a crime that violates election laws must be suspended immediately without pay by the presiding officer of the House or Senate, as appropriate. The suspension remains in effect until the public official is acquitted, convicted, pleads guilty, or pleads nolo contendere. In the case of a conviction, the office must be declared vacant. In the event of an acquittal or dismissal of charges against the public official, he is entitled to reinstatement and back pay.

(2) If the public official is involved in an election between the time of the suspension and final conclusion of the indictment, the presiding officer of the House or Senate, or the Governor, as appropriate, shall again suspend him at the beginning of his next term. The suspended public official may not participate in the business of his public office.”

SECTION 6. Section 8‑13‑100(5) and (9) of the 1976 Code are amended to read:

“(5) ‘Candidate’ means a person who seeks appointment, nomination for election, or election to a state or local office, ~~or~~ authorizes or knowingly permits the collection or disbursement of money for the promotion of his candidacy or election, or maintains an open bank account containing contributions. It also means a person on whose behalf write‑in votes are solicited if the person has knowledge of such solicitation. ‘Candidate’ does not include a person within the meaning of Section 431(b) of the Federal Election Campaign Act of 1976.

(9) ‘Contribution’ means a gift, subscription, loan, guarantee upon which collection is made, forgiveness of a loan, an advance, in‑kind contribution or expenditure, a deposit of money, or anything of value made to a candidate or committee, ~~as defined in Section 8‑13‑1300(6), for the purpose of influencing~~ to influence an election~~;~~, or payment or compensation for the personal service of another person which is rendered ~~for any purpose~~ to a candidate or committee without charge to influence an election whether any of the above are made or offered directly or indirectly. ‘Contribution’ does not include volunteer personal services on behalf of a candidate or committee for which the volunteer or any person acting on behalf of or instead of the volunteer receives no compensation either in cash or in-kind, directly or indirectly, from any source.”

SECTION 7. Section 8‑13‑740(A)(2)(c) of the 1976 Code, as last amended by Act 181 of 1993, is further amended to read:

“(c) in a contested case or a matter that may become a contested case, as defined in Section 1‑23‑310, excluding a contested case for a rate or price fixing matter before the South Carolina Public Service Commission or South Carolina Department of Insurance, or in an agency’s consideration of the drafting and promulgation of regulations under Chapter 23, ~~of~~ Title 1 in a public hearing.”

SECTION 8. Section 8‑13‑745 of the 1976 Code, as added by Act 248 of 1991, is amended to read:

“Section 8‑13‑745. (A) No member of the General Assembly ~~or an individual with whom he is associated~~ or business with which he is associated may represent a client for a fee in a contested case, as defined in Section 1‑23‑310, before an agency, a commission, board, department, or other entity if the member of the General Assembly has voted in the election, appointment, recommendation, or confirmation of a member of the governing body of the agency, board, department, or other entity within the twelve preceding months.

(B) Notwithstanding any other provision of law, after the effective date of this section, no member of the General Assembly ~~or any individual with whom he is associated~~ or business with which he is associated may represent a client for a fee in a contested case, as defined in Section 1‑23‑310, before an agency, a commission, board, department, or other entity elected, appointed, recommended, or confirmed by the House, the Senate, or the General Assembly if that member has voted on the section of that year’s general appropriation bill or supplemental appropriation bill relating to that agency, commission, board, department, or other entity within one year from the date of the vote. This subsection does not prohibit a member from voting on other sections of the general appropriation bill or from voting on the general appropriation bill as a whole.

(C) ~~Notwithstanding any other provision of law, after the effective date of this section, no member of the General Assembly or an individual with whom he is associated in partnership or a business, company, corporation, or partnership where his interest is greater than five percent may enter into any contract for goods or services with an agency, a commission, board, department, or other entity funded with general funds or other funds if the member has voted on the section of that year’s appropriation bill relating to that agency, commission, board, department, or other entity within one year from the date of the vote...This subsection does not prohibit a member from voting on other sections of the appropriation bill or from voting on the general appropriation bill as a whole.~~ Notwithstanding any other provision of law, a public official, including members of the General Assembly, or a public employee, may not take a vote on or take an action on a matter in which he, an immediate family member, or a business with which he is associated has a known financial interest.

(D) The provisions of this section do not apply to any court in the unified judicial system.

(E) When a member of the General Assembly is required by law to appear because of his business interest as an owner or officer of the business or in his official capacity as a member of the General Assembly, this section does not apply.

(F) The provisions of subsections (A), (B), and (C) do not apply in the case of any vote or action taken by a member of the General Assembly ~~prior to~~ before January 1, 1992.”

SECTION 9. Chapter 13, Title 8 of the 1976 Code is amended by adding:

“Section 8‑13‑756. The provisions of Sections 8‑13‑700, 8‑13‑710, 8‑13‑715, and 8‑13‑755 do not apply to a public employee of an institution of higher learning who participates in the development of intellectual property that benefits the institution and the State of South Carolina, provided that the institution of higher learning retains some royalty rights to the intellectual property.”

SECTION 10. Section 8‑13‑780(B) of the 1976 Code is amended to read:

“(B) In addition to existing remedies for breach of the ethical standards of this chapter ~~or regulations promulgated hereunder~~, the State Ethics Commission may impose ~~an oral or~~ a written warning or reprimand.”

SECTION 11. Section 8‑13‑1120 of the 1976 Code, as last amended by Act 6 of 1995, is further amended to read:

“Section 8‑13‑1120. (A) A statement of economic interests filed pursuant to Section 8‑13‑1110 ~~must be on forms prescribed by the State Ethics Commission and~~ must contain full and complete information concerning:

(1) the name, business or government address, and workplace telephone number of the filer;

(2) the source, type, and amount or value of income, not to include tax refunds, of substantial monetary value received from a governmental entity by the filer or a member of the filer’s immediate family during the reporting period;

(3)(a) the description, value, and location of all real property owned and options to purchase real property during the reporting period by a filer or a member of the filer’s immediate family if:

(i) there have been any public improvements of more than two hundred dollars on or adjacent to the real property within the reporting period and the public improvements are actually known to the filer; or

(ii) the interest has been or can reasonably be expected to be the subject of a conflict of interest with the filer’s official responsibilities and duties based upon information actually known to the filer; or

(b) if a sale, lease, or rental of personal or real property is to a state, county, or municipal instrumentality of government, a copy of the contract, lease, or rental agreement must be attached to the statement of economic interests;

(4) the name of each organization which paid for or reimbursed actual expenses of the filer for speaking before a public or private group, the amount of such payment or reimbursement, and the purpose, date, and location of the speaking engagement;

(5) the identity of every business or entity in which the filer or a member of the filer’s immediate family held or controlled, in the aggregate, securities or interests constituting five percent or more of the total issued and outstanding securities and interests which constitute a value of one hundred thousand dollars or more;

(6)(a) a listing by name and address of each creditor to whom the filer or member of the filer’s immediate family owed a debt in excess of five hundred dollars at any time during the reporting period, if the creditor is subject to regulation by the filer or is seeking or has sought a business or financial arrangement with the filer’s agency or department other than for a credit card or retail installment contract, and the original amount of the debt and amount outstanding unless:

(i) the debt is promised or loaned by a bank, savings and loan, or other licensed financial institution which loans money in the ordinary course of its business and on terms and interest rates generally available to a member of the general public without regard to status as a public official, public member, or public employee; or

(ii) the debt is promised or loaned by an individual’s family member if the person who promises or makes the loan is not acting as the agent or intermediary for someone other than a person named in this subitem; and

(b) the rate of interest charged the filer or a member of the filer’s immediate family for a debt required to be reported in (a);

If a discharge of a debt required to be reported in (a) has been made, the date of the transaction must be shown.

(7) the name of any lobbyist, as defined in Section 2‑17‑10(13) who is:

(a) an immediate family member of the filer;

(b) an individual with whom or business with which the filer or a member of the filer’s immediate family is associated;

(8) if a public official, public member, or public employee receives compensation from an individual or business which contracts with the governmental entity with which the public official, public member~~,~~ or public employee serves or is employed, the public official, public member, or public employee must report the name and address of that individual or business and the amount of ~~compensation paid to the public official, public member, or public employee by~~ the contract between the governmental entity and that individual or business;

(9) the source and a brief description of any gifts, including transportation, lodging, food, or entertainment received during the preceding calendar year from:

(a) a person, if there is reason to believe the donor would not give the gift, gratuity, or favor but for the official’s or employee’s office or position; or

(b) a person, or from an officer or director of a person, if the public official or public employee has reason to believe the person:

(i) has or is seeking to obtain contractual or other business or financial relationship with the official’s or employee’s agency; or

(ii) conducts operations or activities which are regulated by the official’s or employee’s agency if the value of the gift is twenty‑five dollars or more in a day or if the value totals, in the aggregate, two hundred dollars or more in a calendar year~~.~~ ;

(10) the source of any other income received by the filer or a member of the filer’s immediate family, not to include income received pursuant to:

(i) a court order;

(ii) a savings, checking or brokerage account with a bank, savings and loan, or other licensed financial institution which offers savings, checking or brokerage accounts in the ordinary course of its business and on terms and interest rates generally available to a member of the general public without regard to status as a public official, public member, or public employee;

(iii) a mutual fund or similar fund in which an investment company invests its shareholders’ money in a diversified selection of securities;

(11) the specific source of income received by a public official, a member of the public official’s immediate family, or a business with which the public official or a member of his immediate family are associated if the public official or a member of the public official’s immediate family directly derives income from a:

( i) contractual or financial relationship, including a consultant or independent contractor’s relationship, with a lobbyist’s principal or an entity controlled by, affiliated with, or existing for the benefit of a lobbyist’s principal;

(ii) contractual or financial relationship, including a consultant or independent contractor relationship, with a state or local governmental entity;

(iii) source regulated by the governmental regulatory agency with which the public official serves.

For purposes of item (11), ‘contractual or financial relationship’ does not include a relationship from which income received by a public official, a member of the public official’s immediate family, or a business with which the public official or his immediate family is associated is derived from commercial transactions in which the fair market value of goods transferred or services rendered is paid;

(12) the specific source of income received by a public member, a member of the public member’s immediate family, or a business with which the public member or a member of his immediate family are associated if the public member or his immediate family directly derives income from a source regulated by the governmental regulatory agency with which the public member serves.

(B) This article does not require the disclosure of economic interests information concerning:

(1) a spouse separated pursuant to a court order from the public official, public member, or public employee;

(2) a former spouse;

(3) a campaign contribution that is permitted and reported under Article 13 of this chapter; or

(4) matters determined to require confidentiality pursuant to Section 2‑17‑90(E).”

SECTION 12. Section 8‑13‑1300 (4),(6), (7), (23), and (32) of the 1976 Code, as last amended by Act 76 of 2003, is further amended to read:

“(4) ‘Candidate’ means: (a) a person who seeks appointment, nomination for election, or election to a statewide or local office, or authorizes or knowingly permits the collection or disbursement of money for the promotion of his candidacy or election; (b) a person who is exploring whether or not to seek election at the state or local level; ~~or~~ (c) a person on whose behalf write‑in votes are solicited if the person has knowledge of such solicitation; or (d) a person who maintains an open bank account containing contributions. ‘Candidate’ does not include a candidate within the meaning of Section 431(b) of the Federal Election Campaign Act of 1976.

(6) ‘Committee’ means an association, a club, an organization, or a group of persons, including a party committee, a legislative caucus committee, or a noncandidate committee, which~~, to influence the outcome of an elective office,~~ has as its major purpose the nomination, election, or defeat of one or more candidates and receives contributions or makes expenditures in excess of five hundred dollars in the aggregate during an election cycle. It also means a person who~~, to influence the outcome of an elective office,~~ has the major purpose to support or oppose the nomination, election, or defeat of one or more candidates and makes:

(a) contributions aggregating at least twenty‑five thousand dollars during an election cycle to or at the request of a candidate or a committee, or a combination of them; or

(b) independent expenditures aggregating five hundred dollars or more during an election cycle for the election or defeat of a candidate.

~~‘Committee’ includes a party committee, a legislative caucus committee, a noncandidate committee, or a committee that is not a campaign committee for a candidate but that is organized for the purpose of influencing an election.~~

(7) ‘Contribution’ means a gift, subscription, loan, guarantee upon which collection is made, forgiveness of a loan, an advance, in‑kind contribution or expenditure, a deposit of money, or anything of value made to a candidate or committee to influence an election~~;~~, or payment or compensation for the personal service of another person which is rendered ~~for any purpose~~ to a candidate or committee without charge to influence an election, whether any of the above are made or offered directly or indirectly. ‘Contribution’ does not include ~~(a)~~ volunteer personal services on behalf of a candidate or committee for which the volunteer or any person acting on behalf of or instead of the volunteer receives no compensation either in cash or in‑kind, directly or indirectly, from any source~~; or (b) a gift, subscription, loan, guarantee upon which collection is made, forgiveness of a loan, an advance, in‑kind contribution or expenditure, a deposit of money, or anything of value made to a committee, other than a candidate committee, and is used to pay for communications made not more than forty‑five days before the election to influence the outcome of an elective office as defined in Section 8‑13‑1300(31)(c). These funds must be deposited in an account separate from a campaign account as required in Section 8‑13‑1312~~.

(23) ‘Noncandidate committee’ means a committee that is not a campaign committee for a candidate but ~~is organized to influence an election or to support or oppose a candidate or public official~~ has as its major purpose the nomination, election, or defeat of one or more candidates, which receives contributions or makes expenditures in excess of five hundred dollars in the aggregate during an election cycle. ‘Noncandidate committee’ does not include political action committees that contribute solely to federal campaigns.

(32) ‘Ballot measure committee’ means:

(a) an association, club, an organization, or a group of persons ~~which, to influence the outcome of a ballot measure,~~ whose major purpose is to promote or defeat a ballot measure and receives contributions or makes expenditures in excess of two thousand five hundred dollars in the aggregate during an election cycle;

(b) a person, other than an individual, who, to influence the outcome of a ballot measure, makes contributions aggregating at least fifty thousand dollars during an election cycle to or at the request of a ballot measure committee; or

(c) a person, other than an individual, who, to influence the outcome of a ballot measure, makes independent expenditures aggregating two thousand five hundred dollars or more during an election cycle.”

SECTION 13. Section 8‑13‑1300 of the 1976 Code is amended by adding an appropriately numbered subsection to read:

“( ) ‘electioneering communication’ means any broadcast, cable, or satellite communication or mass postal mailing or telephone bank that has the following characteristics:

(a) refers to a clearly identified candidate for elected office; and

(b) that is publically aired or distributed within sixty days prior to a general election or within thirty days prior to a primary for that office.

The definition does not include:

(1) a communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless those facilities are owned or controlled by any political party, political committee, or candidate;

(2) a communication that constitutes an expenditure or independent expenditure under this Article,

(3) a communication that constitutes a candidate debate or forum conducted pursuant to rules adopted by a political party or that solely promotes that debate or forum and is made by or on behalf of the person sponsoring the debate or forum; or

(4) a communication that meets all of the following criteria:

(i) does not mention any election, candidacy, political party, opposing candidate, or voting by the general public;

(ii) does not take a position on the candidate’s character or qualifications and fitness for office; and

(iii) proposes a commercial transaction.”

SECTION 14. Section 8‑13‑1302 of the 1976 Code is amended to read:

“Section 8‑13‑1302. (A) A candidate, committee, or ballot measure committee must maintain and preserve an account of:

(1) the total amount of contributions accepted by the candidate, committee, or ballot measure committee;

(2) the name and address of each person making a contribution and the amount and date of receipt of each contribution;

(3) the total amount of expenditures made by or on behalf of the candidate, committee, or ballot measure committee;

(4) the name and address of each person to whom an expenditure is made including the date, amount, purpose, and beneficiary of the expenditure;

(5) all receipted bills, canceled checks, or other proof of payment for each expenditure; and

(6) the occupation of each person making a contribution.

(B) The candidate, committee, or ballot measure committee must maintain and preserve all receipted bills and accounts required by this article for four years.

(C) An appropriate supervisory office may request in writing, disclosure of any records required to be maintained by this section, subject to the limitations of Section 8‑13‑320(9)(d). Such a request shall be for purposes of verifying campaign disclosure forms filed pursuant to Section 8‑13‑1308. A candidate, committee, or ballot measure committee must comply with a written request from an appropriate supervisory office within thirty days.”

SECTION 15. Section 8‑13‑1308 of the 1976 Code is amended to read:

“Section 8‑13‑1308. (A) Upon the receipt or expenditure of campaign contributions or the making of independent expenditures totaling an accumulated aggregate of five hundred dollars or more, a candidate or committee required to file a statement of organization pursuant to Section 8‑13‑1304(A) must file an initial certified campaign report within ten days of these initial receipts or expenditures. However, a candidate who does not receive or expend campaign contributions totaling an accumulated aggregate of five hundred dollars or more must file an initial certified campaign report fifteen days before an election.

(B) Following the filing of an initial certified campaign report, additional certified campaign reports must be filed within ten days following the end of each calendar quarter in which contributions are received or expenditures are made, whether before or after an election until the campaign account undergoes final disbursement pursuant to the provisions of Section 8‑13‑1370.

(C) Campaign reports filed by a candidate must be certified by the candidate. Campaign reports filed by a committee must be certified by a duly authorized officer of the committee.

(D)(1) At least fifteen days before an election, a certified campaign report must be filed showing contributions of more than one hundred dollars and expenditures to or by the candidate or committee for the period ending twenty days before the election. The candidate or committee must maintain a current list during the period before the election commencing at the beginning of the calendar quarter of the election of all contributions of more than one hundred dollars and expenditures. The list must be open to public inspection upon request.

(2) A committee immediately shall file a campaign report listing expenditures if it makes an independent expenditure or an incurred expenditure within the calendar quarter in which the election is conducted or twenty days before the election, whichever period of time is greater, in excess of:

(a) ten thousand dollars in the case of a candidate for statewide office; or

(b) two thousand dollars in the case of a candidate for any other office.

(3) In the event of a runoff election, candidates or committees are not required to file another campaign report in addition to the reports already required under this section. However, records must remain open to public inspection upon request between the election and the runoff.

(E) Two days before an election, a certified campaign report must be filed showing contributions of more than one hundred dollars and expenditures to or by the candidate or committee for the period commencing at least twenty days before the election and ending two days before the election.

(F) Notwithstanding the provisions of subsections (B) and (D), if a pre‑election campaign report provided for in subsection (D) is required to be filed within thirty days of the end of the prior quarter, a candidate or committee must combine the quarterly report provided for in subsection (B) and the pre‑election report and file the combined report subject to the provisions of subsection (D) no later than fifteen days before the election.

~~(F)~~(G) Certified campaign reports detailing campaign contributions and expenditures must contain:

(1) the total of contributions accepted by the candidate or committee;

(2) the name and address of each person making a contribution of more than one hundred dollars and the amount and date of receipt of each contribution;

(3) the total expenditures made by or on behalf of the candidate or committee;

(4) the name and address of each person to whom an expenditure is made from campaign funds, including the date, amount, purpose, and beneficiary of the expenditure.

~~(G)~~(H) Notwithstanding any other reporting requirements in this chapter, a political party, legislative caucus committee, and a party committee must file a certified campaign report upon the receipt of anything of value which totals in the aggregate five hundred dollars or more. For purposes of this section, "anything of value" includes contributions received which may be used for the payment of operation expenses of a political party, legislative caucus committee, or a party committee. A political party also must comply with the reporting requirements of subsections (B), (C), and ~~(F)~~ (G) of Section 8‑13‑1308 in the same manner as a candidate or committee.

~~(H)~~(I) A committee that solicits contributions pursuant to Section 8‑13‑1331 must certify compliance with that section on a form prescribed by the State Ethics Commission.”

SECTION 16. Section 8‑13‑1312 of the 1976 Code is amended to read:

“Section 8‑13‑1312. Except as is required for the separation of funds and expenditures under the provisions of Section 8‑13‑1300(7), a candidate shall not establish more than one campaign checking account and one campaign savings account for each office sought, and a committee shall not establish more than one checking account and one savings account unless federal or state law requires additional accounts. For purposes of this article, certificates of deposit or other interest bearing instruments are not considered separate accounts. A candidate’s accounts must be established in a financial institution that conducts business within the State and in an office located within the State that conducts business with the general public. The candidate or a duly authorized officer of a committee must maintain the accounts in the name of the candidate or committee. An acronym must not be used in the case of a candidate’s accounts. An acronym or abbreviation may be used in the case of a committee’s accounts if the acronym or abbreviation commonly is known or clearly recognized by the general public. ~~Except as otherwise provided under Section 8‑13‑1348(C),~~ Expenses paid on behalf of a candidate or committee must be drawn from the campaign account and issued on a check signed or authorized by the candidate or a duly authorized officer of a committee, must be paid by debit or credit card issued in the name of the candidate or committee or must be paid through online transfers authorized by the candidate or a duly authorized officer of a committee. All contributions received by the candidate or committee, directly or indirectly, must be deposited in the campaign account by the candidate or committee within ten days after receipt. All contributions received by an agent of a candidate or committee must be forwarded to the candidate or committee not later than five days after receipt. A contribution must not be deposited until the candidate or committee receives information regarding the name and address of the contributor. If the name and address cannot be determined within seven days after receipt, the contribution must be remitted to the Children’s Trust Fund.”

SECTION 17. Chapter 13, Title 8 of the 1976 Code is amended by adding:

“Section 8‑13‑1313. A person who is not a committee required to file subject to Section 8‑13‑1304 and who makes an independent expenditure in an aggregate amount or value in excess of five hundred dollars during a calendar year or makes an electioneering communication must file a report of such expenditure or communication with the State Ethics Commission electronically in the manner prescribed by the Commission pursuant to Section 8‑13‑365 within thirty days or if the independent expenditure or electioneering communication is made within thirty days before an election, the report must be filed within forty‑eight hours. The report must include:

(1) a detailed description of the use of the expenditure or communication and the amount of the expenditure or the cost of the communication;

(2) the full name, primary occupation of the reporting person, as well as the physical address and phone number for the residence or place of business for the reporting person;

(3) the identification of the chief executive officer or for all controlling individuals if the reporting person is a business or another organization that is not an individual, to include name, title, employer, and address;

(4) the name of the candidate or ballot measure that is the subject of the independent expenditure or electioneering communication and whether the expenditure or communication was made in support of, or opposition to, the candidate or ballot measure;

(5) the chief executive officer or controlling individual must file, under penalty of perjury, a certification that the independent expenditure is not made in cooperation, consultation, or coordination with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and

(6)(a) the identification of the top five donors to the reporting person and for any donor who has donated more than ten thousand dollars to the committee within the previous twelve months, to include name, primary occupation, address, and amount of the donation; and

(b) if the donor is a business or another organization that is not an individual, then the identification must indicate the name and title of the chief executive officer or the controlling individual of the donor organization.”

SECTION 18. Section 8‑13‑1318 of the 1976 Code, as added by Act 248 of 1991, is amended to read:

“Section 8‑13‑1318. (A) If a candidate has a debt from a campaign for an elective office, the candidate may accept contributions to retire the debt, even if the candidate accepts contributions for another elective office or the same elective office during a subsequent election cycle, as long as those contributions accepted to retire the debt are:

(1) within the contribution limits applicable to the last election in which the candidate sought the elective office for which the debt was incurred; and

(2) reported as provided in this article.

(B) Any contributions received pursuant to this section must be used for the purpose of retiring campaign debt only.”

SECTION 19. Section 8‑13‑1320(1) of the 1976 Code is amended to read:

“(1) A contribution made on or before the seventh day after a primary or primary runoff ~~is~~ may be attributed to the primary or primary runoff, ~~respectively~~ or the general election cycle that follows the primary or primary runoff.”

SECTION 20. Section 8‑13‑1338(A) of the 1976 Code, as added by Section 248 of 1991, is amended to read by adding a new item (5) at the end to read:

“(5) the head of any state agency or department who is selected by the Governor, General Assembly, or an appointed or elected board.”

SECTION 21. Section 8‑13‑1340 of the 1976 Code is amended to read:

“Section 8‑13‑1340. (A) Except as provided in ~~subsections (B) and (E)~~ subsection (B), a candidate or public official shall not make a contribution to another candidate or make an independent expenditure on behalf of another candidate or public official from the candidate’s or public official’s campaign account or through a committee, except legislative caucus committees, directly or indirectly established, financed, maintained, or controlled by the candidate or public official.

(B) This section does not prohibit a candidate from:

(1) making a contribution from the candidate’s own personal funds on behalf of the candidate’s candidacy or to another candidate for a different office; or

(2) providing the candidate’s surplus funds or material assets upon final disbursement to a legislative caucus committee or party committee in accordance with the procedures for the final disbursement of a candidate under Section 8‑13‑1370 of this article.

(C) Assets or funds which are the proceeds of a campaign contribution and which are held by or under the control of a public official or a candidate for public office on January 1, 1992, are considered to be funds held by a candidate and subject to subsection (A).

(D) A committee is considered to be directly or indirectly established, financed, maintained, or controlled by a candidate or public official if any of the following are applicable:

(1) the candidate or public official, or an agent of either, has signature authority on the committee’s checks;

(2) funds contributed or disbursed by the committee are authorized or approved by the candidate or public official;

(3) the candidate or public official is clearly identified on either the stationery or letterhead of the committee;

(4) the candidate or public official signs solicitation letters or other correspondence on behalf of the entity;

(5) the candidate, public official, or his campaign staff, office staff, or immediate family members~~, or any other agent of either,~~ has the authority to approve, alter, or veto the committee’s solicitations, contributions, donations, disbursements, or contracts to make disbursements; or

(6) the committee pays for travel by the candidate or public official, his campaign staff or office staff, or any other agent of the candidate or public official, in excess of one hundred dollars per calendar year.

~~(E)~~ ~~The provisions of subsection (A) do not apply to a committee directly or indirectly established, financed, maintained, or controlled by a candidate or public official if the candidate or public official directly or indirectly establishes, finances, maintains, or controls only one committee in addition to any committee formed by the candidate or public official to solely promote his own candidacy and one legislative caucus committee.~~

~~(F)~~ ~~No committee operating under the provisions of Section 8‑13‑1340(E) may:~~

~~(1)~~ ~~solicit or accept a contribution from a registered lobbyist if that lobbyist engages in lobbying the public office or public body for which the candidate is seeking election; or~~

~~(2)~~ ~~transfer anything of value to any other committee except as a contribution under the limitations of Section 8‑13‑1314(A) or the dissolution provisions of Section 8‑13‑1370.~~”

SECTION 22. Section 8‑13‑1348 of the 1976 Code is amended to read:

“Section 8‑13‑1348. (A) No candidate, committee, public official, or political party may use campaign funds to defray personal expenses which are unrelated to the campaign or the office if the candidate is an officeholder nor may these funds be converted to personal use. The prohibition of this subsection does not extend to the incidental personal use of campaign materials or equipment nor to an expenditure used to defray any ordinary expenses incurred in connection with an individual’s duties as a holder of elective office.

(B) The payment or reimbursement of reasonable and necessary ~~travel~~ expenses ~~or for food or beverages consumed by the candidate or members of his immediate family while at, and in connection with, a political event are permitted.~~ associated with the campaign or the office are permitted. However:

(1) any payment or reimbursement of mileage for travel associated with the campaign or office must be at the rate established for the year by the Internal Revenue Service;

(2) the payment or reimbursement for any lodging expenses, food and beverage expenses, or travel expenses other than mileage for the candidate, a member of the candidate’s immediate family, or staff must be for travel for the purpose of campaigning for office or otherwise a part of the official responsibilities of an officeholder. Official responsibilities of the officeholder shall include, but not be limited to, political party events, official appearances or meetings for which reimbursement is not offered by the governmental entity, and educational forums or conventions to which an officeholder is invited in their official capacity;

(3) any communication or other office equipment purchased with campaign funds, including but not limited to cell phones, computers, printers, copiers and other similar devices shall be the sole property of the campaign and must be disclosed as assets at the time of purchase. Further, this equipment must be accounted for pursuant to Sections 8‑13‑1368 and 8‑13‑1370 upon the final disbursement of a campaign account; and

(4) any payments to campaign or office staff must be made contemporaneously with the work provided. A campaign may not employ an immediate family member of the candidate.

(C)~~(1)~~ An expenditure ~~of more than twenty‑five dollars~~ drawn upon a campaign account must be made by:

(a) ~~a written instrument~~ a check drawn upon a campaign account;

(b) debit or credit card; or

(c) online transfers.

~~The campaign account must contain the name of the candidate or committee, and the expenditure must contain the name of the recipient.~~ These expenditures must be reported pursuant to the provisions of Section 8‑13‑1308.

~~(2)~~ ~~Expenditures of twenty‑five dollars or less that are not made by a written instrument, debit card, or online transfer containing the name of the candidate or committee and the name of the recipient must be accounted for by a written receipt or written record.~~

(D) An expenditure may not be made that is clearly in excess of the fair market value of services, materials, facilities, or other things of value received in exchange.

(E) ~~A candidate or a duly authorized officer of a committee may not withdraw more than one hundred dollars from the campaign account to establish or replenish a petty cash fund for the candidate or committee at any time, and at no time may the fund exceed one hundred dollars. Expenditures from the petty cash fund may be made only for office supplies, food, transportation expenses, and other necessities and may not exceed twenty‑five dollars for each expenditure.~~ If an appropriate supervisory office determines that a violation of this section has occurred, involving the misuse of campaign funds, it shall notify the offending person of its determination in writing and the person is then afforded a period of thirty days from the date of the notification to cure the violation by reimbursing the campaign account from personal funds in an amount necessary to make the campaign account whole. If this reimbursement occurs, the violation is considered cured and no further civil or criminal action against the person may occur. However, the person must not be offered the opportunity to cure the misuse if the appropriate supervisory office makes a determination that either:

(1) the person was previously put on notice by an appropriate supervisory office that an identical or substantially similar expenditure did not comply with this section;

(2) the misuse of funds resulted from an intentional or fraudulent attempt to apply campaign funds to personal use; or

(3) the expenditure or multiple expenditures exceed two thousand dollars in the aggregate for an election cycle.”

SECTION 23. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws. Moreover, the provisions of this act, to include those provisions that amend existing laws, shall not apply to conduct that occurred prior to the effective date of this act.

SECTION 24. If any section, subsection, paragraph, subparagraph, 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 act, and each and every section, subsection, paragraph, subparagraph, 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 25. Except as otherwise provided in this section, the provisions of this act take effect upon approval by the Governor. However, Sections 1 through 5 take effect on July 1, 2015, Section 11 takes effect on January 1, 2015, and other provisions of this act which require modifications to be implemented to the electronic filing system for disclosures and reports as determined by the State Ethics Commission shall not apply or be implemented until six months after approval of this act by the Governor. /

Renumber sections to conform.

Amend title to conform.

Rep. DELLENEY explained the amendment.

The amendment was then adopted.

Reps. DELLENEY, W. J. MCLEOD, BANNISTER, QUINN, POPE, SIMRILL, FINLAY and BERNSTEIN proposed the following Amendment No. 3A to H. 3945 (COUNCIL\BBM\3945C002. BBM.SD14), which was adopted:

Amend the bill, as and if amended, by striking Section 8‑13‑410 of the 1976 Code, as contained in SECTION 2, and inserting:

/ Section 8‑13‑410. (A) There is created the South Carolina Commission on Ethics Enforcement and Disclosure composed of the members provided for in this section.

(B)(1) Two members must be elected by the House of Representatives, neither of whom may be a public official. One member elected must be from the majority party and the largest minority party represented in the House. One member shall serve an initial term of two years and one member shall serve an initial term of four years, the initial terms of these members to be designated by the House when electing these members.

(2) Two members must be elected by the Senate, neither of whom may be a public official. One member elected must be from the majority party and the largest minority party represented in the Senate. One member shall serve an initial term of two years and one member shall serve an initial term of four years, the initial terms of these members to be designated by the Senate when electing these members.

(3) For the purpose of electing members of the commission to be elected by the House and Senate, the majority leader and minority leader of the House and Senate each shall nominate three persons for election to the seat their body elects to represent that party. From this slate of three nominees, the respective body may elect one or may reject all three nominees and require a new slate of nominees. This process shall be followed until those members of the commission are elected.

(C) Four members must be appointed by the Governor, with the advice and consent of the General Assembly, none of whom may be a public official. Two members appointed by the Governor must be from the majority party and the largest minority party represented in both Houses of the General Assembly. Two of these members shall be appointed for initial terms of two years each and two of these members shall be appointed for initial terms of four years each, the initial terms of all of these members to be designated by the Governor when appointing these members.

(D) Four members must be elected by majority vote of the Supreme Court, none of whom may be a judge of a court of record or Summary Court of this State or other public official. Two members shall serve initial terms of two years each and two members shall serve initial terms of four years each, the initial terms of these members to be designated by the Supreme Court when electing these members.

(E) No person shall serve consecutive terms on the commission, except that the members who serve an initial term of less than four years are eligible to serve for a single additional term of four years. Members shall receive no compensation but shall receive the usual mileage, subsistence, and per diem as is paid by law to members of state boards, commission, and committees to be paid from the approved accounts of the commission. Vacancies must be filled in the manner of the original selection for the unexpired portion of the term only.

(F) The chairman of the commission must be elected by the members of the commission. The commission may elect a vice chairman and such other officers as it considers necessary. A majority of the members of the commission shall constitute a quorum. The commission shall adopt a policy concerning the attendance of its members at commission meetings. the commission meets at the call of the chairman or a majority of its members. Members may set their own policy related to the rotation of the selection of officers.

(G) The terms of members of the commission begin on July first of the applicable year and end on June thirtieth of the applicable year.

(H)(1) The appointing or electing authorities when electing or appointing members of the commission shall ensure that the members selected are representative of all citizens of this State regardless of race, creed, color, or national origin.

(2) The following are not eligible to serve on the Commission on Ethics Enforcement and Disclosure:

(a) a member of the General Assembly;

(b) a family member, as defined by Section 8‑13‑100(15), of a member of the General Assembly, the Governor, or any member of the Supreme Court;

(c) a person who made a campaign contribution, as defined by Section 8‑13‑1300(7), within the previous four years to the individual who appointed or nominated the person to serve on the Commission on Ethics Enforcement and Disclosure;

(d) a person who registered as a lobbyist within four years of being appointed to serve on the Commission on Ethics Enforcement and Disclosure;

(e) a person who is under the jurisdiction of the State Ethics Commission, Commission on Ethics Enforcement and Disclosure, House of Representatives Ethics Committee, or Senate Ethics Committee;

(f) an actively serving judge of any court of this State, including summary court judges, and any retired judge sitting or permitted to sit in any court of this State.

(I) The commission shall receive such appropriations for its operations and responsibilities as may be provided by the General Assembly in the annual general appropriations act, in addition to the other sources of revenue available to it as provided by law.

(J) Members of the commission while serving on the commission may not make political contributions in any manner and shall conduct themselves in accordance with the Cannons of Judicial Conduct. The provisions of Section 8‑13‑330(B) and (C) also apply to members of the commission. /

Renumber sections to conform.

Amend title to conform.

Rep. DELLENEY explained the amendment.

The amendment was then adopted.

Rep. LUCAS proposed the following Amendment No. 4A to H. 3945 (COUNCIL\GGS\3945C004.GGS.ZW14), which was adopted:

Amend the bill, as and if amended, immediately after SECTION 22, by adding an appropriately numbered section to read:

/ SECTION \_\_\_. (A)(1) there is created the South Carolina Ethics Violations Study Committee to be comprised of eight members appointed as follows:

(a) four circuit solicitors appointed by the Executive Director of the South Carolina Commission on Prosecution Coordination by August 1, 2014. Two of the four appointed solicitors must be members of the majority political party represented in the General Assembly, and two must be members of the largest minority political party represented in the General Assembly;

(2) four public defenders appointed by the Executive Director of the South Carolina Commission on Indigent Defense by August 1, 2014; and

(3) the committee shall select a chair and a vice chair from among its members. Administrative and logistical support to the committee must be provided from either one or more of the committee members’ solicitors offices or from the South Carolina Commission on Prosecution Coordination.

(B)(1) In making appointments to the South Carolina Ethics Violations Study Committee, the appointing authorities shall consider a candidate’s criminal trial experience. The appointing authorities also shall make every effort to ensure that all geographic areas of the State are represented and that the membership reflects urban and rural areas of the State as well as the ethnic diversity of the State.

(2) the members of the committee shall serve without compensation, and are ineligible for the usual mileage, subsistence, and per diem allowed by law for members of state boards, committees, and commissions.

(C) the South Carolina Ethics Violations Study Committee shall have the following duties and responsibilities:

(1) to examine and assess all of the governmental ethics rules, directives, and violations contained in Chapter 17, Title 2 and Article 7, Chapter 13, Title 8 of the 1976 Code;

(2) to identify and recommend which specific governmental ethics violations contained in the above referenced statutory provisions should appropriately be designated as criminal violations and which should appropriately be designated as civil violations; and

(3) to report its findings and recommendations to the Speaker of the House of Representatives, the President *Pro Tempore* of the Senate, and to the Chairmen of the House of Representatives and Senate Judiciary Committees by February 1, 2015, at which time the committee is dissolved.” /

Renumber sections to conform.

Amend title to conform.

Rep. LUCAS explained the amendment.

Rep. LUCAS spoke in favor of the amendment.

The amendment was then adopted.

Further proceedings were interrupted by the House receding, the pending question being consideration of the Bill.

Rep. LONG moved that the House recede until 2:00 p.m., which was agreed to.

**THE HOUSE RESUMES**

At 2:00 p.m. the House resumed, ACTING SPEAKER KING in the Chair.

**POINT OF QUORUM**

The question of a quorum was raised.

A quorum was later present.

**SPEAKER IN CHAIR**

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. R. L. OTT a temporary leave of absence.

**H. 3945--AMENDED AND ORDERED TO THIRD READING**

Debate was resumed on the following Bill, the pending question being the consideration of amendments:

H. 3945 -- Reps. G. M. Smith, Harrell, Lucas, Bannister, Toole, Stringer, Hamilton, Sottile, Barfield, Bingham, Spires, Hardwick, Owens, Hiott, Long, Erickson, Murphy, Horne, Willis, Gagnon, Simrill, Funderburk, Henderson and W. J. McLeod: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 4 TO CHAPTER 13, TITLE 8 SO AS TO ESTABLISH THE SOUTH CAROLINA COMMISSION ON ETHICS ENFORCEMENT AND DISCLOSURE, TO PROVIDE FOR ITS POWERS, DUTIES, PROCEDURES, AND JURISDICTION, AND TO PROVIDE PENALTIES FOR CERTAIN VIOLATIONS; TO REPEAL ARTICLE 3, CHAPTER 13, TITLE 8 RELATING TO THE STATE ETHICS COMMISSION; TO REPEAL ARTICLE 5, CHAPTER 13, TITLE 8 RELATING TO THE HOUSE OF REPRESENTATIVES AND SENATE ETHICS COMMITTEES; TO AMEND SECTION 8-13-100, AS AMENDED, RELATING TO DEFINITIONS IN REGARD TO ETHICS, GOVERNMENT ACCOUNTABILITY, AND CAMPAIGN REFORM, SO AS TO REVISE CERTAIN DEFINITIONS; TO AMEND SECTION 8-13-700, AS AMENDED, RELATING TO USE OF AN OFFICIAL POSITION OR OFFICE FOR FINANCIAL GAIN, SO AS TO PROVIDE THAT IF A MEMBER OF THE GENERAL ASSEMBLY DETERMINES THAT HE HAS A CONFLICT OF INTEREST, HE MUST COMPLY WITH CERTAIN REQUIREMENTS BEFORE ABSTAINING FROM ALL VOTES ON THE MATTER, AND TO PROVIDE FOR WHEN A PUBLIC OFFICIAL WHO IS REQUIRED TO RECUSE HIMSELF FROM A MATTER MUST DO SO; TO AMEND SECTION 8-13-740, AS AMENDED, RELATING TO REPRESENTATION OF ANOTHER PERSON BY A PUBLIC OFFICIAL BEFORE A GOVERNMENTAL ENTITY, SO AS TO FURTHER DELINEATE WHAT IS CONSIDERED A CONTESTED CASE WHEN REPRESENTATION BY A MEMBER OF THE GENERAL ASSEMBLY IS PERMITTED; TO AMEND SECTION 8-13-745, RELATING TO PAID REPRESENTATION OF CLIENTS AND CONTRACTING BY A MEMBER OF THE GENERAL ASSEMBLY OR AN ASSOCIATE IN PARTICULAR SITUATIONS, SO AS TO DELETE A PROHIBITION AGAINST CERTAIN CONTRACTS WITH AN ENTITY FUNDED WITH GENERAL FUNDS; TO AMEND SECTION 8-13-1120, AS AMENDED, RELATING TO CONTENTS OF STATEMENTS OF ECONOMIC INTEREST, SO AS TO FURTHER PROVIDE FOR THESE CONTENTS; TO AMEND SECTION 8-13-1300, AS AMENDED, RELATING TO DEFINITIONS IN REGARD TO CAMPAIGN PRACTICES, SO AS TO REVISE CERTAIN DEFINITIONS; TO AMEND SECTION 8-13-1318, RELATING TO ACCEPTANCE OF CONTRIBUTIONS TO RETIRE CAMPAIGN DEBTS, SO AS TO REQUIRE ANY SUCH CONTRIBUTIONS TO BE USED FOR THIS PURPOSE ONLY; TO AMEND SECTION 8-13-1338, RELATING TO PERSONS WHO MAY NOT SOLICIT CONTRIBUTIONS, SO AS TO INCLUDE THE HEAD OF ANY STATE AGENCY WHO IS SELECTED BY THE GOVERNOR, THE GENERAL ASSEMBLY, OR AN APPOINTED OR ELECTED BOARD; TO AMEND SECTION 8-13-1340, AS AMENDED, RELATING TO RESTRICTIONS ON CONTRIBUTIONS BY ONE CANDIDATE TO ANOTHER OR THROUGH COMMITTEES CONTROLLED BY A CANDIDATE, SO AS TO DELETE AN EXCEPTION FOR A COMMITTEE CONTROLLED BY A CANDIDATE IF IT IS THE ONLY SUCH COMMITTEE, AND TO MAKE CONFORMING CHANGES; TO AMEND SECTIONS 8-13-1510 AND 8-13-1520, BOTH AS AMENDED, RELATING TO PENALTIES FOR ETHICAL AND OTHER VIOLATIONS, AND BY ADDING SECTION 8-13-1530 SO AS TO FURTHER PROVIDE FOR THE PENALTIES FOR VIOLATIONS AND FOR WHERE CERTAIN WILFUL VIOLATIONS MUST BE TRIED; AND TO REPEAL SECTIONS 8-13-710 AND 8-13-715 RELATING TO REPORTING OF PARTICULAR GIFTS AND AUTHORIZED REIMBURSEMENTS FOR SPEAKING ENGAGEMENTS.

Rep. STAVRINAKIS proposed the following Amendment No. 5A to H. 3945 (COUNCIL\NL\3945C030.NL.SD14), which was adopted:

Amend the bill, as and if amended, by striking Section 8‑13‑310 of the 1976 Code, as contained in SECTION 4, and inserting:

/ “Section 8‑13‑310. (A) The State Ethics Commission as constituted under law ~~in effect before July 1, 1992,~~ is reconstituted to continue in existence with the appointment and qualification of the ~~at‑large~~ members as prescribed in this section and with the changes in duties and powers as prescribed in this chapter. ~~On July 1, 1993, when the duties and powers given to the Secretary of State in Chapter 17 of Title 2 are transferred to the State Ethics Commission, the Code Commissioner is directed to change all references to "this chapter" in Article 3 of Chapter 13 of Title 8 to "this chapter and Chapter 17 of Title 2"~~.

(B) There is created the State Ethics Commission composed of nine members appointed ~~by the Governor~~, upon the advice and consent of the General Assembly, as follows: The Governor shall appoint the chairman and one additional member, and the State Treasurer, the Comptroller General, the Attorney General, the Adjutant General, the Secretary of State, the Commissioner of Agriculture, and the State Superintendent of Education, respectively, shall each appoint one member. All members must be appointed from the state at‑large. ~~One member shall represent each of the seven congressional districts, and two members must be appointed from the State at large.~~ No member of the General Assembly or other public official ~~must~~ shall be eligible to serve on the State Ethics Commission. ~~The Governor shall make the~~ All appointments must be based on merit regardless of race, color, creed, or gender and shall strive to assure that the membership of the commission is representative of all citizens of the State of South Carolina.

(C) The terms of the members are for five years and until their successors are appointed and qualify. The members of the State Ethics Commission currently serving ~~on this chapter’s effective date~~ may continue to serve until ~~the expiration of their terms~~ July 1, 2015, at which time their terms expire and their successors appointed in the manner prescribed by this section shall take office. ~~These~~ Members ~~may then~~ shall be appointed to serve one full five‑year term under the provisions of this ~~chapter~~ section, provided that the members appointed by the Secretary of State, Comptroller General, Commissioner of Agriculture, and the State Superintendent of Education shall serve initial terms of three years each Any member not appointed to serve an initial five year term may be reappointed for one additional five year term. ~~Members representing the first, third, and sixth congressional districts on this chapter’s effective date are eligible to be appointed for a full five‑year term in or after 1991. Members currently representing the second, fourth, and fifth congressional districts on this chapter’s effective date are eligible to be appointed for a full five‑year term in or after 1993. The initial appointments for the at‑large members of the commission created by this chapter must be for a one‑, two‑, or three‑year term, but these at‑large members are eligible subsequently for a full five‑year term. Under this section, the at‑large members of the commission are to be appointed to begin service on or after July 1, 1992.~~ Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term only. Members of the commission who have completed a full five‑year term are not eligible for reappointment.

(D) The commission shall elect ~~a chairman,~~ a vice‑chairman, and such other officers as it considers necessary. Five members of the commission shall constitute a quorum. The commission must adopt a policy concerning the attendance of its members at commission meetings. The commission meets at the call of the chairman or a majority of its members. Members of the commission, while serving on business of the commission, receive per diem, mileage, and subsistence as is provided by law for members of state boards, committees, and commissions.” /

Renumber sections to conform.

Amend title to conform.

Rep. STAVRINAKIS explained the amendment.

Rep. STAVRINAKIS spoke in favor of the amendment.

Rep. DELLENEY spoke against the amendment and moved to table the amendment.

Rep. SELLERS demanded the yeas and nays which were taken, resulting as follows:

Yeas 46; Nays 66

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Allison | Atwater | Ballentine |
| Bannister | Barfield | Bedingfield |
| Brannon | Burns | Chumley |
| Clemmons | Cole | Delleney |
| Felder | Finlay | Forrester |
| Hardee | Hardwick | Harrell |
| Henderson | Horne | Huggins |
| Kennedy | Limehouse | Loftis |
| Lowe | Lucas | V. S. Moss |
| Nanney | Newton | Owens |
| Pope | Quinn | Riley |
| Rivers | Ryhal | Simrill |
| G. R. Smith | J. R. Smith | Sottile |
| Southard | Stringer | Tallon |
| Thayer | Toole | Willis |
| Wood |  |  |

**Total--46**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Alexander | Anderson | Anthony |
| Bales | Bernstein | Bingham |
| Bowen | Bowers | Branham |
| G. A. Brown | R. L. Brown | Clyburn |
| K. R. Crawford | Crosby | Daning |
| Dillard | Douglas | Erickson |
| Funderburk | Gagnon | Gambrell |
| George | Gilliard | Goldfinch |
| Govan | Hart | Hayes |
| Hiott | Hixon | Hodges |
| Hosey | Howard | Jefferson |
| King | Knight | Long |
| Mack | McCoy | McEachern |
| M. S. McLeod | W. J. McLeod | Merrill |
| Mitchell | D. C. Moss | Munnerlyn |
| Murphy | Norman | Norrell |
| Parks | Patrick | Ridgeway |
| Robinson-Simpson | Rutherford | Sabb |
| Sandifer | Sellers | Skelton |
| G. M. Smith | J. E. Smith | Spires |
| Stavrinakis | Taylor | Weeks |
| Wells | White | Whitmire |

**Total--66**

So, the House refused to table the amendment.

The question then recurred to the adoption of the amendment.

The amendment was then adopted.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. RYHAL a leave of absence for the remainder of the day.

Rep. BEDINGFIELD proposed the following Amendment No. 10A to H. 3945 (COUNCIL\DKA\3945C015.DKA.SD14), which was tabled:

Amend the bill, as and if amended, by striking SECTIONS 1 through 5 and inserting:

/ SECTION 1. Section 8‑13‑310 of the 1976 Code, as last amended by Act 279 of 2012, is further amended to read:

“Section 8‑13‑310. ~~(A)~~ ~~The State Ethics Commission as constituted under law in effect before July 1, 1992, is reconstituted to continue in existence with the appointment and qualification of the at‑large members as prescribed in this section and with the changes in duties and powers as prescribed in this chapter. On July 1, 1993, when the duties and powers given to the Secretary of State in Chapter 17 of Title 2 are transferred to the State Ethics Commission, the Code Commissioner is directed to change all references to “this chapter” in Article 3 of Chapter 13 of Title 8 to “this chapter and Chapter 17 of Title 2”.~~

~~(B)~~ ~~There is created the State Ethics Commission composed of nine members appointed by the Governor, upon the advice and consent of the General Assembly. One member shall represent each of the seven congressional districts, and two members must be appointed from the State at large. No member of the General Assembly or other public official must be eligible to serve on the State Ethics Commission. The Governor shall make the appointments based on merit regardless of race, color, creed, or gender and shall strive to assure that the membership of the commission is representative of all citizens of the State of South Carolina.~~

~~(C)~~ ~~The terms of the members are for five years and until their successors are appointed and qualify. The members of the State Ethics Commission serving on this chapter’s effective date may continue to serve until the expiration of their terms. These members may then be appointed to serve one full five‑year term under the provisions of this chapter. Members representing the first, third, and sixth congressional districts on this chapter’s effective date are eligible to be appointed for a full five‑year term in or after 1991. Members currently representing the second, fourth, and fifth congressional districts on this chapter’s effective date are eligible to be appointed for a full five‑year term in or after 1993. The initial appointments for the at‑large members of the commission created by this chapter must be for a one‑, two‑, or three‑year term, but these at‑large members are eligible subsequently for a full five‑year term. Under this section, the at‑large members of the commission are to be appointed to begin service on or after July 1, 1992. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term only. Members of the commission who have completed a full five‑year term are not eligible for reappointment.~~

~~(D)~~ ~~The commission shall elect a chairman, a vice‑chairman, and such other officers as it considers necessary. Five members of the commission shall constitute a quorum. The commission must adopt a policy concerning the attendance of its members at commission meetings. The commission meets at the call of the chairman or a majority of its members. Members of the commission, while serving on business of the commission, receive per diem, mileage, and subsistence as is provided by law for members of state boards, committees, and commissions.~~

(A) There is created the State Ethics Commission composed of the members provided for in this subsection:

(1) four members must be appointed by the Governor, no more than two of whom are members of the appointing Governor’s political party. Prior to serving on the commission, each appointee shall sign an affidavit stating the length of time he has been a registered voter in this State, with which political party he is associated if any, that he is not nor has been an officer or member of the executive committee of the state or county party of the Governor, that he is not nor has ever served as a poll watcher or precinct officer of the Governor’s party, and identify which primary elections he cast a ballot within ten years immediately preceding the appointment;

(2) four members must be appointed by the Supreme Court, each of whom must not be actively serving judges of any court of this State, including summary court judges or retired judges sitting or permitted to sit as judges in the courts of this State.

(3) two members must be appointed by the President *Pro Tempore* of the Senate with one appointment in consultation with the Senate Majority Leader and with one appointment in consultation with the Senate Minority Leader of the largest minority party, and upon confirmation by the Senate Ethics Committee, unless otherwise provided for by the Rules of the Senate; and

(4) two members must be appointed by the Speaker of the House of Representatives with one appointment in consultation with the House Majority Leader and with one appointment in consultation with the House Minority Leader of the largest minority party, and upon confirmation by the House of Representatives Ethics Committee, unless otherwise provided for by the Rules of the House of Representatives.

(B) Upon the nomination of candidates by the General Assembly for the State Ethics Commission, the appropriate ethics committee shall conduct an investigation and hold a public hearing to determine the qualifications of each candidate for office. Any person who desires to testify at the hearing, including candidates, shall furnish a written statement of his proposed testimony to the chairman of the committee. These statements must be furnished no later than forty‑eight hours prior to the date and time set for the hearing. The committee shall determine the persons who shall testify at the hearing. All testimony, including documents furnished to the committee, must be submitted under oath and persons knowingly furnishing false information either orally or in writing are subject to the penalties provided by law for perjury and false swearing. During the course of the investigation, the committee may schedule an executive session at which each candidate, and other persons whom the committee wishes to interview, may be interviewed by the committee on matters pertinent to the candidate’s qualification for the office to be filled. A reasonable time thereafter the committee shall render its findings as to whether the candidate is qualified for the office and whether the candidate has been confirmed for the office for which he was nominated.

(C) As soon as possible after the completion of the hearing, a verbatim copy of the testimony, documents submitted at the hearing, and findings of fact must be made available to the members of both houses and to the public.

(D)(1) The qualifications the appointing authorities shall consider for the appointees include, but are not limited to:

(a) constitutional qualifications;

(b) ethical fitness;

(c) character;

(d) mental stability;

(e) experience;

(f) temperament; and

(g) if the appointee has contributed to the election campaign of the individual appointing him to the State Ethics Commission within the previous four years.

(2) The appointing authorities shall make their appointments based on merit. However, in making appointments to the commission, the appointing authorities shall ensure that race, color, gender, national origin, and other demographic factors are considered to ensure the geographic and political balance of the appointments, and shall strive to assure that the membership of the commission represents, to the greatest extent possible, all segments of the population of this State.

(3) The following are not eligible to serve on the State Ethics Commission:

(a) a member of the General Assembly;

(b) a former member of the General Assembly within eight years following the termination of his service in the General Assembly;

(c) a family member, as defined by Section 8‑13‑100(15), of a member of the General Assembly, the Governor, or any member of the Supreme Court;

(d) a person who made a campaign contribution, as defined by Section 8‑13‑1300(7), within the previous four years to the individual who appointed the person to serve on the State Ethics Commission;

(e) a person who registered as a lobbyist within four years of being appointed to serve on the State Ethics Commission;

(f) a person who is under the jurisdiction of the State Ethics Commission, House of Representatives Ethics Committee or Senate Ethics Committee; and

(g) an actively serving judge of any court of this State, including summary court judges, and any retired judge sitting or permitted to sit in any court of this State.

(E) The terms of the members are for five years. The terms of the members currently serving expire on June 30, 2015; however, a member who is serving at that time may be appointed for a new five‑year term. For the initial appointments made by the Governor, two must be for a term of two years, the third must be for a term of four years, and the fourth must be for a full five‑year term. For the initial appointments made by the Speaker of the House of Representatives and the President *Pro Tempore* of the Senate, one must be for a three‑year term and the other must be for a full five‑year term. The initial members who have served terms that are less than five years are eligible to be reappointed for one full five‑year term. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term only. Members of the commission who have completed a full five‑year term are not eligible for reappointment and shall not serve on the commission after their term expires.

(F) The commission shall elect a chairman, a vice chairman, and such other officers as it considers necessary. Five members of the commission constitutes a quorum. The commission shall adopt a policy concerning the attendance of its members at commission meetings. The commission meets at the call of the chairman or a majority of its members. Members of the commission, while serving on business of the commission, receive per diem, mileage, and subsistence as is provided by law for members of state boards, committees, and commissions.

(G)(1) A commission member appointed by the Governor may be removed from office by the Governor for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity, pursuant to Section 1‑3‑240.

(2) A commission member appointed by the President *Pro Tempore* of the Senate or the Speaker of the House of Representatives may be removed for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity upon a finding by two‑thirds of the membership of the appropriate body.”

SECTION 2. A. The first paragraph of Section 8‑13‑320(9) of the 1976 Code of Laws, as last amended by Act 245 of 2008, is further amended to read:

“(9) to initiate or receive complaints and make investigations, as provided in item (10), of statements filed or allegedly failed to be filed under the provisions of this chapter and Chapter 17, ~~of~~ Title 2 and, upon complaint by an individual, of an alleged violation of this chapter or Chapter 17, ~~of~~ Title 2 by a public official, public member, or public employee ~~except members or staff, including staff elected to serve as officers of or candidates for the General Assembly unless otherwise provided for under House or Senate rules~~. Any person charged with a violation of this chapter or Chapter 17, ~~of~~ Title 2 is entitled to the administrative hearing process contained in this section.”

B. Section 8‑13‑320(10)(g) of the 1976 Code, as last amended by Act 1 of 2011, is further amended to read:

“(g) All investigations, inquiries, hearings, and accompanying documents ~~must remain~~ are confidential ~~until a finding of probable cause or dismissal unless the respondent waives the right to confidentiality~~ and only may be released pursuant to this subsection. After a finding of probable cause by a majority of the commission, the following documents become public record: the complaint, the response by the respondent, and the notice of hearing, exhibits introduced at a hearing, the commission’s findings, and the final order. Exhibits introduced must be redacted prior to release to exclude personal information where the public disclosure would constitute an unreasonable invasion of personal privacy. The respondent may waive the right to confidentiality. The ~~willful~~ wilful release of confidential information is a misdemeanor, and any person releasing confidential information, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year.”

C. Section 8‑13‑320(10)(j) of the 1976 Code is amended to read:

“(j) If a hearing is to be held, the respondent must be allowed to examine and make copies of all evidence in the commission’s possession relating to the charges. The same discovery techniques which are available to the commission must be equally available to the respondent, including the right to request the commission to subpoena witnesses or materials and the right to conduct depositions as prescribed by subitem (f). A panel of three commissioners must conduct a hearing in accordance with Chapter 23, ~~of~~ Title 1 (Administrative Procedures Act), except as otherwise expressly provided. Panel action requires the participation of the three panel members. During a commission panel hearing conducted to determine whether a violation of the chapter has occurred, the respondent must be afforded appropriate due process protections, including the right to be represented by counsel, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross‑examine opposing witnesses. All evidence, including records the commission considers, must be offered fully and made a part of the record in the proceedings. The hearings must be ~~held in executive session unless the respondent requests an open hearing~~ open to the public.”

D. Section 8‑13‑320(11) of the 1976 Code amended to read:

“(11)(a) to issue, upon request from persons covered by this chapter, and publish formal advisory opinions on the requirements of this chapter, based on real or hypothetical sets of circumstances; provided, that an opinion rendered by the commission or an opinion issued by the commission prior to the effective date of this act, until amended or revoked, is binding on the commission in any subsequent charges concerning the person who requested the opinion and who acted in reliance on it in good faith unless material facts were omitted or misstated by the person in the request for the opinion. Formal advisory opinions must be in writing and are considered rendered when approved by ~~five or more~~ a majority of the commission members subscribing to the advisory opinion. Advisory opinions must be made available to the public unless the commission, by majority vote of the total membership of the commission, requires an opinion to remain confidential. However, the identities of the parties involved must be withheld upon request;

(b) The State Ethics Commission may issue a written informal advisory opinion, based on real or hypothetical sets of circumstances, to a person or governmental entity within the commission’s jurisdiction upon that person’s or governmental entity’s request. If raised in response to a complaint, the commission shall consider whether the person who requested the opinion or who is a member of the governmental entity who requested the informal opinion and who is affected by the circumstances described within the request for the informal opinion, relied in good faith upon on a written informal opinion prior to making a probable cause determination. A written informal advisory opinion is binding on the State Ethics Commission, until amended or revoked, in any subsequent charges concerning the person who either requested the informal opinion or a member of the governmental entity who requested the informal opinion and who is affected by the circumstances described within the request for the informal opinion unless material facts were omitted or misstated by the person in the request for the opinion.”

E. Section 8‑13‑320 of the 1976 Code, as last amended by Act 1 of 2011, is further amended by adding appropriately numbered items to read:

“( ) to initiate upon the vote of a majority of the membership, and to receive complaints against a member or staff of the appropriate house or legislative caucus committee, or a candidate for the appropriate house, alleging a violation of this chapter or Chapter 17, Title 2 and to conduct an investigation into the complaint pursuant to Section 8‑13‑540;

( ) to initiate upon the vote of a majority of the membership, and to receive complaints against judges and other judicial officials of the unified judicial system and their staffs whose conduct is now regulated and supervised by the Commission on Judicial Conduct as governed by the Supreme Court and to conduct an investigation into the complaint pursuant to Article 6, Chapter 13 of this title;

( ) to provide a copy of the complaint and accompanying materials to the Attorney General if the commission finds that there is probable cause to support the existence of criminal intent on the part of the respondent when the violation occurred.”

SECTION 3. Article 5, Chapter 13, Title 8 of the 1976 Code is amended by adding:

“Section 8‑13‑515. The General Assembly recognizes that the authority of each house to punish its members for disorderly behavior pursuant to Section 12, Article III of the South Carolina Constitution is not limited to violations of this chapter and Chapter 17, Title 2 and specifically includes any conduct the house determines to constitute disorderly behavior.”

SECTION 4. Section 8‑13‑530 of the 1976 Code, as last amended by Act 245 of 2008, is further amended to read:

“Section 8‑13‑530. Each ethics committee shall:

(1) ascertain whether a person has failed to comply fully and accurately with the disclosure requirements of this chapter and promptly notify the person to file the necessary notices and reports to satisfy the requirements of this chapter;

(2) receive complaints filed by individuals and, upon a majority vote of the total membership of the committee, file complaints when alleged violations are identified;

(3) upon the filing of a complaint, investigate possible violations of a rule or breach of a privilege governing a member or staff of the appropriate house, the alleged breach of a rule governing a member of, legislative caucus committees for, or a candidate, or staff for the appropriate house~~, misconduct of a member or staff of, legislative caucus committees for, or a candidate for the appropriate house, or a violation of this chapter or Chapter 17 of Title 2~~. Upon the filing of a complaint alleging a violation by a member or staff of the appropriate house or legislative caucus committee, or a candidate for the appropriate house, for a violation of this chapter or Chapter 17, Title 2, except a technical violation pursuant to Section 8‑13‑1170 or 8‑13‑1372, the ethics committee shall refer the complaint to the State Ethics Commission for an investigation pursuant to Section 8‑13‑540. The appropriate ethics committee shall investigate and make determinations for technical violations of Section 8‑13‑1170 or 8‑13‑1372;

(4) receive and hear a complaint which alleges a breach of a privilege governing a member or staff of the appropriate house, the alleged breach of a rule governing a member or staff of or candidate for the appropriate house~~, misconduct of a member or staff of or candidate for the appropriate house, or a violation of this chapter or Chapter 17 of Title 2.~~;

(5) no complaint may be accepted by the ethics committee or the State Ethics Commission concerning a member of or candidate for the appropriate house during the fifty‑day period before an election in which the member or candidate is a candidate. During this fifty‑day period, any person may petition the court of common pleas alleging the violations complained of and praying for appropriate relief by way of mandamus or injunction, or both. Within ten days, a rule to show cause hearing must be held, and the court must either dismiss the petition or direct that a mandamus order or an injunction, or both, be issued. A violation of this chapter by a candidate during this fifty‑day period must be considered to be an irreparable injury for which no adequate remedy at law exists. The institution of an action for injunctive relief does not relieve any party to the proceeding from any penalty prescribed for violations of this chapter. The court must award reasonable attorney’s fees and costs to the nonpetitioning party if a petition for mandamus or injunctive relief is dismissed based upon a finding that the:

(i) petition is being presented for an improper purpose such as harassment or to cause delay;

(ii) claims, defenses, and other legal contentions are not warranted by existing law or are based upon a frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and

(iii) allegations and other factual contentions do not have evidentiary support or, if specifically so identified, are not likely to have evidentiary support after reasonable opportunity for further investigation or discovery.

Action on a complaint filed against a member or candidate which was received more than fifty days before the election but which cannot be disposed of or dismissed by the ethics committee at least thirty days before the election must be postponed until after the election;

~~(5)~~(6) ~~obtain information and investigate~~ hear complaints as provided in Section 8‑13‑540 with respect to any complaint filed pursuant to this chapter or Chapter 17, ~~of~~ Title 2 and to that end may compel by subpoena issued by a majority vote of the committee the attendance and testimony of witnesses and the production of pertinent books and papers;

~~(6)~~(7) administer or recommend sanctions appropriate to a particular member, or staff of, or candidate for, the appropriate house pursuant to Section 8‑13‑540, including the recovery of the value of anything transferred or received in breach of the ethical standards, or dismiss the charges; and

~~(7)~~(8) act as an advisory body to the General Assembly and to individual members of or candidates for the appropriate house on questions pertaining to the disclosure and filing requirements of members of or candidates for the appropriate house and to issue, upon request from persons covered by this chapter and Chapter 17, Title 2, and publish advisory opinions on the requirements of these chapters.”

SECTION 5. A. Section 8‑13‑540 of the 1976 Code, as last amended by Act 184 of 1993, is further amended to read:

“Section 8‑13‑540. ~~Unless otherwise provided for by House or Senate rule, as appropriate, each ethics committee must conduct its investigation of a complaint filed pursuant to this chapter or Chapter 17 of Title 2 in accordance with this section.~~

~~(1) When a complaint is filed with or by the ethics committee, a copy must promptly be sent to the person alleged to have committed the violation. If the ethics committee determines the complaint does not allege facts sufficient to constitute a violation, the complaint must be dismissed and the complainant and respondent notified. If the ethics committee finds that the complaining party wilfully filed a groundless complaint, the finding must be reported to appropriate law enforcement authorities. The wilful filing of a groundless complaint is a misdemeanor and, upon conviction, a person must be fined not more than one thousand dollars or imprisoned not more than one year. In lieu of the criminal penalty provided by this subsection, a civil penalty of not more than one thousand dollars may be assessed against the complainant upon proof, by a preponderance of the evidence, that the filing of the complaint was wilful and without just cause or with malice. If the ethics committee determines the complaint alleges facts sufficient to constitute a violation, it shall promptly investigate the alleged violation and may compel by subpoena the attendance and testimony of witnesses and the production of pertinent books and papers.~~

~~If after such preliminary investigation, the ethics committee finds that probable cause exists to support an alleged violation, it shall, as appropriate:~~

~~(a) render an advisory opinion to the respondent and require the respondent’s compliance within a reasonable time; or~~

~~(b) convene a formal hearing on the matter within thirty days of the respondent’s failure to comply with the advisory opinion. All ethics committee investigations and records relating to the preliminary investigation are confidential. No complaint shall be accepted which is filed later than four years after the alleged violation occurred.~~

~~(2) If a hearing is to be held, the respondent must be allowed to examine and make copies of all evidence in the ethics committee’s possession relating to the charges. At the hearing the charged party must be afforded appropriate due process protections, including the right to be represented by counsel, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross‑examine opposing witnesses. All hearings must be conducted in executive session.~~

~~(3) After the hearing, the ethics committee shall determine its findings of fact. If the ethics committee, based on competent and substantial evidence, finds the respondent has violated this chapter or Chapter 17 of Title 2, it shall:~~

~~(a) administer a public or private reprimand;~~

~~(b) determine that a technical violation as provided for in Section 8‑13‑1170 has occurred;~~

~~(c) recommend expulsion of the member; and/or,~~

~~(d) in the case of an alleged criminal violation, refer the matter to the Attorney General for investigation. The ethics committee shall report its findings in writing to the Speaker of the House or President~~ *~~Pro Tempore~~* ~~of the Senate, as appropriate. The report must be accompanied by an order of punishment and supported and signed by a majority of the ethics committee members. If the ethics committee finds the respondent has not violated a code or statutory provision, it shall dismiss the charges.~~

~~(4) An individual has ten days from the date of the notification of the ethics committee’s action to appeal the action to the full legislative body.~~

~~(5) No ethics committee member may participate in any matter in which he is involved.~~

~~(6) The ethics committee shall establish procedures which afford respondents appropriate due process protections, including the right to be represented by counsel, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross‑examine opposing witnesses.~~

(A)(1) When a complaint is filed with or by the ethics committee, a copy must be sent to the person alleged to have committed the violation and to the State Ethics Commission, within thirty days from the date the complaint was filed, for an investigation as provided in this subsection. The State Ethics Commission may commence an investigation of an alleged violation of this chapter or Chapter 17, Title 2 of a member of the General Assembly, its staff, or candidates for the General Assembly upon the filing of a complaint by the commission or an individual, or by the referral of a complaint by the appropriate ethics committee. A copy of the complaint must be sent to the appropriate ethics committee. However, the appropriate ethics committee shall investigate and make a determination for a complaint that alleges only a technical violation of Section 8‑13‑1170 or 8‑13‑1372.

(2) If an alleged violation is found to be groundless by the State Ethics Commission, a report must be provided to the appropriate ethics committee. The appropriate ethics committee may concur or nonconcur with the commission’s report or, within fifteen days from the receipt of the State Ethics Commission’s report, request the commission to continue the investigation and consider additional matters not considered by the commission. If the commission finds that the complaining party wilfully filed a groundless complaint, the finding must be reported to the Attorney General. The wilful filing of a groundless complaint is a misdemeanor and, upon conviction, the person must be fined not more than one thousand dollars or imprisoned not more than one year. In lieu of the criminal penalty provided by this item, a civil penalty of not more than one thousand dollars may be assessed against the complainant upon proof by a preponderance of the evidence that the filing of the complaint was wilful and without just cause or with malice.

(3) Action may not be taken on a complaint filed more than four years after the violation is alleged to have occurred unless a person, by fraud or other device, prevents discovery of the violation.

(4)(a) To conduct its investigation:

(i) the State Ethics commission, upon receipt of information, may initiate a complaint upon an affirmative vote of the commission or shall accept notarized complaints referred from the ethics committees or from an individual, whether personally or on behalf of an organization or governmental body, that states the name of a person alleged to have committed a violation of this chapter or Chapter 17, Title 2 and the particulars of the violation. The commission shall forward a copy of the complaint, a general statement of the applicable law with respect to the complaint, and a statement explaining the due process rights of the respondent including, but not limited to, the right to counsel to the respondent within ten days of the filing of the complaint;

(ii) if the commission or its executive director determines that the complaint does not allege facts sufficient to constitute a violation, a report must be provided to the appropriate ethics committee. The appropriate ethics committee may concur or nonconcur with the commission’s report, or within fifteen days from the committee’s receipt of the finding, the committee may request the commission to continue the investigation and consider additional matters not considered by the commission. If the appropriate ethics committee concurs with the recommendation to dismiss the complaint, the committee must notify the complainant and respondent. All documents related to a complaint that result in a dismissal or a finding of no probable cause remains confidential, unless the respondent waives the right to confidentiality;

(iii) if the commission or its executive director determines that the complaint alleges facts sufficient to constitute a violation, an investigation may be conducted into the alleged violation. However, if the commission receives or initiates a complaint regarding a member of the General Assembly, legislative staff, or a candidate for the General Assembly, that only alleges a technical violation pursuant to Section 8‑13‑1170 or 8‑13‑1372, the complaint must be forwarded to the appropriate ethics committee for an investigation and disposition of the matter;

(iv) if the commission finds that there is probable cause to support the existence of criminal intent on the part of the respondent when the violation occurred, then the complaint and accompanying materials must also be provided to the Attorney General;

(v) if the commission determines that assistance is needed in conducting an investigation, the commission shall request the assistance of appropriate agencies;

(vi) the commission may order testimony to be taken in any investigation or hearing by deposition before a person who is designated by the commission and has the power to administer oaths and, in these instances, to compel testimony. The commission may administer oaths and affirmation for the testimony of witnesses and issue subpoenas by approval of the chairman, subject to judicial enforcement, and issue subpoenas for the procurement of witnesses and materials including books, papers, records, documents, or other tangible objects relevant to the agency’s investigation by approval of the chairman, subject to judicial enforcement. A person to whom a subpoena has been issued may move before a commission panel or the commission for an order quashing a subpoena issued pursuant to this section.

(b) All investigations and accompanying documents are confidential and only may be released pursuant to this item. Thirty days after a recommendation of probable cause by the commission after it completes its investigation, the following documents become public record: the complaint, the response by the respondent, the notice of hearing before the appropriate ethics committee, the investigative findings, exhibits introduced at any hearing, and the final order. However, if the appropriate committee requests a further investigation, the documents must not be released until thirty days after the conclusion of the investigation or upon a finding of probable cause by the committee, whichever occurs earlier.

(c) Exhibits introduced must be redacted prior to release to exclude personal information where the public disclosure would constitute an unreasonable invasion of personal privacy. The respondent may waive the right to confidentiality. The wilful release of confidential information is a misdemeanor, and a person releasing confidential information, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year.

(5) Upon completion of the commission’s investigation, the commission shall make a recommendation as to whether there is probable cause to believe a violation of this chapter or of Chapter 17, Title 2 has occurred. The commission shall forward a copy of its recommendation, along with a copy of all relevant reports, evidence, and testimony, to the appropriate ethics committee.

(6) If after reviewing the commission’s recommendation and relevant evidence, the ethics committee determines that probable cause does not exist, it shall send a written decision to the respondent and the complainant. If the ethics committee determines that probable cause exists to support an alleged violation, it shall, as appropriate:

(a) render an advisory opinion to the respondent and require the respondent’s compliance within a reasonable time; or

(b) convene a formal public hearing on the matter within thirty days of the respondent’s failure to comply with the advisory opinion. A complaint must not be accepted which is filed later than four years after the alleged violation occurred.

(B) If a formal public hearing is to be held~~,~~:

(1) the investigator or attorney handling the investigation from the ethics commission shall present the evidence related to the complaint to the appropriate ethics committee;

(2) it is the duty of the investigator or attorney to further investigate the subject of the complaint and any related matters under the jurisdiction and at the direction of the ethics committee, to request assistance from appropriate state agencies as needed, to request authorization from the committee for funds for the hiring of auditors, investigators, or other assistance as necessary, to prepare subpoenas, and to present evidence to the committee at any public hearing. The appropriate committee shall maintain the authority to approve subpoenas, authorize expenditures, dismiss complaints, schedule hearings, grant continuances, and any other authority as provided for by their rules;

(3) the respondent must be allowed to examine and make copies of all evidence in the ethics committee’s possession relating to the charges. At the hearing the charged party must be afforded appropriate due process protections, including the right to be represented by counsel, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross‑examine opposing witnesses. All hearings must be open to the public.

(C)(a) After the hearing, the ethics committee shall determine its findings of fact. If the ethics committee, based on competent and substantial evidence, finds the respondent has violated this chapter or Chapter 17, Title 2, it shall:

(1) administer a public reprimand;

(2) determine that a technical violation as provided for in Section 8‑13‑1170 or 8‑13‑1372 has occurred;

(3) require the respondent to pay a civil penalty not to exceed two thousand dollars for each nontechnical violation that is unrelated to the late filing of a required statement or report or failure to file a required statement or report;

(4) require the forfeiture of gifts, receipts, or profits, or the value of each, obtained in violation of Chapter 13, Title 8 or Chapter 17, Title 2;

(5) recommend expulsion of the member;

(6) provide a copy of the complaint and accompanying materials to the Attorney General if the committee finds that there is probable cause to support the existence of criminal intent on the part of the respondent when the violation occurred;

(7) require a combination of items (1) though (6) as necessary and appropriate.

(b) The ethics committee shall report its findings in writing to the Speaker of the House of Representatives or President *Pro Tempore* of the Senate, as appropriate. The report must be accompanied by an order of punishment and supported and signed by a majority of the ethics committee members. If the ethics committee finds the respondent has not violated a code or statutory provision, it shall dismiss the charges.

(D) An individual has ten days from the date of the notification of the ethics committee’s action to appeal the action to the full legislative body.

(E) No ethics committee member may participate in any matter in which he is involved.

(F) The ethics committee shall establish procedures which afford respondents appropriate due process protections, including the right to be represented by counsel, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross‑examine opposing witnesses.”

B. Article 5, Chapter 13, Title 8 of the 1976 Code is amended by adding:

“Section 8‑13‑545. (A) The ethics committee may issue a formal advisory opinion, based on real or hypothetical sets of circumstances. A formal advisory opinion issued by the committee is binding on the State Ethics Commission and the committee, until amended or revoked, in any subsequent charges concerning the person who requested the formal opinion and any other person who acted in reliance upon it in good faith unless material facts were omitted or misstated by the person in the request for the opinion. A formal advisory opinion must be in writing and is considered rendered when approved by a majority of the committee members subscribing to the advisory opinion. Advisory opinions must be made available to the public unless the committee, by majority vote of the total membership of the committee, requires an opinion to remain confidential. However, the identities of the parties involved must be withheld upon request.

(B) Staff of the appropriate ethics committee may issue a written informal advisory opinion, based on real or hypothetical set of circumstances, to a member upon that member’s request. If raised in response to a complaint, the State Ethics Commission and the committee shall consider whether the member relied, in good faith, upon a written informal opinion prior to making a probable cause determination or concurring in a determination, as applicable. A written informal advisory opinion issued by the committee staff is binding on the State Ethics Commission and the committee, until amended or revoked, in any subsequent charges concerning the person who requested the informal opinion unless material facts were omitted or misstated by the person in the request for the opinion.

(C) The State Ethics Commission and the appropriate ethics committee shall consider whether a person relied in good faith upon a formal advisory opinion or written informal opinion issued by the committee prior to the effective date of this act, unless amended or revoked prior to the action considered as a possible violation, prior to making a probable cause decision.”

SECTION 6. Chapter 13, Title 8 of the 1976 Code is amended by adding:

“Article 6

Judicial Complaints and Procedures

Section 8‑13‑610. When a complaint is filed with or by the Commission on Judicial Conduct, a copy must be sent to the person alleged to have committed the violation and to the State Ethics Commission, within thirty days from the date the complaint was filed, for an investigation as provided in this subsection. The State Ethics Commission may commence an investigation of an alleged violation of the Canons of Judicial Conduct, Chapter 17, Title 2 and Chapter 13, Title 8, as applicable, of a judge and other judicial officials of the unified judicial system upon the filing of a complaint by the commission or an individual, or by the referral of a complaint by the Commission on Judicial Conduct. A copy of the complaint must be sent to the Commission on Judicial Conduct.

Section 8‑13‑620. If an alleged violation is found to be groundless by the State Ethics Commission, a report must be provided to the Commission on Judicial Conduct. The Commission on Judicial Conduct may concur or nonconcur with the commission’s report or, within fifteen days from the receipt of the State Ethics Commission’s report, request the commission to continue the investigation and consider additional matters not considered by the commission. If the commission finds that the complaining party wilfully filed a groundless complaint, the finding must be reported to the Attorney General. The wilful filing of a groundless complaint is a misdemeanor and, upon conviction, the person must be fined not more than one thousand dollars or imprisoned not more than one year. In lieu of the criminal penalty provided by this section, a civil penalty of not more than one thousand dollars may be assessed against the complainant upon proof by a preponderance of the evidence that the filing of the complaint was wilful and without just cause or with malice.

Section 8‑13‑630. Action may not be taken on a complaint filed more than four years after the violation is alleged to have occurred unless a person, by fraud or other device, prevents discovery of the violation.

Section 8‑13‑640. (A) To conduct its investigation:

(1) The State Ethics Commission, upon receipt of information, may initiate a complaint upon an affirmative vote of the commission or shall accept notarized complaints referred from the Commission on Judicial Conduct or from an individual, whether personally or on behalf of an organization or governmental body, that states the name of a person alleged to have committed a violation of the Canons of Judicial Conduct, Chapter 17, Title 2 and Chapter 13, Title 8, as applicable, and the particulars of the violation. The commission shall forward a copy of the complaint, a general statement of the applicable law with respect to the complaint, and a statement explaining the due process rights of the respondent including, but not limited to, the right to counsel the respondent within ten days of the filing of the complaint.

(2) If the commission or its executive director determines that the complaint does not allege facts sufficient to constitute a violation, a report must be provided to the Commission on Judicial Conduct. The Commission on Judicial Conduct may concur or nonconcur with the commission’s report, or within fifteen days from the Commission on Judicial Conduct’s receipt of the finding, it may request the State Ethics Commission to continue the investigation and consider additional matters not considered by the commission. If the Commission on Judicial Conduct concurs with the recommendation to dismiss the complaint, it must notify the complainant and respondent. All documents related to a complaint that result in a dismissal or a finding of no probable cause must remain confidential, unless the respondent waives the right to confidentiality.

(3) If the commission or its executive director determines that the complaint alleges facts sufficient to constitute a violation, an investigation may be conducted into the alleged violation.

(4) If the commission finds that there is probable cause to support the existence of criminal intent on the part of the respondent when the violation occurred, then the complaint and accompanying materials also must be provided to the Attorney General.

(5) If the commission determines that assistance is needed in conducting an investigation, the commission shall request the assistance of appropriate agencies.

(6) The commission may order testimony to be taken in any investigation or hearing by deposition before a person who is designated by the commission and has the power to administer oaths and, in these instances, to compel testimony. The commission may administer oaths and affirmation for the testimony of witnesses and issue subpoenas by approval of the chairman, subject to judicial enforcement, and issue subpoenas for the procurement of witnesses and materials including books, papers, records, documents, or other tangible objects relevant to the agency’s investigation by approval of the chairman, subject to judicial enforcement. A person to whom a subpoena has been issued may move before a commission panel or the commission for an order quashing a subpoena issued under this section.

(7) All investigations and accompanying documents are confidential and only may be released pursuant to this item. Thirty days after a recommendation of probable cause by the commission after it completes its investigation, the following documents become public record: the complaint, the response by the respondent, the notice of hearing before the Commission on Judicial Conduct, the investigative findings, exhibits introduced at any hearing, and the final order. However, if the Commission on Judicial Conduct requests a further investigation, the documents must not be released until thirty days after the conclusion of the investigation or upon a finding of probable cause by the committee, whichever occurs earlier.

(B) Exhibits introduced must be redacted prior to release to exclude personal information where the public disclosure would constitute an unreasonable invasion of personal privacy. The respondent may waive the right to confidentiality. The wilful release of confidential information is a misdemeanor, and a person releasing confidential information, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year.

Section 8‑13‑650. Upon completion of the commission’s investigation, the commission shall make a recommendation as to whether there is probable cause to believe a violation of the Canons of Judicial Conduct, Chapter 17, Title 2 and Chapter 13, Title 8, as applicable, has occurred. The commission shall forward a copy of its recommendation, along with a copy of all relevant reports, evidence, and testimony, to the Commission on Judicial Conduct and the Supreme Court for disposition pursuant to its rules.” /

Renumber sections to conform.

Amend title to conform.

Rep. BEDINGFIELD explained the amendment.

Rep. DELLENEY moved to table the amendment.

The question then recurred to the adoption of the amendment.

Rep. NORMAN demanded the yeas and nays which were taken, resulting as follows:

Yeas 93; Nays 22

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Alexander | Anderson | Anthony |
| Bales | Ballentine | Bannister |
| Barfield | Bernstein | Bowen |
| Bowers | Branham | Brannon |
| G. A. Brown | R. L. Brown | Clemmons |
| Cole | H. A. Crawford | K. R. Crawford |
| Crosby | Daning | Delleney |
| Dillard | Douglas | Edge |
| Erickson | Felder | Finlay |
| Funderburk | Gagnon | Gambrell |
| George | Gilliard | Goldfinch |
| Govan | Hardee | Hardwick |
| Harrell | Hart | Hayes |
| Herbkersman | Hiott | Hixon |
| Hodges | Hosey | Howard |
| Jefferson | King | Knight |
| Limehouse | Loftis | Long |
| Lowe | Lucas | Mack |
| McCoy | McEachern | M. S. McLeod |
| W. J. McLeod | Merrill | Mitchell |
| V. S. Moss | Munnerlyn | Newton |
| Norrell | Owens | Parks |
| Patrick | Pope | Ridgeway |
| Riley | Rivers | Robinson-Simpson |
| Rutherford | Sabb | Sandifer |
| Sellers | Simrill | Skelton |
| J. E. Smith | J. R. Smith | Sottile |
| Southard | Spires | Stavrinakis |
| Tallon | Taylor | Thayer |
| Toole | Weeks | Wells |
| Whipper | White | Whitmire |

**Total--93**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Allison | Atwater | Bedingfield |
| Bingham | Burns | Chumley |
| Forrester | Hamilton | Henderson |
| Horne | Huggins | Kennedy |
| D. C. Moss | Murphy | Nanney |
| Norman | Quinn | G. M. Smith |
| G. R. Smith | Stringer | Willis |
| Wood |  |  |

**Total--22**

So, the amendment was tabled.

Rep. KING proposed the following Amendment No. 12A to H. 3945 (COUNCIL\NL\3945C037.NL.SD14), which was tabled:

Amend the bill, as and if amended, immediately after SECTION 22, by adding an appropriately numbered SECTION to read:

/ SECTION \_\_. Any state or local public entity, to include the Supreme Court acting for the courts of this State, county and city councils, the State election Commission, the State Ethics commission, the House and Senate Ethics Committees, and any other similar entity which considers itself affected by the provisions of this act, shall conduct educational seminars for individuals affiliated with the entity or under its jurisdiction in order to assist them in complying with the provisions of this act. /

Renumber sections to conform.

Amend title to conform.

Rep. NORRELL explained the amendment.

Rep. DELLENEY moved to table the amendment.

Rep. KING demanded the yeas and nays which were taken, resulting as follows:

Yeas 74; Nays 41

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Allison | Atwater | Ballentine |
| Bannister | Barfield | Bedingfield |
| Bingham | Bowen | Brannon |
| Burns | Chumley | Clemmons |
| Cole | H. A. Crawford | K. R. Crawford |
| Crosby | Daning | Delleney |
| Edge | Erickson | Felder |
| Finlay | Forrester | Gagnon |
| Gambrell | Goldfinch | Hamilton |
| Hardee | Hardwick | Harrell |
| Henderson | Herbkersman | Hiott |
| Hixon | Horne | Huggins |
| Kennedy | Limehouse | Loftis |
| Long | Lowe | Lucas |
| McCoy | Merrill | D. C. Moss |
| V. S. Moss | Nanney | Newton |
| Norman | Owens | Patrick |
| Pope | Quinn | Riley |
| Rivers | Rutherford | Sandifer |
| Simrill | Skelton | G. M. Smith |
| G. R. Smith | J. R. Smith | Sottile |
| Southard | Spires | Stringer |
| Tallon | Taylor | Thayer |
| Toole | Wells | Whitmire |
| Willis | Wood |  |

**Total--74**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Alexander | Anderson | Anthony |
| Bales | Bernstein | Bowers |
| Branham | G. A. Brown | R. L. Brown |
| Clyburn | Dillard | Douglas |
| Funderburk | George | Gilliard |
| Govan | Hart | Hayes |
| Hodges | Hosey | Howard |
| Jefferson | King | Knight |
| Mack | McEachern | M. S. McLeod |
| W. J. McLeod | Mitchell | Munnerlyn |
| Norrell | R. L. Ott | Parks |
| Ridgeway | Robinson-Simpson | Sabb |
| J. E. Smith | Stavrinakis | Weeks |
| Whipper | White |  |

**Total--41**

So, the amendment was tabled.

Rep. STRINGER proposed the following Amendment No. 13A to H. 3945 (COUNCIL\NL\3945C039.NL.SD14), which was adopted:

Amend the bill, as and if amended, Section 8-13-410(H)(2), immediately after subitem (f), by adding a new subitem appropriately lettered to read:

/ ( ) a person who is employed by or affiliated with a business with which an individual making appointments, selections, or nominations to the Commission on Ethics Enforcement and Disclosure is associated. /

Renumber sections to conform.

Amend title to conform.

Rep. STRINGER explained the amendment.

The amendment was then adopted.

RECORD FOR VOTING

When the vote on Rep. Bedingfield’s Amendment No. 10A to H. 3945 was called, I was across the Chamber discussing previous amendment details and possible solutions with colleagues. I mistakenly thought the called vote was for passage of Amendment No. 10A. My vote should have been “nay” to table the amendment. I support Amendment No. 10, which Rep. Bedingfield presented.

Rep. Nathan Ballentine

Rep. KING proposed the following Amendment No. 14A to H. 3945 (COUNCIL\GGS\3945C009.GGS.ZW14), which was tabled:

Amend the bill, as and if amended, Section 8-13-410(C), as contained in SECTION 2, page 3945-3, lines 3-5, by deleting subsection (C) and inserting:

/ (C) Four members must be appointed by the Governor, none of whom may be a public official, to serve for terms of four years each coterminous with that of the Governor. Of the four members appointed by the Governor, two must be appointed from a list containing no fewer than four recommended nominees provided by the state chairman of the majority political party represented in the General Assembly, and two must be appointed from a list containing no fewer than four recommended nominees provided by the state chairman of the largest minority political party represented in the General Assembly. /

Renumber sections to conform.

Amend title to conform.

Rep. KING explained the amendment.

Rep. DELLENEY moved to table the amendment.

Rep. KING demanded the yeas and nays which were taken, resulting as follows:

Yeas 78; Nays 34

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Allison | Anthony | Atwater |
| Bales | Ballentine | Bannister |
| Barfield | Bedingfield | Bingham |
| Bowen | Brannon | G. A. Brown |
| Burns | Chumley | Clemmons |
| Cole | H. A. Crawford | K. R. Crawford |
| Crosby | Daning | Delleney |
| Edge | Erickson | Finlay |
| Forrester | Gagnon | Gambrell |
| Goldfinch | Hamilton | Hardee |
| Hardwick | Harrell | Henderson |
| Hiott | Hixon | Horne |
| Huggins | Kennedy | Limehouse |
| Loftis | Long | Lowe |
| Lucas | McCoy | Merrill |
| D. C. Moss | V. S. Moss | Murphy |
| Nanney | Newton | Norman |
| Owens | Patrick | Pitts |
| Pope | Quinn | Riley |
| Rivers | Sandifer | Simrill |
| Skelton | G. M. Smith | G. R. Smith |
| J. R. Smith | Sottile | Southard |
| Spires | Stavrinakis | Stringer |
| Tallon | Taylor | Thayer |
| Toole | Wells | White |
| Whitmire | Willis | Wood |

**Total--78**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Alexander | Anderson | Bernstein |
| Branham | R. L. Brown | Clyburn |
| Dillard | Douglas | Felder |
| Funderburk | George | Gilliard |
| Hart | Hodges | Hosey |
| Howard | King | Knight |
| Mack | McEachern | M. S. McLeod |
| W. J. McLeod | Munnerlyn | Norrell |
| R. L. Ott | Parks | Ridgeway |
| Robinson-Simpson | Rutherford | Sabb |
| Sellers | J. E. Smith | Weeks |
| Whipper |  |  |

**Total--34**

So, the amendment was tabled.

The question then recurred to the passage of the Bill.

The yeas and nays were taken resulting as follows:

Yeas 114; Nays 0

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Alexander | Allison | Anderson |
| Anthony | Atwater | Bales |
| Ballentine | Bannister | Barfield |
| Bedingfield | Bernstein | Bingham |
| Bowen | Branham | Brannon |
| G. A. Brown | R. L. Brown | Burns |
| Chumley | Clemmons | Clyburn |
| Cole | H. A. Crawford | K. R. Crawford |
| Crosby | Daning | Delleney |
| Dillard | Douglas | Edge |
| Erickson | Felder | Finlay |
| Forrester | Funderburk | Gagnon |
| Gambrell | George | Gilliard |
| Goldfinch | Hamilton | Hardee |
| Hardwick | Harrell | Hart |
| Hayes | Henderson | Herbkersman |
| Hiott | Hixon | Hodges |
| Horne | Hosey | Howard |
| Huggins | Jefferson | Kennedy |
| King | Limehouse | Loftis |
| Long | Lowe | Lucas |
| Mack | McCoy | McEachern |
| M. S. McLeod | W. J. McLeod | Merrill |
| D. C. Moss | V. S. Moss | Munnerlyn |
| Murphy | Nanney | Newton |
| Norman | Norrell | R. L. Ott |
| Owens | Parks | Patrick |
| Pitts | Pope | Quinn |
| Ridgeway | Riley | Rivers |
| Robinson-Simpson | Rutherford | Sabb |
| Sandifer | Sellers | Simrill |
| Skelton | G. M. Smith | G. R. Smith |
| J. E. Smith | J. R. Smith | Sottile |
| Southard | Spires | Stavrinakis |
| Stringer | Tallon | Taylor |
| Thayer | Toole | Weeks |
| Wells | Whipper | White |
| Whitmire | Willis | Wood |

**Total--114**

Those who voted in the negative are:

**Total--0**

So, the Bill, as amended, was read the second time and ordered to third reading.

**H. 3945--RECONSIDERED**

Rep. NEWTON moved to reconsider the vote whereby the following Bill was given second reading:

H. 3945 -- Reps. G. M. Smith, Harrell, Lucas, Bannister, Toole, Stringer, Hamilton, Sottile, Barfield, Bingham, Spires, Hardwick, Owens, Hiott, Long, Erickson, Murphy, Horne, Willis, Gagnon, Simrill, Funderburk, Henderson and W. J. McLeod: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 4 TO CHAPTER 13, TITLE 8 SO AS TO ESTABLISH THE SOUTH CAROLINA COMMISSION ON ETHICS ENFORCEMENT AND DISCLOSURE, TO PROVIDE FOR ITS POWERS, DUTIES, PROCEDURES, AND JURISDICTION, AND TO PROVIDE PENALTIES FOR CERTAIN VIOLATIONS; TO REPEAL ARTICLE 3, CHAPTER 13, TITLE 8 RELATING TO THE STATE ETHICS COMMISSION; TO REPEAL ARTICLE 5, CHAPTER 13, TITLE 8 RELATING TO THE HOUSE OF REPRESENTATIVES AND SENATE ETHICS COMMITTEES; TO AMEND SECTION 8-13-100, AS AMENDED, RELATING TO DEFINITIONS IN REGARD TO ETHICS, GOVERNMENT ACCOUNTABILITY, AND CAMPAIGN REFORM, SO AS TO REVISE CERTAIN DEFINITIONS; TO AMEND SECTION 8-13-700, AS AMENDED, RELATING TO USE OF AN OFFICIAL POSITION OR OFFICE FOR FINANCIAL GAIN, SO AS TO PROVIDE THAT IF A MEMBER OF THE GENERAL ASSEMBLY DETERMINES THAT HE HAS A CONFLICT OF INTEREST, HE MUST COMPLY WITH CERTAIN REQUIREMENTS BEFORE ABSTAINING FROM ALL VOTES ON THE MATTER, AND TO PROVIDE FOR WHEN A PUBLIC OFFICIAL WHO IS REQUIRED TO RECUSE HIMSELF FROM A MATTER MUST DO SO; TO AMEND SECTION 8-13-740, AS AMENDED, RELATING TO REPRESENTATION OF ANOTHER PERSON BY A PUBLIC OFFICIAL BEFORE A GOVERNMENTAL ENTITY, SO AS TO FURTHER DELINEATE WHAT IS CONSIDERED A CONTESTED CASE WHEN REPRESENTATION BY A MEMBER OF THE GENERAL ASSEMBLY IS PERMITTED; TO AMEND SECTION 8-13-745, RELATING TO PAID REPRESENTATION OF CLIENTS AND CONTRACTING BY A MEMBER OF THE GENERAL ASSEMBLY OR AN ASSOCIATE IN PARTICULAR SITUATIONS, SO AS TO DELETE A PROHIBITION AGAINST CERTAIN CONTRACTS WITH AN ENTITY FUNDED WITH GENERAL FUNDS; TO AMEND SECTION 8-13-1120, AS AMENDED, RELATING TO CONTENTS OF STATEMENTS OF ECONOMIC INTEREST, SO AS TO FURTHER PROVIDE FOR THESE CONTENTS; TO AMEND SECTION 8-13-1300, AS AMENDED, RELATING TO DEFINITIONS IN REGARD TO CAMPAIGN PRACTICES, SO AS TO REVISE CERTAIN DEFINITIONS; TO AMEND SECTION 8-13-1318, RELATING TO ACCEPTANCE OF CONTRIBUTIONS TO RETIRE CAMPAIGN DEBTS, SO AS TO REQUIRE ANY SUCH CONTRIBUTIONS TO BE USED FOR THIS PURPOSE ONLY; TO AMEND SECTION 8-13-1338, RELATING TO PERSONS WHO MAY NOT SOLICIT CONTRIBUTIONS, SO AS TO INCLUDE THE HEAD OF ANY STATE AGENCY WHO IS SELECTED BY THE GOVERNOR, THE GENERAL ASSEMBLY, OR AN APPOINTED OR ELECTED BOARD; TO AMEND SECTION 8-13-1340, AS AMENDED, RELATING TO RESTRICTIONS ON CONTRIBUTIONS BY ONE CANDIDATE TO ANOTHER OR THROUGH COMMITTEES CONTROLLED BY A CANDIDATE, SO AS TO DELETE AN EXCEPTION FOR A COMMITTEE CONTROLLED BY A CANDIDATE IF IT IS THE ONLY SUCH COMMITTEE, AND TO MAKE CONFORMING CHANGES; TO AMEND SECTIONS 8-13-1510 AND 8-13-1520, BOTH AS AMENDED, RELATING TO PENALTIES FOR ETHICAL AND OTHER VIOLATIONS, AND BY ADDING SECTION 8-13-1530 SO AS TO FURTHER PROVIDE FOR THE PENALTIES FOR VIOLATIONS AND FOR WHERE CERTAIN WILFUL VIOLATIONS MUST BE TRIED; AND TO REPEAL SECTIONS 8-13-710 AND 8-13-715 RELATING TO REPORTING OF PARTICULAR GIFTS AND AUTHORIZED REIMBURSEMENTS FOR SPEAKING ENGAGEMENTS.

Rep. NEWTON spoke in favor of the motion to reconsider.

The motion to reconsider was agreed to.

**H. 3945--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

H. 3945 -- Reps. G. M. Smith, Harrell, Lucas, Bannister, Toole, Stringer, Hamilton, Sottile, Barfield, Bingham, Spires, Hardwick, Owens, Hiott, Long, Erickson, Murphy, Horne, Willis, Gagnon, Simrill, Funderburk, Henderson and W. J. McLeod: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 4 TO CHAPTER 13, TITLE 8 SO AS TO ESTABLISH THE SOUTH CAROLINA COMMISSION ON ETHICS ENFORCEMENT AND DISCLOSURE, TO PROVIDE FOR ITS POWERS, DUTIES, PROCEDURES, AND JURISDICTION, AND TO PROVIDE PENALTIES FOR CERTAIN VIOLATIONS; TO REPEAL ARTICLE 3, CHAPTER 13, TITLE 8 RELATING TO THE STATE ETHICS COMMISSION; TO REPEAL ARTICLE 5, CHAPTER 13, TITLE 8 RELATING TO THE HOUSE OF REPRESENTATIVES AND SENATE ETHICS COMMITTEES; TO AMEND SECTION 8-13-100, AS AMENDED, RELATING TO DEFINITIONS IN REGARD TO ETHICS, GOVERNMENT ACCOUNTABILITY, AND CAMPAIGN REFORM, SO AS TO REVISE CERTAIN DEFINITIONS; TO AMEND SECTION 8-13-700, AS AMENDED, RELATING TO USE OF AN OFFICIAL POSITION OR OFFICE FOR FINANCIAL GAIN, SO AS TO PROVIDE THAT IF A MEMBER OF THE GENERAL ASSEMBLY DETERMINES THAT HE HAS A CONFLICT OF INTEREST, HE MUST COMPLY WITH CERTAIN REQUIREMENTS BEFORE ABSTAINING FROM ALL VOTES ON THE MATTER, AND TO PROVIDE FOR WHEN A PUBLIC OFFICIAL WHO IS REQUIRED TO RECUSE HIMSELF FROM A MATTER MUST DO SO; TO AMEND SECTION 8-13-740, AS AMENDED, RELATING TO REPRESENTATION OF ANOTHER PERSON BY A PUBLIC OFFICIAL BEFORE A GOVERNMENTAL ENTITY, SO AS TO FURTHER DELINEATE WHAT IS CONSIDERED A CONTESTED CASE WHEN REPRESENTATION BY A MEMBER OF THE GENERAL ASSEMBLY IS PERMITTED; TO AMEND SECTION 8-13-745, RELATING TO PAID REPRESENTATION OF CLIENTS AND CONTRACTING BY A MEMBER OF THE GENERAL ASSEMBLY OR AN ASSOCIATE IN PARTICULAR SITUATIONS, SO AS TO DELETE A PROHIBITION AGAINST CERTAIN CONTRACTS WITH AN ENTITY FUNDED WITH GENERAL FUNDS; TO AMEND SECTION 8-13-1120, AS AMENDED, RELATING TO CONTENTS OF STATEMENTS OF ECONOMIC INTEREST, SO AS TO FURTHER PROVIDE FOR THESE CONTENTS; TO AMEND SECTION 8-13-1300, AS AMENDED, RELATING TO DEFINITIONS IN REGARD TO CAMPAIGN PRACTICES, SO AS TO REVISE CERTAIN DEFINITIONS; TO AMEND SECTION 8-13-1318, RELATING TO ACCEPTANCE OF CONTRIBUTIONS TO RETIRE CAMPAIGN DEBTS, SO AS TO REQUIRE ANY SUCH CONTRIBUTIONS TO BE USED FOR THIS PURPOSE ONLY; TO AMEND SECTION 8-13-1338, RELATING TO PERSONS WHO MAY NOT SOLICIT CONTRIBUTIONS, SO AS TO INCLUDE THE HEAD OF ANY STATE AGENCY WHO IS SELECTED BY THE GOVERNOR, THE GENERAL ASSEMBLY, OR AN APPOINTED OR ELECTED BOARD; TO AMEND SECTION 8-13-1340, AS AMENDED, RELATING TO RESTRICTIONS ON CONTRIBUTIONS BY ONE CANDIDATE TO ANOTHER OR THROUGH COMMITTEES CONTROLLED BY A CANDIDATE, SO AS TO DELETE AN EXCEPTION FOR A COMMITTEE CONTROLLED BY A CANDIDATE IF IT IS THE ONLY SUCH COMMITTEE, AND TO MAKE CONFORMING CHANGES; TO AMEND SECTIONS 8-13-1510 AND 8-13-1520, BOTH AS AMENDED, RELATING TO PENALTIES FOR ETHICAL AND OTHER VIOLATIONS, AND BY ADDING SECTION 8-13-1530 SO AS TO FURTHER PROVIDE FOR THE PENALTIES FOR VIOLATIONS AND FOR WHERE CERTAIN WILFUL VIOLATIONS MUST BE TRIED; AND TO REPEAL SECTIONS 8-13-710 AND 8-13-715 RELATING TO REPORTING OF PARTICULAR GIFTS AND AUTHORIZED REIMBURSEMENTS FOR SPEAKING ENGAGEMENTS.

Reps. FINLAY and NEWTON proposed the following Amendment No. 16A to H. 3945 (COUNCIL\GGS\3945C010.GGS.ZW14), which was adopted:

Amend the bill, as and if amended, by striking Section 8‑13‑310 of the 1976 Code, as contained in SECTION 4, and inserting:

/ “Section 8‑13‑310. (A) The State Ethics Commission as constituted under law ~~in effect before July 1, 1992,~~ is reconstituted to continue in existence with the appointment and qualification of the ~~at‑large~~ members as prescribed in this section and with the changes in duties and powers as prescribed in this chapter. ~~On July 1, 1993, when the duties and powers given to the Secretary of State in Chapter 17 of Title 2 are transferred to the State Ethics Commission, the Code Commissioner is directed to change all references to "this chapter" in Article 3 of Chapter 13 of Title 8 to "this chapter and Chapter 17 of Title 2"~~.

(B) There is created the State Ethics Commission composed of nine members appointed ~~by the Governor~~, upon the advice and consent of the General Assembly, as follows: The Governor shall appoint the chairman and one additional member, and the State Treasurer, the Comptroller General, the Attorney General, the Adjutant General, the Secretary of State, the Commissioner of Agriculture, and the State Superintendent of Education, respectively, each shall appoint one member. All members must be appointed from the state at‑large. However, a person who made a campaign contribution as defined by Section 8-13-1300(7) to one of the appointing authorities within the previous four years may not be appointed to the commission. ~~One member shall represent each of the seven congressional districts, and two members must be appointed from the State at large.~~ No member of the General Assembly or other public official ~~must~~ shall be eligible to serve on the State Ethics Commission. ~~The Governor shall make the~~ All appointments must be based on merit regardless of race, color, creed, or gender and shall strive to assure that the membership of the commission is representative of all citizens of the State of South Carolina.

(C) The terms of the members are for five years and until their successors are appointed and qualify. The members of the State Ethics Commission currently serving ~~on this chapter’s effective date~~ may continue to serve until ~~the expiration of their terms~~ July 1, 2015, at which time their terms expire and their successors appointed in the manner prescribed by this section shall take office. ~~These~~ Members ~~may then~~ shall be appointed to serve one full five‑year term under the provisions of this ~~chapter~~ section, provided that the members appointed by the Secretary of State, Comptroller General, Commissioner of Agriculture, and the State Superintendent of Education shall serve initial terms of three years each Any member not appointed to serve an initial five year term may be reappointed for one additional five year term. ~~Members representing the first, third, and sixth congressional districts on this chapter’s effective date are eligible to be appointed for a full five‑year term in or after 1991. Members currently representing the second, fourth, and fifth congressional districts on this chapter’s effective date are eligible to be appointed for a full five‑year term in or after 1993. The initial appointments for the at‑large members of the commission created by this chapter must be for a one‑, two‑, or three‑year term, but these at‑large members are eligible subsequently for a full five‑year term. Under this section, the at‑large members of the commission are to be appointed to begin service on or after July 1, 1992.~~ Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term only. Members of the commission who have completed a full five‑year term are not eligible for reappointment.

(D) The commission shall elect ~~a chairman,~~ a vice‑chairman, and such other officers as it considers necessary. Five members of the commission shall constitute a quorum. The commission must adopt a policy concerning the attendance of its members at commission meetings. The commission meets at the call of the chairman or a majority of its members. Members of the commission, while serving on business of the commission, receive per diem, mileage, and subsistence as is provided by law for members of state boards, committees, and commissions.” /

Renumber sections to conform.

Amend title to conform.

The amendment was then adopted.

The question then recurred to the passage of the Bill.

The yeas and nays were taken resulting as follows:

Yeas 110; Nays 0

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Alexander | Allison | Anderson |
| Anthony | Atwater | Bales |
| Ballentine | Bannister | Barfield |
| Bedingfield | Bernstein | Bingham |
| Bowen | Branham | Brannon |
| G. A. Brown | R. L. Brown | Burns |
| Chumley | Clemmons | Clyburn |
| Cole | H. A. Crawford | K. R. Crawford |
| Crosby | Daning | Delleney |
| Dillard | Douglas | Edge |
| Erickson | Felder | Finlay |
| Forrester | Funderburk | Gagnon |
| Gambrell | George | Gilliard |
| Goldfinch | Hamilton | Hardee |
| Hardwick | Harrell | Hart |
| Henderson | Herbkersman | Hiott |
| Hixon | Hodges | Horne |
| Hosey | Huggins | Jefferson |
| Kennedy | King | Limehouse |
| Loftis | Long | Lowe |
| Lucas | Mack | McCoy |
| McEachern | M. S. McLeod | W. J. McLeod |
| Merrill | D. C. Moss | V. S. Moss |
| Munnerlyn | Murphy | Nanney |
| Newton | Norman | Norrell |
| Owens | Parks | Patrick |
| Pitts | Pope | Quinn |
| Ridgeway | Riley | Rivers |
| Robinson-Simpson | Rutherford | Sabb |
| Sandifer | Simrill | Skelton |
| G. M. Smith | G. R. Smith | J. E. Smith |
| J. R. Smith | Sottile | Southard |
| Spires | Stavrinakis | Stringer |
| Tallon | Taylor | Thayer |
| Toole | Weeks | Wells |
| Whipper | White | Whitmire |
| Willis | Wood |  |

**Total--110**

Those who voted in the negative are:

**Total--0**

So, the Bill, as amended, was read the second time and ordered to third reading.

RECORD FOR VOTING

During the vote on the Ethics Bill, H. 3945, I inadvertently failed to record my “aye” vote. Please note that had I voted, it would have been in the affirmative.

Rep. Russell Ott

RECORD FOR VOTING

Due to a previous commitment with my constituents, I am unable to be present for the vote on H. 3945. I am in support of this Bill and would have voted accordingly, had I been present.

Rep. Mike Ryhal

RECORD FOR VOTING

I was away from the Chambers attending a meeting off-site and was not present when the vote on the Ethics Bill, H. 3945, was taken. I would have voted in favor of the Ethics Bill, had I been present when the vote was taken.

Rep. Gilda Cobb-Hunter

**RECURRENCE TO THE MORNING HOUR**

Rep. HIXON moved that the House recur to the morning hour, which was agreed to.

**MESSAGE FROM THE SENATE**

The following was received:

Columbia, S.C., May 21, 2014

Mr. Speaker and Members of the House:

The Senate respectfully informs your Honorable Body that it has appointed Senators Massey, Coleman and Young of the Committee of Conference on the part of the Senate on H. 3124:

H. 3124 -- Reps. Bingham, Taylor, Long and M. S. McLeod: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 63-7-315 SO AS TO PROHIBIT AN EMPLOYER FROM DISMISSING, DEMOTING, SUSPENDING, OR DISCIPLINING AN EMPLOYEE WHO REPORTS CHILD ABUSE OR NEGLECT, WHETHER REQUIRED OR PERMITTED TO REPORT; AND TO CREATE A CAUSE OF ACTION FOR REINSTATEMENT AND BACK PAY WHICH AN EMPLOYEE MAY BRING AGAINST AN EMPLOYER WHO VIOLATES THIS PROHIBITION.

Very respectfully,

President

Received as information.

**MESSAGE FROM THE SENATE**

The following was received:

Columbia, S.C., May 21, 2014

Mr. Speaker and Members of the House:

The Senate respectfully informs your Honorable Body that it has appointed Senators McGill, Cromer and Shealy of the Committee of Conference on the part of the Senate on S. 876:

S. 876 -- Senators Cromer and Campsen: A BILL TO AMEND SECTION 50-11-355 OF THE 1976 CODE, RELATING TO UNLAWFUL DEER HUNTING NEAR A RESIDENCE, TO PROVIDE THAT IT IS UNLAWFUL TO HUNT DEER WITH FIREARMS NEAR A RESIDENCE WITHOUT THE PERMISSION OF THE OWNER AND OCCUPANT.

Very respectfully,

President

Received as information.

**HOUSE RESOLUTION**

The following was introduced:

H. 5285 -- Reps. Finlay, Alexander, Allison, Anderson, Anthony, Atwater, Bales, Ballentine, Bannister, Barfield, Bedingfield, Bernstein, Bingham, Bowen, Bowers, Branham, Brannon, G. A. Brown, R. L. Brown, Burns, Chumley, Clemmons, Clyburn, Cobb-Hunter, Cole, H. A. Crawford, K. R. Crawford, Crosby, Daning, Delleney, Dillard, Douglas, Edge, Erickson, Felder, Forrester, Funderburk, Gagnon, Gambrell, George, Gilliard, Goldfinch, Govan, Hamilton, Hardee, Hardwick, Harrell, Hart, Hayes, Henderson, Herbkersman, Hiott, Hixon, Hodges, Horne, Hosey, Howard, Huggins, Jefferson, Kennedy, King, Knight, Limehouse, Loftis, Long, Lowe, Lucas, Mack, McCoy, McEachern, M. S. McLeod, W. J. McLeod, Merrill, Mitchell, D. C. Moss, V. S. Moss, Munnerlyn, Murphy, Nanney, Neal, Newton, Norman, Norrell, R. L. Ott, Owens, Parks, Patrick, Pitts, Pope, Putnam, Quinn, Ridgeway, Riley, Rivers, Robinson-Simpson, Rutherford, Ryhal, Sabb, Sandifer, Sellers, Simrill, Skelton, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Southard, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Toole, Vick, Weeks, Wells, Whipper, White, Whitmire, Williams, Willis and Wood: A HOUSE RESOLUTION TO RECOGNIZE AND COMMEND GROWFOOD CAROLINA FOR ITS OUTSTANDING WORK IN SUPPORTING AND PROMOTING SOUTH CAROLINA'S LOCAL FOOD ECONOMY AND TO WISH THE ORGANIZATION WELL IN ALL ITS FUTURE ENDEAVORS.

The Resolution was adopted.

**CONCURRENT RESOLUTION**

The following was introduced:

H. 5284 -- Reps. Barfield, Hardwick, H. A. Crawford, Clemmons, George, Stringer, Anderson, Goldfinch, Hayes and Ryhal: A CONCURRENT RESOLUTION TO RECOGNIZE AND HONOR ALAN CONNIE, DIRECTOR OF THE COASTAL CAROLINA UNIVERSITY WOMEN'S CROSS COUNTRY AND TRACK AND FIELD PROGRAMS, UPON THE OCCASION OF HIS RETIREMENT AFTER TWENTY-EIGHT YEARS OF OUTSTANDING COACHING, AND TO WISH HIM CONTINUED SUCCESS AND HAPPINESS IN HIS FUTURE ENDEAVORS.

The Concurrent Resolution was agreed to and ordered sent to the Senate.

**S. 813--AMENDED AND DEBATE ADJOURNED**

The following Bill was taken up:

S. 813 -- Senators Hayes, Peeler, O'Dell, Alexander, McElveen, McGill, Pinckney, Johnson, Williams and Verdin: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 16-11-625 SO AS TO PROVIDE A PERSON WHO, WITHOUT LEGAL CAUSE OR GOOD EXCUSE, ENTERS A PUBLIC LIBRARY AFTER HAVING BEEN WARNED BY AN EMPLOYEE, AGENT, OR REPRESENTATIVE OF THE LIBRARY NOT TO DO SO OR WITHOUT HAVING BEEN WARNED FAILS AND REFUSES, WITHOUT GOOD CAUSE OR GOOD EXCUSE, TO LEAVE IMMEDIATELY UPON BEING ORDERED OR REQUESTED TO DO SO IS GUILTY OF A MISDEMEANOR TRIABLE IN A MUNICIPAL OR MAGISTRATES COURT, AND TO PROVIDE THE PROVISIONS OF THIS SECTION MUST BE CONSTRUED AS IN ADDITION TO, AND NOT AS SUPERSEDING, ANOTHER STATUTE RELATING TO TRESPASS OR UNLAWFUL ENTRY ON LANDS OF ANOTHER.

Rep. RUTHERFORD proposed the following Amendment No. 1 to S. 813 (LEGWORK\HOUSE\813C001.GGS.ZW14KRL), which was adopted:

Amend the bill, as and if amended, Section 16-11-625(A)(2)(c), as contained in SECTION 1, page 2, by deleting subitem (c) and inserting:

/ (2)(c) the procedure by which the person may appeal the warning to the library board of trustees, which must provide a hearing within four business days of the warning’s issuance. /

Renumber sections to conform.

Amend title to conform.

Rep. WEEKS explained the amendment.

The amendment was then adopted.

Rep. WEEKS explained the Bill.

Rep. WEEKS moved to adjourn debate on the Bill until Thursday, May 22, which was agreed to.

**S. 1007--ORDERED TO THIRD READING**

The following Bill was taken up:

S. 1007 -- Senators Campbell and O'Dell: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 29-3-625 SO AS TO PROVIDE A PROCESS FOR EXPEDITING MORTGAGE FORECLOSURES AND TO DEFINE NECESSARY TERMINOLOGY.

Rep. HORNE explained the Bill.

The yeas and nays were taken resulting as follows:

Yeas 102; Nays 2

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Alexander | Anderson | Anthony |
| Atwater | Bales | Ballentine |
| Bannister | Barfield | Bedingfield |
| Bernstein | Bingham | Bowen |
| Branham | Brannon | G. A. Brown |
| R. L. Brown | Burns | Chumley |
| Clemmons | Cobb-Hunter | Cole |
| H. A. Crawford | K. R. Crawford | Crosby |
| Daning | Delleney | Dillard |
| Douglas | Edge | Erickson |
| Felder | Finlay | Forrester |
| Funderburk | Gagnon | Gambrell |
| George | Gilliard | Goldfinch |
| Govan | Hamilton | Hardee |
| Hardwick | Harrell | Hayes |
| Henderson | Hiott | Hixon |
| Hodges | Horne | Howard |
| Huggins | Kennedy | Knight |
| Limehouse | Loftis | Long |
| Lowe | Lucas | Mack |
| McCoy | McEachern | M. S. McLeod |
| W. J. McLeod | D. C. Moss | V. S. Moss |
| Munnerlyn | Murphy | Newton |
| Norman | Norrell | R. L. Ott |
| Owens | Parks | Pitts |
| Pope | Quinn | Ridgeway |
| Riley | Rivers | Sabb |
| Sandifer | Skelton | G. M. Smith |
| G. R. Smith | J. E. Smith | J. R. Smith |
| Sottile | Southard | Spires |
| Stavrinakis | Stringer | Tallon |
| Taylor | Thayer | Toole |
| Vick | Wells | White |
| Whitmire | Willis | Wood |

**Total--102**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Hosey | Merrill |  |

**Total--2**

So, the Bill was read the second time and ordered to third reading.

RECORD FOR VOTING

I was temporarily out of the Chamber, working with the Senate on another piece of legislation and missed the vote on S. 1007. If I had been present, I would have voted in favor of the Bill.

Rep. Rita Allison

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. NORRELL a leave of absence for the remainder of the day due to a prior commitment.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. MURPHY a leave of absence for the remainder of the day.

**S. 495--DEBATE ADJOURNED**

The following Bill was taken up:

S. 495 -- Senators Lourie and Rankin: A BILL TO AMEND SECTION 23-3-115, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO FEES FOR CRIMINAL RECORD SEARCHES, SO AS TO CLARIFY THE DEFINITION OF CHARITABLE ORGANIZATIONS WHICH PAY A REDUCED FEE TO INCLUDE LOCAL PARK AND RECREATION VOLUNTEERS THROUGH A COMMISSION, MUNICIPALITY, COUNTY, OR THE SOUTH CAROLINA DEPARTMENT OF PARKS, RECREATION AND TOURISM.

Rep. BANNISTER moved to adjourn debate on the Bill until Thursday, May 22, which was agreed to.

**S. 176--DEBATE ADJOURNED**

The following Bill was taken up:

S. 176 -- Senator Young: A BILL TO AMEND SECTION 22-3-1000 OF THE 1976 CODE, RELATING TO THE TIME FOR A MOTION FOR NEW TRIAL AND APPEAL IN MAGISTRATES COURT, TO INCREASE THE TIME PERIOD IN WHICH A MOTION FOR A NEW TRIAL MAY BE MADE FROM FIVE TO TEN DAYS.

Rep. BANNISTER moved to adjourn debate on the Bill until Thursday, May 22, which was agreed to.

**S. 1056--RECOMMITTED**

The following Bill was taken up:

S. 1056 -- Senators Turner, Campbell and Reese: A BILL TO AMEND SECTION 40-25-60 OF THE 1976 CODE, RELATING TO THE LICENSE REQUIRED TO ENGAGE IN THE PRACTICE OF SPECIALIZING IN HEARING AIDS, TO PROVIDE THAT NO PERSON MAY ENGAGE IN THE PRACTICE OF SPECIALIZING IN HEARING AIDS OR DISPLAY A SIGN OR IN ANOTHER WAY ADVERTISE OR REPRESENT HIMSELF AS A PERSON WHO ENGAGES IN THE PRACTICE OF SPECIALIZING IN HEARING AIDS OR OFFER FOR THE SALE OF HEARING AIDS THROUGH THE MAIL, INTERNET, OR OTHER MEANS, UNLESS HE HOLDS AN UNSUSPENDED, UNREVOKED LICENSE ISSUED BY THE DEPARTMENT AND PROVIDES FOR THE DIRECT FITTING, SALE, AND DELIVERY OF THE PRODUCTS, AND TO PROVIDE THAT NOTHING IN THIS CHAPTER PROHIBITS A PERSON FROM ENGAGING IN THE BUSINESS OF SELLING OR OFFERING FOR SALE HEARING AIDS THROUGH THE MAIL, INTERNET, OR OTHER MEANS TO DISTRIBUTORS, DEALERS, OR SPECIALISTS LICENSED IN THIS STATE.

Rep. SPIRES explained the Bill.

Rep. THAYER moved to recommit the Bill to the Committee on Medical, Military, Public and Municipal Affairs, which was agreed to.

**S. 1084--REQUESTS FOR DEBATE**

The following Bill was taken up:

S. 1084 -- Senators Nicholson, Scott, Williams, Hutto, Cromer, Campbell, O'Dell, Reese, Lourie, Coleman, Kimpson and Sheheen: A BILL TO AMEND SECTIONS 44-29-150 AND 44-29-160, CODE OF LAWS OF SOUTH CAROLINA, 1976, BOTH RELATING TO PERSONS APPLYING FOR EMPLOYMENT IN SCHOOLS, KINDERGARTENS, NURSERY, OR DAYCARE CENTERS TO BE TESTED FOR AND FREE FROM ACTIVE TUBERCULOSIS AND PROVIDING THAT RETESTING OF CONSECUTIVELY RETURNING EMPLOYEES IS NOT REQUIRED, SO AS TO REQUIRE INDIVIDUALS RETURNING TO EMPLOYMENT IN CONSECUTIVE YEARS IN THESE SETTINGS TO BE TESTED AND FREE FROM TUBERCULOSIS IN AN ACTIVE STAGE.

Rep. PARKS explained the Bill.

Reps. THAYER, K. R. CRAWFORD, DANING, CROSBY, LOWE, ERICKSON, LONG, GAGNON, WOOD, WHIPPER, CHUMLEY, BRANNON, HIOTT, TAYLOR, WELLS, NORMAN, BARFIELD, HARDWICK, G. R. SMITH and KNIGHT requested debate on the Bill.

**S. 1189--AMENDED AND INTERRUPTED DEBATE**

The following Bill was taken up:

S. 1189 -- Senators Gregory, Reese, McElveen, Hembree, Hutto, Lourie, Campsen, Cleary, Allen, Shealy, O'Dell, Campbell, Cromer, Hayes, Verdin, Sheheen, L. Martin, Kimpson, Scott and Alexander: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ADD CHAPTER 39 TO TITLE 58, SO AS TO PROVIDE FOR A SOUTH CAROLINA DISTRIBUTED ENERGY RESOURCE PROGRAM, TO DEFINE CERTAIN TERMS, TO SET GOALS FOR THE PROGRAM, AND TO PROVIDE FOR THE PROCESS AND IMPLEMENTATION OF THE PROGRAM, INCLUDING THE APPLICATION AND APPROVAL PROCESS FOR THE PROGRAM AND COST RECOVERY; TO ADD CHAPTER 40 TO TITLE 58 SO AS TO PROVIDE FOR A NET ENERGY METERING PROGRAM, TO DEFINE CERTAIN TERMS, TO PROVIDE FOR THE REQUIREMENTS FOR THE NET ENERGY METERING PROGRAM, INCLUDING COSTS AND THE RESPONSIBILITIES OF THE PUBLIC SERVICE COMMISSION AND THE OFFICE OF REGULATORY STAFF PURSUANT TO THIS PROGRAM; TO ADD ARTICLE 23 TO CHAPTER 27, TITLE 58, SO AS TO PROVIDE FOR THE LEASE OF RENEWABLE ELECTRIC GENERATION FACILITIES PROGRAM, TO DEFINE CERTAIN TERMS, TO PROVIDE FOR THE REQUIREMENTS OF THE LEASE PROGRAM, INCLUDING AN APPLICATION PROCESS AND REGISTRATION WITH THE OFFICE OF REGULATORY STAFF AND PENALTIES FOR VIOLATIONS OF THE LEASE PROGRAM; TO REQUIRE THE OFFICE OF REGULATORY STAFF TO REPORT TO THE PUBLIC SERVICE COMMISSION ON COSTS AND CHARGES ATTRIBUTABLE TO DISTRIBUTED ENERGY RESOURCES WITHIN CURRENT COSTS OF SERVICE RATE MAKING METHODOLOGIES; TO REQUIRE THE PUBLIC SERVICE COMMISSION TO PROMULGATE STANDARDS FOR RENEWABLE ENERGY FACILITY INTERCONNECTION; TO REQUIRE EACH DISTRIBUTION ELECTRIC COOPERATIVE BOARD TO CONSIDER NET ENERGY METERING POLICIES AND MAKE A REPORT TO THE OFFICE OF REGULATORY STAFF; TO REQUIRE EACH ELECTRIC COOPERATIVE TO INVESTIGATE THE RELATIONSHIP BETWEEN COSTS AND CHARGES ATTRIBUTABLE TO DISTRIBUTED ENERGY RESOURCES WITHIN CURRENT COST OF SERVICE RATEMAKING METHODOLOGIES AND REPORT ITS FINDINGS WITH THE OFFICE OF REGULATORY STAFF.

The Committee on Labor, Commerce and Industry proposed the following Amendment No. 1 to S. 1189 (COUNCIL\AGM\1189C001. AGM.AB14), which was adopted:

Amend the bill, as and if amended, by deleting all after the enacting words and inserting:

/ SECTION 1. Section 58‑27‑865(A) of the 1976 Code is amended to read:

“Section 58‑27‑865. (A)(1) The term ‘fuel cost’ as used in this section includes the cost of fuel, cost of fuel transportation, and fuel costs related to purchased power. ‘Fuel cost’ also shall include the following variable environmental costs: (a) the cost of ammonia, lime, limestone, urea, dibasic acid and catalysts consumed in reducing or treating emissions, and (b) the cost of emission allowances, as used, including allowance for SO2, NOx, mercury, and particulates. Upon application of the utility, and after a hearing at which all interested parties may appear and present evidence, the commission may, if it determines such action to be just and reasonable, allow the variable costs of other environmental reagents, other environmental allowances or emissions‑related taxes to be recovered as a component of fuel costs, but only to the extent these variable environmental costs are required to be incurred in relation to the consumption of fuel and the air emissions caused thereby. Alternatively, the commission may decide that the costs related to these other variable environmental costs may only be recovered through base rates established under Sections 58‑27‑860 and 58‑27‑870. All variable environmental costs included in fuel costs shall be recovered from each class of customers as a separate environmental component of the overall fuel factor. The specific environmental component for each class of customers shall be determined by allocating such variable environmental costs among customer classes based on the utility’s South Carolina firm peak demand data from the prior year. Fuel costs must be reduced by the net proceeds of any sales of emission allowances by the utility. If capacity costs are permitted to be recovered through the fuel factor, such costs shall be allocated and recovered from customers under a separate capacity component of the overall fuel factor based on the same method that is used by the utility to allocate and recover variable environmental costs. The incremental and avoided costs of distributed energy resource programs and net metering as authorized and approved under Chapters 39 and 40, Title 58 shall be allocated and recovered from customers under a separate distributed energy component of the overall fuel factor that shall be allocated and recovered based on the same method that is used by the utility to allocate and recover variable environmental costs.

(2) In order to clarify the intent of this section, ‘fuel costs related to purchased power’, as used in subsection (A)(1) shall include:

(a) costs of ‘firm generation capacity purchases’, which are defined as purchases made to cure a capacity deficiency or to maintain adequate reserve levels; costs of firm generation capacity purchases include the total delivered costs of firm generation capacity purchased and shall exclude generation capacity reservation charges, generation capacity option charges, and any other capacity charges;

(b) the total delivered cost of economy purchases of electric power including, but not limited to, transmission charges; ‘economy purchases’ are defined as purchases made to displace higher cost generation, at a price which is less than the purchasing utility’s avoided variable costs for the generation of an equivalent quantity of electric power; and

(c) avoided costs under the Public Utility Regulatory Policy Act of 1978, also known as PURPA.”

SECTION 2. Title 58 of the 1976 Code is amended by adding:

“CHAPTER 39

South Carolina Distributed Energy Resource Program

Section 58‑39‑110. This chapter may be cited as the ‘South Carolina Distributed Energy Resource Act’. The goals of this chapter are to promote the establishment of a reliable, efficient, and diversified portfolio of distributed energy resources for the State.

Section 58‑39‑120. As used in this chapter:

(A) ‘AC’ means alternating current, as measured at the point of interconnection of the renewable energy facility to the interconnecting electrical utility’s transmission or distribution system.

(B) ‘Avoided costs’ means payments for purchases of electricity made according to an electrical utility’s most recently approved or established avoided cost rates in this State or rates negotiated pursuant to PURPA, in the year the costs are incurred, for purchases of electricity from qualifying facilities pursuant to Section 210 of the Public Utility Regulatory Policies Act, said costs to be calculated as set forth in Section 58‑39‑140(A)(1).

(C) ‘Distributed energy resource’ (DER) means demand‑ and supply‑side resources that can be deployed throughout the system of an electrical utility to meet the energy and reliability needs of the customers served by that system, including, but not limited to, renewable energy facilities, managed loads (including electric vehicle charging), energy storage, and other measures necessary to incorporate renewable generation resources, including load management and ancillary services, such as reserves, voltage control, and reactive power, and black start capabilities.

(D) ‘Electrical utility’ shall be defined as in Section 58‑27‑10 of the S.C. Code, provided, however, that electrical utilities serving less than 100,000 customer accounts shall be exempt from the provisions of this chapter.

(E) ‘Renewable energy facility’ means a facility that generates electric power by the use of a renewable generation resource that was placed in service for use by or to provide power to an electrical utility after January 1, 2014. A ‘renewable energy facility’ shall also mean any incremental capacity installed after January 1, 2014, that delivers energy from a renewable generation resource.

(F) ‘Renewable generation resource’ means solar photovoltaic and solar thermal resources, wind resources, low‑impact hydroelectric resources, geothermal resources, tidal and wave energy resources, recycling resources, hydrogen fuel derived from renewable resources, combined heat and power derived from renewable resources, and biomass resources.

Section 58‑39‑130. The purpose of this section is to establish the ‘distributed energy resource program’ for this State. To accomplish the goals of this chapter:

(A) An electrical utility may apply to the Public Service Commission for approval to participate in the distributed energy resource program. After conducting a hearing on the application, the commission may approve such application if the applicant demonstrates that the program will further the goals of this chapter as set forth in Section 58‑39‑110.

(1) The application shall, at a minimum, include the following information: a statement of the specific goals to be addressed by the program and the benefits to be achieved from its implementation;

(a) a description of the principal elements of the program and a statement of the benefits to be achieved from the implementation of each of those elements;

(b) a description of the electrical utility’s planned actions to implement the program and the anticipated timing of those actions;

(c) where relevant, the locational benefits and costs of proposed distributed energy resources proposed to be located on the distribution and transmission system, including, but not limited to, reductions or increases in local generation capacity needs, and avoided or increased investments in distribution infrastructure;

(d) any proposed customer programs and changes in tariffs, or other mechanisms that support the prudent, efficient, and reliable deployment of cost‑effective distributed energy resources and the goals of the distributed energy resource program as defined in Section 58‑39‑110, including but not limited to, programs intended to support access to distributed energy resources for tax‑exempt entities;

(e) additional utility expenditures necessary to integrate cost‑effective distributed energy resources into distribution and transmission planning;

(f) where relevant, a description and evaluation of any barriers to the deployment of distributed energy resources as envisioned in the plan, including, but not limited to, safety standards related to technology or operation of the distribution circuit in a manner that ensures reliable service;

(g) a schedule of the projected incremental costs anticipated to implement the electrical utility’s distributed energy resource program for each year of the subject period; and

(h) an estimate of costs to be incurred pursuant to the distributed energy resource program as defined in Section 58‑39‑130 and an estimate of those costs to be recovered pursuant to Sections 58‑27‑865 and 58‑39‑140 to fully recover the projected costs of the program.

(2) Upon approval of its application, an electrical utility shall be permitted to recover its costs related to the approved distributed energy resource program pursuant to Sections 58‑27‑865 and 58‑39‑140 to the extent those costs are reasonably and prudently incurred to implement an approved program. Approval of a program, measure, or investment shall constitute a finding by the commission that it is just, reasonable, and prudent for the utility to implement the program, measure or investment as approved until such time as the commission orders otherwise.

(3) The Office of Regulatory Staff, an electrical utility, or any other interested party may file a petition for amendment of a distributed energy resource program at any time. The commission may hold a hearing on such petition if it determines that the extent of the proposed changes warrant a hearing. The petition for amendment shall include the information set forth in Section 58‑39‑130(A)(1) to the extent that such information is relevant to the amendments proposed.

(4) The effect of a decision to amend or terminate an approved distributed energy resource program, investment, or measure shall be prospective only and costs incurred prior to that decision shall be recoverable.

(5) An electrical utility may invest in distributed energy resources or programs outside of an approved distributed energy resource program under this chapter. The utility may seek recovery of the costs associated with such programs and resources under the ratemaking principles and procedures generally applicable to electrical utilities outside of this chapter. The fact that such resources are not part of an approved distributed energy resource program shall create no negative inference concerning their recoverability under other ratemaking provisions.

(6) An electrical utility may file an application to participate in a distributed energy resource program at any time.

(B) An electrical utility may implement a distributed energy resource program by one or more of the following:

(1) investment in distributed energy resources located in South Carolina as defined in Section 58‑39‑120;

(2) purchase of power from renewable energy facilities located in South Carolina;

(3) investment in technologies necessary to mitigate the effects of variable renewable energy generation through provision of ancillary services, including, but not limited to reserves, voltage control, and reactive power in South Carolina; and

(4) investment in technologies that enhance load management including, but not limited to, electric vehicle charging and energy storage.

(C) Any distributed energy resource program proposed by an electrical utility shall, at a minimum, result in development by 2021 of renewable energy facilities located in South Carolina in an aggregated amount of installed nameplate generation capacity equal to at least two percent of the previous five‑year average of the electrical utility’s South Carolina retail peak demand. All investments and procurements proposed by an electrical utility under its program shall be reviewed by the commission before the program is implemented to determine whether the investments or procurements are reasonable and prudent in light of the nature of the resources to be acquired, the goals of the utility’s distributed energy resources program and alternatives available in the market. In the proposed distributed energy resource program, the electrical utility:

(1) shall submit a plan to invest in or procure power from renewable energy facilities located in South Carolina, each with a nameplate capacity that is greater than one thousand kilowatts (1,000 kW AC) but no greater than ten thousand kilowatts (10,000 kW AC) in an aggregated amount of installed nameplate generation capacity equal to one percent of the electrical utility’s previous five‑year average of the electrical utility’s South Carolina retail peak demand.

(2) shall establish a program, to be implemented no later than one year from the initial approval of a distributed energy resource program, to encourage customers of the electrical utility to purchase or lease renewable energy facilities, each no greater than one thousand kilowatts (1,000 kW AC) in nameplate capacity in an aggregated amount of installed nameplate generation capacity equal to one percent of the electrical utility’s previous five‑year average of the electrical utility’s South Carolina retail peak demand with no less than twenty‑five percent of the capacity being from renewable energy facilities each no greater than twenty kilowatts (20 kW AC) in nameplate capacity. Said program shall be implemented according to the following options:

(a) an incentive to encourage residential customers of the electrical utility to purchase or lease renewable energy facilities in order to become an eligible customer‑generator, as defined in Section 58‑40‑10.

(b) an incentive to encourage customers of the electrical utility to purchase or lease renewable energy facilities, each no greater than one thousand kilowatts (1000 kW AC) in nameplate capacity, which are intended primarily to offset part or all of an electrical utility customer’s own electrical energy requirements.

(3) shall establish a program, to be implemented no later than one year from the initial approval of a distributed energy resource program, to support access to distributed energy resources for South Carolina entities holding tax‑exempt status under the Internal Revenue Code and governmental entities and instrumentalities.

(D) Upon satisfaction of the minimum aggregate generation capacity targets specified in subsection (C), the electrical utility may invest in renewable energy facilities located in South Carolina, each with a nameplate capacity that is less than ten thousand kilowatts (10,000 kW AC) and greater than one thousand kilowatts (1,000 kW AC), with a cumulative installed nameplate generation capacity equal to one percent of the previous five‑year average of the electrical utility’s South Carolina retail peak demand.

(E) If the application of the provisions of this chapter to any wholesale electrical contract executed on or before the effective date of this act is determined to impair unlawfully any term of such contract or to add material costs to either party, then that contract will be exempt from the terms of this chapter to the extent necessary to cure such impairment or to avoid the imposition of additional material costs.

Section 58‑39‑140. (A) For purposes of this section, ‘incremental costs’ means all reasonable and prudent costs incurred by an electrical utility to implement a distributed energy resource program pursuant to the provisions of Section 58‑39‑130 of this chapter, including, but not limited to:

(1) The cost an electrical utility incurs in excess of the electrical utility’s avoided cost rate, as defined in this section. All costs paid under avoided cost rates, or negotiated rates pursuant to PURPA, whichever is lower, shall be considered an avoided cost under Section 58‑39‑120(B) and shall be recovered under Section 58‑27‑865.

(2) The full cost of an electrical utility’s investment in non‑generating distributed energy resources, such as, but not limited to, energy storage devices.

(3) The electrical utility’s weighted average cost of capital as applied to the electrical utility’s investment in distributed energy resources. The weighted average cost of capital means the utility’s weighted average cost of (a) common equity, as most recently approved by the commission, and (b) long term debt. The capital costs of the resource shall include, but not be limited to, all reasonable and prudent costs associated with the design, siting, selection, acquisition, licensing, permitting, constructing, testing, and placing into service of the resource as well as capital maintenance and other capital costs associated with its repair, renewal, replacement, and upgrading. Such costs shall also include all reasonable and prudent costs incurred to expand, upgrade, or reconfigure transmission or distribution systems to accommodate power flows from the resource or to respond to other requirements placed by the resource on the electrical system, along with all other costs properly considered capital costs for a project or asset under generally accepted principles of regulatory or utility accounting or accounting orders issued by the commission. Capital costs shall include the utility’s weighted average cost of equity and long‑term debt applied to the balance of construction work in progress for which capital costs are not yet being collected through a fuel cost component approved under this chapter and Section 58‑27‑865.

(4) Operating and maintenance expenses, taxes, insurance, depreciation, overheads, and all other expenses properly considered to be expenses associated with a project, asset, or program under generally accepted principles of regulatory, or utility accounting or accounting orders issued by the commission, provided that such expenses shall be recorded as a capital cost of the resource or program until such time as a fuel cost component providing for their recovery goes into effect.

(5) The electrical utility’s incremental labor cost associated with implementing a distributed energy resource program.

(B) Upon approval of a distributed energy resource program, the commission shall direct the electrical utility which incurs incremental or avoided costs to submit to the commission and to the Office of Regulatory Staff, within such time and in such form as the commission may designate, its estimates of incremental or avoided costs for the next twelve months. The commission may hold a public hearing at any time between the twelve‑month reviews to determine whether an increase or decrease in the fuel cost component designed to recover incremental or avoided costs should be granted. Upon conducting public hearings in accordance with law, the commission shall direct the electrical utility to place in effect an amount designed to recover, during the succeeding twelve months, the incremental or avoided costs determined by the commission to be appropriate for that period, adjusted for the over‑recovery or under‑recovery from the preceding twelve‑month period. This amount shall be a component of the fuel cost factor established under Section 58‑27‑865(A). The commission shall direct the electrical utility to send notice to the utility customers with the antecedent billing of the time and place of any public hearing to be held pursuant to this subsection, and the commission shall again direct the electrical utility to send notice to the utility customers with the next billing if the utility is granted a rate increase by the commission.

(C) Upon request by the Office of Regulatory Staff or the electrical utility, a public hearing must be held by the commission coincident with the fuel cost recovery proceeding required under Section 58‑27‑865 to determine whether an increase or decrease in the fuel cost component designed to recover incremental or avoided costs should be granted. If the request is by an electrical utility for an increase or decrease in the fuel cost factor, the commission shall direct the utility to send notice of the request and hearing to all customers with the next billing, and if the commission grants the rate request subsequent to the request and hearing, the commission shall direct the utility to send notice of the amount of the increase or decrease to all customers with the next billing.

(D) The commission is authorized to promulgate, in accordance with the provisions of this section, all regulations necessary to allow the recovery by electrical utilities of all their prudently incurred distributed energy resource program implementation costs incurred pursuant to Sections 58‑39‑130 and 58‑39‑140 of this chapter.

(E) No later than July 31, 2016, the Office of Regulatory Staff shall prepare and submit to the General Assembly with copies to all members of the State Regulation of Public Utilities Review Committee a report on the implementation of this Chapter and Chapter 40 of this Title. The Office of Regulatory Staff shall update this report no later than July 31, 2017 and each two years thereafter. Upon receipt and review of these reports, and in consultation with the General Assembly, the Public Utilities Review Committee shall make recommendations to the Office of Regulatory Staff as to any changes in implementation that may be needed.

(F) The authorization to propose or approve new components of DER programs shall sunset and expire on January 1, 2021, provided however that the cost recovery provisions of this chapter shall remain in force until the costs associated with all approved DER program components have been recovered.

Section 58‑39‑150. For the protection of consumers and to ensure that the cost of DER programs do not exceed a reasonable threshold, the commission must not approve a DER plan in which the total incremental costs to be incurred by an electrical utility and recovered from the electrical utility’s South Carolina retail customer classes exceeds the following annual amounts per number of accounts for costs that are incurred on or after January 1, 2014: residential: twelve dollars; commercial: one hundred twenty dollars; and industrial; twelve hundred dollars. The application of these caps to residential, commercial, and industrial accounts will be as set forth in the electrical utility’s approved distributed energy resource program.”

SECTION 3. Title 58 of the 1976 Code is amended by adding:

“CHAPTER 40

Net Energy Metering

Section 58‑40‑10. As used in this section:

(A) ‘Commission’ means the Public Service Commission of the State of South Carolina.

(B) ‘Customer’ means the person who is named on the electrical utility bill for the premises.

(C) ‘Customer‑generator’ means the owner, operator, lessee, or customer‑generator lessee of an electric energy generation unit which:

(1) generates electricity from a renewable energy resource;

(2) has an electrical generating system with a capacity of:

(a) not more than the lesser of one thousand kilowatts (1,000 kW AC) or one hundred percent of contract demand if a nonresidential customer, or

(b) not more than twenty kilowatts (20 kW AC) if a residential customer;

(3) is located on a single premises owned, operated, leased, or otherwise controlled by the customer;

(4) is interconnected and operates in parallel phase and synchronization with an electrical utility and complies with the applicable interconnection standards;

(5) is intended primarily to offset part or all of the customer‑generator’s own electrical energy requirements; and

(6) meets all applicable safety, performance, interconnection, and reliability standards established by the commission, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the federal Energy Regulatory Commission, and any local governing authorities.

(D) ‘Electrical utility’ shall be defined as in Section 58‑27‑10; provided, however, that electrical utilities serving less than one hundred thousand customer accounts shall be exempt from the provisions of this chapter.

(E) ‘Net energy metering’ means using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer‑generator by an electrical utility and the electrical energy supplied by the customer‑generator to the electricity provider over the applicable billing period.

(F) ‘Renewable energy resource’ means solar photovoltaic and solar thermal resources, wind resources, hydroelectric resources, geothermal resources, tidal and wave energy resources, recycling resources, hydrogen fuel derived from renewable resources, combined heat and power derived from renewable resources, and biomass resources.

Section 58‑40‑20. (A) Net energy metering rates approved by the commission under the terms of this chapter shall be the exclusive net energy metering rates available to customer‑generators. Upon commission approval, such net energy metering rates shall supersede all prior net energy metering rates. Customer‑generators whose net energy metering facilities were energized prior to the availability of net energy metering rates approved by the commission under the terms of this chapter may remain in historic net energy metering programs through December 31, 2020.

(B) An electrical utility shall make net energy metering available to customer‑generators on a first‑come, first‑served basis until the total nameplate generating capacity of net energy metering systems equals two percent of the previous five‑year average of the electrical utility’s South Carolina retail peak demand. No electrical utility shall be required to approve any application for interconnection from net energy metering customer generators if the total rated generating capacity of all applications for interconnection from net energy metering customer generators already approved to date by the electrical utility equals or exceeds two percent of the previous five‑year average of the electrical utility’s South Carolina retail peak demand.

(C) If determined to be prudent by the commission, the electrical utility may furnish, install, own, and maintain metering equipment needed to measure the kilowatt‑hours purchased by the customer‑generator from the utility, the kilowatt‑hours generated or delivered to the electrical utility, and, if applicable under the utility’s tariffs, to measure the kilowatt demand delivered by the electrical utility to the customer‑generator. The electrical utility shall have the right to install special metering and load research devices on the customer‑generator’s equipment and the right to use the customer‑generator’s communication devices for communication with electrical utility’s and the customer‑generator’s equipment.

(D) The net electrical energy measurement shall be calculated in the following manner:

(1) For a customer‑generator, an electrical utility shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer‑generator’s consumption and production of electricity;

(2) If the electricity supplied by the electrical utility exceeds the electricity generated by the customer‑generator during a billing period, the customer‑generator shall be billed for the net electricity supplied by the electrical utility in accordance with normal practices for customers in the same rate class;

(3) Any energy generated by the customer‑generator that exceeds the energy supplied by the electrical utility during a billing period shall not be used to offset the non‑volumetric electricity charges for that billing period;

(4) The utility shall maintain an account of any net excess kWh credits accruing from the customer‑generator’s excess generation and allow those kWh credits to be used to offset the customer‑generator’s energy usage during future billing periods. Annually, the utility shall pay the customer‑generator for any accrued net excess generation at the utility’s avoided cost for qualified facilities, zeroing‑out the customer‑generator’s account of net excess kWh credits.

(E) Each electrical utility shall submit an annual net metering report to the Public Service Commission, with a copy to the Office of Regulatory Staff, including the following information for the previous calendar year:

(1) the total number of customer‑generator facilities;

(2) the estimated gross generating capacity of its net‑metered customer‑generators;

(3) the estimated net kilowatt‑hours received from customer‑generators.

(F) Any and all costs prudently incurred pursuant to the provisions of this chapter by an electrical utility as approved by the commission and any and all commission approved benefits conferred by a customer‑generator shall be recoverable by each entity respectively in the electrical utility’s rates in accordance with these provisions:

(1) The electrical utility’s general rates, tariffs, and any additional monthly charges or credits, in addition to any other charges or credits authorized by law, to recover the costs and confer the benefits of net energy metering shall include such measures necessary to ensure that the electrical utility recovers its cost of providing electrical service to customer‑generators and customers who are not customer‑generators.

(2) Any charges or credits prescribed in item (1), and the terms and conditions under which they may be assessed shall be in accordance with a methodology established through the proceeding described in item (4). The methodology shall be supported by an analysis and calculation of the relative benefits and costs of customer generation to the electrical utility, the customer‑generators, and those customers of the electrical utility that are not customer‑generators.

(3) Upon approval of the methodology provided for in item (4), each electrical utility shall file its analysis of the net cost to serve customer‑generators using the approved methodology and shall propose new net energy metering rates.

(4) No later than thirty days after the enactment of this act, the commission shall initiate a generic proceeding for purposes of implementing the requirements of this chapter with respect to the net energy metering rates, tariffs, charges, and credits of electrical utilities, specifically to establish the methodology to set any necessary charges and credits as required under items (1) and (2). All interested parties shall be allowed to participate. In its notice initiating such proceeding the commission must require the electrical utilities propose methodologies required by item (1) and shall allow intervening parties to propose methodologies required by item (2). The Office of Regulatory Staff, pursuant to the requirements of Section 58‑4‑50, shall represent the public interest in this proceeding and shall serve as a facilitator to resolve disputes and issues between the parties to this proceeding.

(5) In evaluating the benefits and costs of customer generation as required by item (2), and the methodology for calculating such benefits and costs, the Office of Regulatory Staff may engage third parties with relevant prior experience conducting distributed generation cost‑benefit studies. The cost of any experts and consultants engaged by the Office of Regulatory Staff for purposes of this proceeding shall be assessed to the electrical utilities pro rata based on their five‑year average of retail peak demand and shall be recoverable by those electrical utilities through the base rate for fuel costs established pursuant to Section 58‑27‑86.

(6) In the event that the commission determines that future benefits from net energy metering are properly reflected in net metering rates because they provide quantifiable benefits to the utility system, its customers, or both, and to the degree such benefits are not then being recovered by the electrical utility in its base rates, then such future benefits shall be deemed an avoided cost and shall be recoverable pursuant to Section 58‑27‑865 by the electrical utility as an incremental cost of the distributed energy resource program.

(G) In no event shall the net energy metering provisions of this chapter be construed as allowing customer‑generators to engage in meter aggregation, group/joint billing projects, and/or virtual net metering.

(H) The commission shall approve an electrical utility’s proposed net energy metering rates that meet the requirements of this chapter, provided that the commission has previously approved that electrical utility’s application to participate in a distributed energy resource program pursuant to Chapter 39, Title 58.”

SECTION 4. Chapter 27, Title 58 of the 1976 Code is amended by adding:

“Article 23

Lease of Renewable Electric Generation Facilities Program

Section 58‑27‑2600. As used in this article:

(A) ‘Customer‑generator lessee’ means the lessee of a renewable electric generation facility which:

(1) generates electricity from a renewable energy resource;

(2) has an electrical generating system with a capacity of:

(a) not more than the lesser of one thousand kilowatts (1,000 kW AC) or one hundred percent of contract demand if a nonresidential customer, or

(b) not more than twenty kilowatts (20 kW AC) if a residential customer;

(3) is located on a premises or residence owned, operated, leased, or otherwise controlled by the customer‑generator lessee that is also the premises or residence served by the renewable electric generation facility;

(4) is interconnected and operates in parallel phase and synchronization with the retail electric provider for the premises or residence and has been approved by that retail electric provider;

(5) is intended only to offset part or all of the customer‑generator lessee’s own retail electrical energy requirements for each respective premises or residence or to enable the customer‑generator lessee to obtain a credit for or engage in the sale of energy from the renewable electric generation facility to that customer‑generator lessee’s retail electric provider or its designee; and

(6) meets all applicable safety, performance, interconnection, and reliability standards established by the commission or the retail electric provider, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the federal Energy Regulatory Commission, and any local governing authorities.

(B) ‘Retail electric provider’ means an electrical utility as defined in Section 58‑27‑10 and also means other entities that provide retail electric service in South Carolina, but excluding electric cooperatives organized under the laws of a state other than South Carolina.

Section 58‑27‑2610. (A) An entity that owns a renewable electric generation facility, located on a premises or residence owned or leased by an eligible customer‑generator lessee to serve the electric energy requirements of that particular premises or residence or to enable the customer‑generator lessee to obtain a credit for or engage in the sale of energy from the renewable electric generation facility to that customer‑generator lessee’s retail electric provider or its designee, shall be permitted to lease such facility exclusively to a customer‑generator lessee under a lease, provided that the entity complies with the terms, conditions, and restrictions set forth within this article and holds a valid certificate issued by the Office of Regulatory Staff. An entity owning renewable electric generation facilities in compliance with the terms of this article shall not be considered an ‘electrical utility’ under Section 58‑27‑10 if the renewable electric generation facilities are only made available to a customer‑generator lessee for the customer‑generator lessee’s use on the customer‑generator lessee’s premises or the residence where the renewable electric generation facilities are located, or for the sale of energy to that customer‑generator lessee’s retail electric provider or its designee, and pursuant to a lease.

(B) All customer‑generator lessees that interconnect renewable electric generation facilities to a retail electric provider’s transmission or distribution system must enroll in the applicable rate schedules made available by that retail electric provider, subject to the participation limitations set forth therein or in the policy adopted by the retail electric provider not subject to Section 58‑40‑20(B), and the customer‑generator lessee shall otherwise comply with all requirements of Section 58‑40‑10 et seq., or the policy adopted by the retail electric provider not subject to Section 58‑40‑10 et seq.

(C) To comply with the terms of this article, each customer‑generator lessee renewable electric generation facility shall serve only one premises or residence, and shall not serve multiple customer‑generator lessees or multiple premises or residences.

(D) Any lease of a renewable electric generation facility not entered into pursuant to this article is prohibited. The owner of a renewable electric generation facility subject to any lease entered into outside of this program shall be considered an ‘electrical utility’ under Section 58‑27‑10.

(E) This section shall not be construed as allowing any sales of electricity from renewable electric generation facilities directly to any customer of any retail electric provider by the owner. This article shall not be construed as abridging or impairing any existing rights or obligations, established by contract or statute, of retail electric providers to serve South Carolina customers. The electrical output from any renewable electric generation unit leased pursuant to this program shall be the sole and exclusive property of the customer‑generator lessee.

(F) An entity and its affiliates that lawfully provide retail electric service to the public may offer leases of renewable generation facilities in those areas or territories where it provides retail electric service. No such provider or affiliate shall offer or enter into leases of renewable generation facilities in areas served by another retail electric provider.

(G) The costs an electrical utility incurs in marketing, installing, owning, or maintaining solar leases through its own leasing programs as a lessor shall not be recovered from other non‑participating electrical utility customers through rates, provided, however, that an electrical utility and the customer‑generator lessees which lease facilities from it may participate on an equal basis with other lessors and lessees in any applicable programs provided for under Chapter 39 of this title, S.C. Code Ann. Sections 58‑39‑110 et seq. and nothing in this section shall prevent the reasonable and prudent costs of a utility’s distributed energy resource programs, including the provision of incentives to its own lessees and other allowable costs, from being reflected in a utility’s rates as provided for in Chapter 39 or as otherwise permitted under generally applicable regulatory principles.

(H) The total installed capacity of all renewable electric generation facilities on a retail electric provider’s system that are leased pursuant to this article shall not exceed two percent of the previous five‑year average of the retail electric provider’s South Carolina residential and commercial contribution to coincident retail peak demand and two percent of the previous five‑year average of the retail electric provider’s South Carolina industrial contribution to coincident retail peak demand. A provider may refuse to interconnect with customers where to do so would result in this limitation being exceeded. Every retail electric provider must establish a program for new installations of leased equipment to permit the reservation of capacity on its system including provisions to prevent or discourage abuse of such programs. Such programs must provide that only prospective individual customer‑generator lessees may apply for, receive, and hold reservations. Each reservation shall be for a single customer premises only and may not be sold, exchanged, traded, or assigned except as part of the sale of the underlying premises. Requests for reservations to electrical utilities as defined in Section 58‑27‑10 shall accompany applications for interconnection of the leased facilities under Chapter 40, Title 58 and the reservation shall remain in force only so long as the application or permit for interconnection remains active. Electrical utilities as defined in Section 58‑27‑10 shall submit programs establishing the terms of such reservations to the commission for approval.

(I) Notwithstanding the provisions of subsection (H), for an electrical utility for which more than fifty percent of the electricity that it generates in South Carolina comes from renewable resources, the total installed capacity of all renewable electric generation facilities on its system that are leased pursuant to this article shall not exceed one tenth of one percent of the previous five‑year average of the electrical utility’s South Carolina residential and commercial contribution to coincident retail peak demand and one tenth of one percent of the previous five‑year average of the electrical utility’s South Carolina industrial contribution to coincident retail peak demand. Electrical utilities meeting the requirements of this subsection shall not be required to establish a capacity reservation program as required by subsection (H) above.

(J)(1) The provisions of this Article 23 related to leased generation facilities shall not apply to:

(a) facilities serving a single premises that is not interconnected with a retail electric provider;

(b) facilities owned by customer generators but financed by a third party; or

(c) facilities used exclusively for standby emergency service or participation in an approved standby generation program operated by a retail electric provider.

(2) The commission may promulgate regulations consistent with this section interpreting the scope of these exemptions as to electrical utilities.”

Section 58‑27‑2620. (A) Before any entity other than an entity lawfully providing retail electric service to the public in this state commences to do business as a lessor of renewable electric generation facilities under the terms of this article, that entity shall submit an application to the Office of Regulatory Staff and provide such information as the Office of Regulatory Staff shall require. In performing its responsibilities under this article, the Office of Regulatory Staff must balance the state’s interest in promoting a market for the provision of renewable electric generation facilities as permitted by this article with an appropriate level of protection for customer‑generator lessees to ensure fair and accurate marketing practices and ensure acceptable performance of renewable electric generation facilities and lessors.

(B) The application shall be accompanied by such information as the Office of Regulatory Staff shall require and the Office of Regulatory Staff may condition its approval on such terms as the Office of Regulatory Staff shall determine to be just and reasonable to advance the goals of this article of balancing the state’s interest in promoting a market for the provision of renewable electric generation facilities as permitted by this article, with an appropriate level of protection for customer‑generator lessees and to ensure fair and accurate marketing practices.

(C) Upon review of the application and a finding that the applicant is fit, willing, and able to conduct business in accordance with the provisions of this article, the Office of Regulatory Staff shall approve the application and issue the lessor a certificate permitting the lessor to market and lease renewable electric generation facilities to customer‑generator lessees under the terms of this article.

(D) The Office of Regulatory Staff is authorized to require the regular updating of information by certificate holders.

(E) The Office of Regulatory Staff shall receive, compile and investigate customer complaints arising under this article and shall attempt to negotiate consent agreements or other settlements resolving alleged violations of this article.

(F) As concerns potential violations of this article, lessors of distributed generation resources and their officers, agents, employees, or customers shall be subject to the investigatory powers provided in Sections 58‑4‑50 and 58‑4‑55 to the Office of Regulatory Staff regarding public utilities.

(G) For the protection of the consuming public, the Office of Regulatory Staff may file a petition with the Administrative Law Court requesting revocation of a certificate for violations of this article. In appropriate circumstances, the Office of Regulatory Staff may request the immediate revocation of a certificate.

(H) It shall be a violation of law punishable by civil penalty of not more than ten thousand dollars per occurrence for any person subject to Section 58‑27‑2620(A), either directly or indirectly:

(1) to solicit business as a lessor of renewable electric generation facilities without a valid certificate issued under this section or otherwise in violation of the terms of this article, or

(2) to engage in any unfair or deceptive practice in the leasing of renewable electric generation facilities.

(I) An aggrieved person with standing may file a request for a contested case of a decision of the Office of Regulatory Staff with the Administrative Law Court within thirty days of such decision.

Section 58‑27‑2630. (A) Not more than thirty days after installation of a renewable electric generation facility leased to a customer‑generator lessee, the lessor shall register the facility with the Office of Regulatory Staff on forms developed and provided by the Office of Regulatory Staff. This registration information must include:

(1) the name, mailing, and electronic mail address and telephone number of the lessor‑owner;

(2) the nameplate generating capacity of the facility and its expected annual energy output;

(3) physical location of the facility;

(4) the name, mailing, and email address and telephone number of the customer‑generator lessee;

(5) a description of the intended use of the facility and its output;

(6) a list of all federal, state, and local licenses and permits required for the construction and operation of the facility, along with a statement regarding whether each has been obtained or applied for;

(7) the date the facility began or will begin operating;

(8) the name of the retail electric provider to which the facility has been or will be interconnected;

(9) an affidavit from the customer‑generator lessee that it will not sell, resell, or attempt to sell or resell the electrical output of the facility to any person, corporation, or entity, other than the customer‑generator lessee’s retail electric provider or its designee, that the primary purpose for the operation of the renewable electric generation facility is to generate electricity for the benefit of the premises where it is located, and that the facility has been or will be operated in substantial compliance with all federal and state laws, rules, and regulations and all local codes and ordinances.

(B) Office of Regulatory Staff shall maintain a registry of facilities registered pursuant to subsection (A). This information must be available for inspection by the public and is subject to the South Carolina Freedom of Information Act. The Office of Regulatory Staff may require the updating of information on the registry.

(C) The Office of Regulatory Staff shall review the program established pursuant to this article and issue a report to the State Regulation of Public Utilities Review Committee no later than December 31, 2016, relating to its review, including recommendations regarding the expansion, reduction, or continuance of the program.

Section 58‑27‑2640. The Office of Regulatory Staff shall have the authority to investigate claims of violations of the provisions of Section 58‑27‑2610 committed by electrical utilities and lessors of renewable electric generation facilities.

Section 58‑27‑2650. Section 58‑27‑2610 shall not become effective until the commission has approved net energy metering rates referenced in Chapter 40, Title 58 for all investor owned electrical utilities serving more than one hundred thousand retail customer accounts in South Carolina.”

SECTION 5. Chapter 27, Title 58 of the 1976 Code is amended by adding:

“Section 58‑27‑1050. The Office of Regulatory Staff, with guidance and feedback from the electrical utilities and other interested parties, shall investigate and report to the Public Service Commission on fixed costs, fixed charges, and the extent of cost shifting that is attributable to distributed energy resources within current utility cost of service ratemaking methodologies, cost allocations, and rate designs, with a focus on the implications distributed energy resources could have for that business model in the future. The report shall review how to ensure a fair allocation of costs and benefits between consumers who utilize distributed energy resources and consumers who do not utilize distributed energy resources, as well as suggesting any necessary or prudent changes to existing or future rate structures. The report shall include a general overview of cost shifting that is attributable to or arising from historical cost of service ratemaking related to the current utility business model, specifically the cost of service ratemaking methodology, the cost allocations and rate designs. The findings shall include public comment and be reported to the Public Service Commission by December 31, 2015.”

SECTION 6. Chapter 27, Title 58 of the 1976 Code is amended by adding:

“Section 58‑27‑450. (A) The commission shall promulgate standards for interconnection of renewable energy facilities and other nonutility‑owned generation with a generation capacity of two thousand kilowatts (2,000 kW AC) or less to an electrical utility’s distribution system.

(B) No customer‑generator or customer‑generator lessee shall connect or operate an electric generation unit in parallel phase and synchronization with any electrical utility without written approval by the electrical utility that all of the commission’s requirements have been met. For a customer‑generator or customer‑generator lessee who violates this provision, an electrical utility may immediately and without notice disconnect the electric facilities of the customer‑generator or customer‑generator lessee and terminate the customer‑generator’s or customer‑generator lessee’s electric service.”

SECTION 7. Each distribution electric cooperative board shall consider the general objectives of Section 58‑40‑10 et seq. and any methodology promulgated thereunder in adopting a net energy metering policy. Each distribution electric cooperative shall adopt a net energy metering policy and shall report their policy to the ORS within one year of the passage of this act. Provided, however, that the requirements of this section do not apply to an electric cooperative organized under the laws of a state other than South Carolina.

SECTION 8. Each electric cooperative shall investigate the relationship between fixed costs, fixed charges, and the extent of cost shifting that is attributable to distributed energy resources within current cost of service ratemaking methodologies, cost allocations, and rate designs, with a focus on the implications distributed energy resources could have for their business models in the future. The report shall review how to ensure a fair allocation of costs and benefits between consumers who utilize distributed energy resources and consumers who do not utilize distributed energy resources, as well as suggesting any necessary or prudent changes to existing or future rate structures. The report shall include a general overview of cost shifting that is attributable to or arising from historical cost of service ratemaking related to the current utility business model, specifically the cost of service ratemaking methodology, the cost allocations, and rate designs. The investigation and report may be coordinated and consolidated into a single project. The findings shall be filed with the Office of Regulatory Staff by December 31, 2015. Provided, however, that the provisions of this section do not apply to an electric cooperative organized under the laws of a state other than South Carolina.

SECTION 9. If the application of the provisions of this act to any wholesale electrical contract existing on the date of its adoption is determined to impair unlawfully any term of such contract or to add material costs to either party, then that contract will be exempt from the terms of this act to the extent necessary to cure such impairment or to avoid the imposition of additional material costs.

SECTION 10. Article 23, Chapter 27, Title 58 shall be construed as a whole, and all parts of it are to be read and construed together. If any part of this article shall be adjudged by any court of competent jurisdiction to be invalid, the remainder of this article shall be invalidated. Nothing herein shall be construed to affect the parties’ right to appeal the matter.

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

Renumber sections to conform.

Amend title to conform.

Rep. SANDIFER explained the amendment.

The amendment was then adopted.

Rep. SANDIFER explained the Bill.

Further proceedings were interrupted by expiration of time on the uncontested Calendar, the pending question being consideration of the Bill.

**RECURRENCE TO THE MORNING HOUR**

Rep. SANDIFER moved that the House recur to the morning hour, which was agreed to.

**S. 1189--ORDERED TO THIRD READING**

Debate was resumed on the following Bill, the pending question being the consideration of the Bill:

S. 1189 -- Senators Gregory, Reese, McElveen, Hembree, Hutto, Lourie, Campsen, Cleary, Allen, Shealy, O'Dell, Campbell, Cromer, Hayes, Verdin, Sheheen, L. Martin, Kimpson, Scott and Alexander: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ADD CHAPTER 39 TO TITLE 58, SO AS TO PROVIDE FOR A SOUTH CAROLINA DISTRIBUTED ENERGY RESOURCE PROGRAM, TO DEFINE CERTAIN TERMS, TO SET GOALS FOR THE PROGRAM, AND TO PROVIDE FOR THE PROCESS AND IMPLEMENTATION OF THE PROGRAM, INCLUDING THE APPLICATION AND APPROVAL PROCESS FOR THE PROGRAM AND COST RECOVERY; TO ADD CHAPTER 40 TO TITLE 58 SO AS TO PROVIDE FOR A NET ENERGY METERING PROGRAM, TO DEFINE CERTAIN TERMS, TO PROVIDE FOR THE REQUIREMENTS FOR THE NET ENERGY METERING PROGRAM, INCLUDING COSTS AND THE RESPONSIBILITIES OF THE PUBLIC SERVICE COMMISSION AND THE OFFICE OF REGULATORY STAFF PURSUANT TO THIS PROGRAM; TO ADD ARTICLE 23 TO CHAPTER 27, TITLE 58, SO AS TO PROVIDE FOR THE LEASE OF RENEWABLE ELECTRIC GENERATION FACILITIES PROGRAM, TO DEFINE CERTAIN TERMS, TO PROVIDE FOR THE REQUIREMENTS OF THE LEASE PROGRAM, INCLUDING AN APPLICATION PROCESS AND REGISTRATION WITH THE OFFICE OF REGULATORY STAFF AND PENALTIES FOR VIOLATIONS OF THE LEASE PROGRAM; TO REQUIRE THE OFFICE OF REGULATORY STAFF TO REPORT TO THE PUBLIC SERVICE COMMISSION ON COSTS AND CHARGES ATTRIBUTABLE TO DISTRIBUTED ENERGY RESOURCES WITHIN CURRENT COSTS OF SERVICE RATE MAKING METHODOLOGIES; TO REQUIRE THE PUBLIC SERVICE COMMISSION TO PROMULGATE STANDARDS FOR RENEWABLE ENERGY FACILITY INTERCONNECTION; TO REQUIRE EACH DISTRIBUTION ELECTRIC COOPERATIVE BOARD TO CONSIDER NET ENERGY METERING POLICIES AND MAKE A REPORT TO THE OFFICE OF REGULATORY STAFF; TO REQUIRE EACH ELECTRIC COOPERATIVE TO INVESTIGATE THE RELATIONSHIP BETWEEN COSTS AND CHARGES ATTRIBUTABLE TO DISTRIBUTED ENERGY RESOURCES WITHIN CURRENT COST OF SERVICE RATEMAKING METHODOLOGIES AND REPORT ITS FINDINGS WITH THE OFFICE OF REGULATORY STAFF.

Rep. SANDIFER spoke in favor of the Bill.

Rep. R. L. BROWN spoke in favor of the Bill.

Rep. MERRILL spoke upon the Bill.

The question then recurred to the passage of the Bill.

The yeas and nays were taken resulting as follows:

Yeas 105; Nays 0

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Alexander | Allison | Anderson |
| Anthony | Atwater | Bales |
| Ballentine | Bannister | Barfield |
| Bedingfield | Bernstein | Bingham |
| Bowen | Brannon | G. A. Brown |
| R. L. Brown | Burns | Chumley |
| Clemmons | Clyburn | Cobb-Hunter |
| Cole | H. A. Crawford | K. R. Crawford |
| Crosby | Daning | Delleney |
| Dillard | Douglas | Edge |
| Erickson | Felder | Finlay |
| Forrester | Funderburk | Gagnon |
| Gambrell | George | Gilliard |
| Goldfinch | Govan | Hamilton |
| Hardwick | Harrell | Hayes |
| Henderson | Hiott | Hixon |
| Hodges | Horne | Hosey |
| Howard | Huggins | Jefferson |
| Kennedy | Knight | Loftis |
| Long | Lowe | Lucas |
| Mack | McCoy | McEachern |
| M. S. McLeod | W. J. McLeod | D. C. Moss |
| V. S. Moss | Munnerlyn | Nanney |
| Newton | Norman | R. L. Ott |
| Parks | Patrick | Pitts |
| Pope | Quinn | Ridgeway |
| Riley | Rivers | Robinson-Simpson |
| Rutherford | Sabb | Sandifer |
| Skelton | G. M. Smith | G. R. Smith |
| J. E. Smith | J. R. Smith | Sottile |
| Southard | Spires | Stavrinakis |
| Stringer | Tallon | Taylor |
| Thayer | Toole | Vick |
| Weeks | Wells | Whipper |
| Whitmire | Willis | Wood |

**Total--105**

Those who voted in the negative are:

**Total--0**

So, the Bill, as amended, was read the second time and ordered to third reading.

RECORD FOR VOTING

I was temporarily out of the Chamber on constituent business during the vote on S. 1189. If I had been present, I would have voted in favor of the Bill.

Rep. Harold Mitchell

**S. 1189--MOTION TO RECONSIDER TABLED**

Rep. SANDIFER moved to reconsider the vote whereby the following Bill was given second reading:

S. 1189 -- Senators Gregory, Reese, McElveen, Hembree, Hutto, Lourie, Campsen, Cleary, Allen, Shealy, O'Dell, Campbell, Cromer, Hayes, Verdin, Sheheen, L. Martin, Kimpson, Scott and Alexander: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ADD CHAPTER 39 TO TITLE 58, SO AS TO PROVIDE FOR A SOUTH CAROLINA DISTRIBUTED ENERGY RESOURCE PROGRAM, TO DEFINE CERTAIN TERMS, TO SET GOALS FOR THE PROGRAM, AND TO PROVIDE FOR THE PROCESS AND IMPLEMENTATION OF THE PROGRAM, INCLUDING THE APPLICATION AND APPROVAL PROCESS FOR THE PROGRAM AND COST RECOVERY; TO ADD CHAPTER 40 TO TITLE 58 SO AS TO PROVIDE FOR A NET ENERGY METERING PROGRAM, TO DEFINE CERTAIN TERMS, TO PROVIDE FOR THE REQUIREMENTS FOR THE NET ENERGY METERING PROGRAM, INCLUDING COSTS AND THE RESPONSIBILITIES OF THE PUBLIC SERVICE COMMISSION AND THE OFFICE OF REGULATORY STAFF PURSUANT TO THIS PROGRAM; TO ADD ARTICLE 23 TO CHAPTER 27, TITLE 58, SO AS TO PROVIDE FOR THE LEASE OF RENEWABLE ELECTRIC GENERATION FACILITIES PROGRAM, TO DEFINE CERTAIN TERMS, TO PROVIDE FOR THE REQUIREMENTS OF THE LEASE PROGRAM, INCLUDING AN APPLICATION PROCESS AND REGISTRATION WITH THE OFFICE OF REGULATORY STAFF AND PENALTIES FOR VIOLATIONS OF THE LEASE PROGRAM; TO REQUIRE THE OFFICE OF REGULATORY STAFF TO REPORT TO THE PUBLIC SERVICE COMMISSION ON COSTS AND CHARGES ATTRIBUTABLE TO DISTRIBUTED ENERGY RESOURCES WITHIN CURRENT COSTS OF SERVICE RATE MAKING METHODOLOGIES; TO REQUIRE THE PUBLIC SERVICE COMMISSION TO PROMULGATE STANDARDS FOR RENEWABLE ENERGY FACILITY INTERCONNECTION; TO REQUIRE EACH DISTRIBUTION ELECTRIC COOPERATIVE BOARD TO CONSIDER NET ENERGY METERING POLICIES AND MAKE A REPORT TO THE OFFICE OF REGULATORY STAFF; TO REQUIRE EACH ELECTRIC COOPERATIVE TO INVESTIGATE THE RELATIONSHIP BETWEEN COSTS AND CHARGES ATTRIBUTABLE TO DISTRIBUTED ENERGY RESOURCES WITHIN CURRENT COST OF SERVICE RATEMAKING METHODOLOGIES AND REPORT ITS FINDINGS WITH THE OFFICE OF REGULATORY STAFF.

Rep. SANDIFER moved to table the motion to reconsider, which was agreed to.

**S. 909--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

S. 909 -- Senator Hayes: A BILL TO AMEND SECTION 38-90-10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS CONCERNING CAPTIVE INSURANCE COMPANIES, SO AS TO DEFINE "RISK RETENTION GROUP"; TO AMEND SECTION 38-90-40, AS AMENDED, RELATING TO CAPITALIZATION REQUIREMENTS FOR CAPTIVE INSURANCE COMPANIES, SO AS TO INCLUDE CAPTIVE INSURANCE COMPANIES AND SPECIAL PURPOSE CAPTIVE INSURANCE COMPANIES FORMED AS A RISK RETENTION GROUP; TO AMEND SECTION 38-90-50, AS AMENDED, RELATING TO FREE SURPLUS REQUIREMENTS FOR CAPTIVE INSURANCE COMPANIES, SO AS TO INCLUDE CAPTIVE INSURANCE COMPANIES AND SPECIAL PURPOSE CAPTIVE INSURANCE COMPANIES FORMED AS A RISK RETENTION GROUP; AND TO AMEND SECTION 38-90-70, AS AMENDED, SECTION 38-90-100, AS AMENDED, SECTION 38-90-110, AS AMENDED, AND SECTION 38-90-160, AS AMENDED, ALL RELATING TO MISCELLANEOUS REQUIREMENTS FOR CAPTIVE INSURANCE COMPANIES, SO AS TO MAKE CONFORMING PROVISIONS FOR CAPTIVE INSURANCE COMPANIES FORMED AS RISK RETENTION GROUPS AND SPECIAL PURPOSE CAPTIVE INSURANCE COMPANIES FORMED AS RISK RETENTION GROUPS.

The Committee on Labor, Commerce and Industry proposed the following Amendment No. 1 to S. 909 (COUNCIL\AGM\909C001. AGM.AB14), which was adopted:

Amend the bill, as and if amended, by deleting all after the enacting words and inserting:

/ SECTION 1. Article 1, Chapter 90, Title 38 of the 1976 Code is amended by adding:

“Section 38‑90‑165. (A) The director may declare inactive by order a captive insurance company other than a risk retention group or association captive if such captive insurance company has no outstanding liabilities and agrees to cease providing insurance coverage.

(B) During the period the captive insurance company is inactive, the director may by order:

(1) modify the minimum premium tax applicable to the captive insurance company to an amount no less than two thousand dollars and the captive insurance company shall pay no other premium taxes; and

(2) exempt the captive insurance company from the requirement to file such reports as set forth in the order.”

SECTION 2. Article 1, Chapter 90, Title 38 of the 1976 Code is amended by adding:

“Section 38‑90‑215. (A) A protected cell may be either unincorporated or incorporated.

(B) With regard to unincorporated protected cells:

(1) The unincorporated protected cell shall have its own distinct name or designation, which shall include the words ‘Protected Cell’ or the abbreviation ‘PC’. Any captive insurance company or protected cell formed prior to the effective date of this section may not be required to change its name to comply with the provisions of this paragraph.

(2) An unincorporated protected cell must meet the paid‑in capital and free surplus requirements applicable to a special purpose captive insurance company and either:

(a) establish loss and loss expense reserves for business written through the unincorporated protected cell; or

(b) the business written through the unincorporated protected cell must be:

(i) fronted by an insurance company licensed pursuant to the laws of:

(A) any state; or

(B) any jurisdiction if the insurance company is a wholly owned subsidiary of an insurance company licensed pursuant to the laws of any state;

(ii) reinsured by a reinsurer authorized or approved by this State; or

(iii) secured by a trust fund in the United States for the benefit of policyholders and claimants funded by an irrevocable letter of credit or other asset acceptable to the director. The amount of security provided by the trust fund may not be less than the reserves associated with those liabilities, including reserves for losses, allocated loss adjustment expenses, incurred but unreported losses, and unearned premiums for business written through the participant’s protected cell. The director may require the sponsored captive to increase the funding of a trust established pursuant to this item. If the form of security in the trust is a letter of credit, the letter of credit must be established, issued, or confirmed by a bank chartered in this State, a member of the federal reserve system, or a bank chartered by another state if that state‑chartered bank is acceptable to the director. A trust and trust instrument maintained pursuant to this item must be in a form and upon terms approved by the director.

(3) The creation of an unincorporated protected cell does not create, with respect to that protected cell, a legal person separate from the sponsored captive insurance company. Amounts attributed to a protected cell, including assets transferred to a protected cell account, are owned by the sponsored captive insurance company of which the protected cell is a part, and the sponsored captive insurance company may not be, or may not hold itself out to be, a trustee with respect to those protected cell assets of that protected cell account. Notwithstanding the provisions of this subsection, the sponsored captive insurance company may allow for a security interest to attach to protected cell assets or a protected cell account when in favor of a creditor of the protected cell and otherwise allowed under applicable law.

(4) This subsection may not be construed to prohibit the sponsored captive insurance company from:

(a) entering into contracts of insurance on behalf of the protected cell; or

(b) contracting with or arranging for third‑party managers or advisors to manage the protected cell to manage the assets of a protected cell, if all remuneration, expenses, and other compensation of the third party manager or advisor is payable from the protected cell assets of that protected cell and not from the protected cell assets of other protected cells or the assets of the sponsored captive insurance company’s general account.

(C) Incorporated protected cells shall be subject to all of the following:

(1) An incorporated protected cell may be organized and operated in any form of business organization set forth in Section 38‑90‑60(A).

(2) Except as specifically set forth in this chapter, each incorporated protected cell of a sponsored captive insurance company shall be licensed and treated as a special purpose captive insurance company.

(3) A participant in an incorporated protected cell need not be a shareholder of the protected cell or of the sponsored captive insurance company or any affiliate thereof.

(D) The name of an incorporated protected cell must include the words ‘Incorporated Cell’ or the abbreviation ‘IC’.

(E) Any captive insurance company or protected cell formed prior to July 31, 2013 shall not be required to change its name to comply with the provisions of subsection (D).”

SECTION 3. Article 1, Chapter 90, Title 38 of the 1976 Code is amended by adding:

“Section 38‑90‑250. A licensed captive insurance company that meets the necessary requirements of this title imposed upon an insurer must be considered for issuance of a certificate of authority to act as an insurer in this State.”

SECTION 4. Section 38‑90‑10 of the 1976 Code, as last amended by Act 291 of 2004, is further amended to read:

“Section 38‑90‑10. As used in this chapter, unless the context requires otherwise:

(1) ‘Alien captive insurance company’ means an insurance company formed to write insurance business for its parents and affiliates and licensed pursuant to the laws of an alien jurisdiction which imposes statutory or regulatory standards in a form acceptable to the director on companies transacting the business of insurance in such jurisdiction.

(2) ‘Affiliated company’ means a company in the same corporate system as a parent, an industrial insured, or a member organization by virtue of common ownership, control, operation, or management.

(3) ‘Association’ means a legal association of individuals, corporations, limited liability companies, partnerships, political subdivisions, or associations that has been in continuous existence for at least one year:

(a) the member organizations of which collectively, or which does itself:

(i) own, control, or hold with power to vote all of the outstanding voting securities of an association captive insurance company incorporated as a stock insurer or organized as a limited liability company; or

(ii) have complete voting control over an association captive insurance company organized as a mutual insurer; or

(b) the member organizations of which collectively constitute all of the subscribers of an association captive insurance company formed as a reciprocal insurer.

(4) ‘Association captive insurance company’ means a company that insures risks of the member organizations of the association and their affiliated companies.

(5) ‘Branch business’ means any insurance business transacted by a branch captive insurance company in this State.

(6) ‘Branch captive insurance company’ means an alien captive insurance company licensed by the director to transact the business of insurance in this State through a business unit with a principal place of business in this State.

(7) ‘Branch operations’ means any business operations of a branch captive insurance company in this State.

(8) ‘Captive insurance company’ means a pure captive insurance company, association captive insurance company, captive reinsurance company, sponsored captive insurance company, special purpose captive insurance company, or industrial insured captive insurance company formed or licensed under this chapter. For purposes of this chapter, a branch captive insurance company must be a pure captive insurance company with respect to operations in this State, unless otherwise permitted by the director.

(9) ‘Captive reinsurance company’ means a reinsurance company that is formed or licensed pursuant to this chapter and is wholly owned by a qualifying reinsurance parent company. A captive reinsurance company is a stock corporation.

(10) ‘Consolidated debt to total capital ratio’ means the ratio of the sum of (a) all debts and hybrid capital instruments including, but not limited to, all borrowings from banks, all senior debt, all subordinated debts, all trust preferred shares, and all other hybrid capital instruments that are not included in the determination of consolidated GAAP net worth issued and outstanding to (b) total capital, consisting of all debts and hybrid capital instruments as described in subitem (a) plus owners’ equity determined in accordance with GAAP for reporting to the United States Securities and Exchange Commission.

(11) ‘Consolidated GAAP net worth’ means the consolidated owners’ equity determined in accordance with GAAP for reporting to the United States Securities and Exchange Commission.

(12) ‘Controlled unaffiliated business’ means a company:

(a) that is not in the corporate system of a parent and affiliated companies;

(b) that has an existing contractual relationship with a parent or affiliated company; and

(c) whose risks are managed by a captive insurance company in accordance with Section 38‑90‑190.

(13) ‘Director’ means the Director of the South Carolina Department of Insurance or the director’s designee.

(14) ‘Department’ means the South Carolina Department of Insurance.

(15) ‘GAAP’ means generally accepted accounting principles.

(16) ‘General account’ means the assets and liabilities of a sponsored captive insurance company other than protected cell assets and protected cell liabilities.

(~~16~~17) ‘Industrial insured’ means an insured as defined in Section 38‑25‑150(8).

(~~17~~18) ‘Industrial insured captive insurance company’ means a company that insures risks of the industrial insureds that comprise the industrial insured group and their affiliated companies.

(~~18~~19) ‘Industrial insured group’ means a group that meets either of the following criteria:

(a) a group of industrial insureds that collectively:

(i) own, control, or hold with power to vote all of the outstanding voting securities of an industrial insured captive insurance company incorporated as a stock insurer or limited liability company; or

(ii) have complete voting control over an industrial insured captive insurance company incorporated as a mutual insurer; or

(b) a group which is created under the Liability Risk Retention Act of 1986 15 U.S.C. Section 3901, et seq., as amended, and Chapter 87, Title 38, as a corporation or other limited liability association taxable as a stock insurance company or a mutual insurer under this title.

(~~19~~20) ‘Member organization’ means any individual, corporation, limited liability company, partnership, or association that belongs to an association.

(~~20~~21) ‘Parent’ means any corporation, limited liability company, partnership, or individual that directly or indirectly owns, controls, or holds with power to vote more than fifty percent of the outstanding voting interests of a captive insurance company.

(~~21~~22) ‘Participant’ means an entity as defined in Section 38‑90‑240, and any affiliates of that entity, that are insured by a sponsored captive insurance company, where the losses of the participant are limited through a participant contract to the assets of a protected cell.

(~~22~~23) ‘Participant contract’ means a contract by which a sponsored captive insurance company insures the risks of a participant and limits the losses of the participant to the assets of a protected cell.

(~~23~~24) ‘Protected cell’ means ~~a separate account established and maintained by a sponsored captive insurance company for one participant~~ an identified pool of assets and liabilities of a sponsored captive insurance company for one or more participants that is segregated and insulated from the remainder of the sponsored captive insurance company’s assets and liabilities as set forth in this chapter. A protected cell may be unincorporated or incorporated.

(25) ‘Protected cell account’ means a specifically identified bank or custodial account established by a sponsored captive insurance company for the purpose of segregating the protected cell assets of one protected cell from the protected cell assets of other protected cells and from the assets of the sponsored captive insurance company’s general account.

(26) ‘Protected cell assets’ means all assets, contract rights, and general intangibles, identified with and attributable to a specific protected cell of a sponsored captive insurance company.

(27) ‘Protected cell liabilities’ means all liabilities and other obligations identified with and attributable to a specific protected cell of a sponsored captive insurance company..

(~~24~~28) ‘Pure captive insurance company’ means a company that insures risks of its parent, affiliated companies, controlled unaffiliated business, or a combination thereof.

(~~25~~29) ‘Qualifying reinsurer parent company’ means a reinsurer authorized to write reinsurance by this State and that has a consolidated GAAP net worth of not less than five hundred million dollars and consolidated debt to total capital ratio not greater than 0.50.

(30) ‘Risk retention group’ means a captive insurance company formed under the Product Liability Risk Retention Act of 1986, 15 U.S.C. Section 3901, et seq., as amended.

(~~26~~31) ‘Special purpose captive insurance company’ means a captive insurance company that is formed or licensed under this chapter that does not meet the definition of any other type of captive insurance company defined in this section.

(~~27~~32) ‘Sponsor’ means an entity that ~~meets the requirements of Section 38‑90‑220 and~~ is approved by the director to provide all or part of the capital and surplus required by applicable law and to organize and operate a sponsored captive insurance company.

(~~28~~33) ‘Sponsored captive insurance company’ means a captive insurance company:

(a) in which the minimum capital and surplus required by applicable law is provided by one or more sponsors;

(b) that is formed or licensed under this chapter;

(c) that ~~insures the risks of separate participants through the contract~~ segregates liability through one or more protected cells; and

(d) that ~~segregates each participant’s liability through one or more protected cells~~ insures the risks of participants through participant contracts.

(~~29~~34) ‘Treasury rates’ means the United States Treasury strips asked yield as published in the Wall Street Journal as of a balance sheet date.”

SECTION 5. Section 38‑90‑20(F) of the 1976 Code, as last amended by Act 291 of 2004, is further amended to read:

“(F) A foreign or alien captive insurance company, upon approval of the director or his designee, may become a domestic captive insurance company by complying with all of the requirements of law relative to the organization and licensing of a domestic captive insurance company of the same or equivalent type in this State and by filing with the Secretary of State its articles of association, charter, or other organizational document, together with appropriate amendments to them adopted in accordance with the laws of this State bringing those articles of association, charter, or other organizational document into compliance with the laws of this State~~, along with a certificate of general good issued by the director~~. After this is accomplished, the captive insurance company is entitled to the necessary or appropriate certificates and licenses to continue transacting business in this State and is subject to the authority and jurisdiction of this State. In connection with this redomestication, the director may waive any requirements for public hearings. It is not necessary for a company redomesticating into this State to merge, consolidate, transfer assets, or otherwise engage in any other reorganization, other than as specified in this section.”

SECTION 6. Section 38‑90‑35 of the 1976 Code, as added by Act 291 of 2004, is amended to read:

“Section 38‑90‑35. (A) Information submitted pursuant to the provisions of this chapter is confidential and may not be made public by the director or an agent or employee of the director without the written consent of the company, except that~~:~~

~~(1)~~ information may be discoverable by a party in a civil action or contested case to which the submitting captive insurance company is a party, upon a showing by the party seeking to discover the information that:

(~~a~~1) the information sought is relevant to and necessary for the furtherance of the action or case and the information sought is unavailable from other nonconfidential sources; or

(~~b~~2) a subpoena applicable to the information ~~sought is unavailable from other nonconfidential sources; or~~

~~(c)~~ ~~a subpoena issued by a judicial or administrative law officer of competent jurisdiction has been submitted to the director; and~~ is issued by a judicial or administrative law officer of competent jurisdiction has been submitted to the director.

(~~2~~B) The director may disclose the information to the public officer having jurisdiction over the regulation of insurance in another state if:

(~~a~~1) the public official agrees in writing to maintain the confidentiality of the information; and

(~~b~~2) the laws of the state in which the public official serves require the information to be confidential.”

SECTION 7. Section 38‑90‑40 of the 1976 Code, as last amended by Act 217 of 2010, is amended to read:

“Section 38‑90‑40. (A)(1) The director may not issue a license to a captive insurance company unless the company possesses and maintains unimpaired paid‑in capital of:

(a) in the case of a pure captive insurance company, not less than one hundred thousand dollars;

(b) in the case of an association captive insurance company incorporated as a stock insurer or organized as a limited liability company, not less than four hundred thousand dollars;

(c) in the case of an industrial insured captive insurance company incorporated as a stock insurer or organized as a limited liability company, or in the case of a captive insurance company formed as a risk retention group, not less than two hundred thousand dollars;

(d) in the case of a sponsored captive insurance company, not less than five hundred thousand dollars; however, if the sponsored captive insurance company does not assume any risk, the risks insured by the protected cells are homogeneous and there are no more than ten cells, the director may reduce this amount to an amount not less than one hundred fifty thousand dollars;

(e) in the case of a special purpose captive insurance company that is not a special purpose captive insurance company formed as a risk retention group, an amount determined by the director after giving due consideration to the company’s business plan, feasibility study, and pro‑formas, including the nature of the risks to be insured.

(2)(a) Except for a sponsored captive insurance company that does not assume any risk, the unimpaired, paid‑in capital required in subsection (A)(1) must be in the form of ~~cash, cash equivalent, or an irrevocable letter of credit issued by a bank chartered by this State or a member bank of the Federal Reserve System with a branch office in this State or as approved by the director.~~:

(i) cash on deposit with a bank located in South Carolina;

(ii) cash equivalent accessible through a bank or investment manager located in South Carolina; or

(iii) an irrevocable letter of credit in a form approved by the director and issued by a bank chartered by this State or a member bank of the Federal Reserve System with a branch office in this State or as approved by the director.

(b) For a sponsored captive insurance company that does not assume any risk, the capital also may be in the form of other high quality securities as approved by the director.

(B)(1) The director may not issue a license to a captive insurance company incorporated as a nonprofit corporation unless the company possesses and maintains unrestricted net assets of:

(a) in the case of a pure captive insurance company, not less than two hundred fifty thousand dollars; ~~and~~

(b) in the case of a special purpose captive insurance company formed as a risk retention group, not less than five hundred thousand dollars; and

(~~b~~c) in the case of a special purpose captive insurance company that is not a special purpose captive insurance company formed as a risk retention group, an amount determined by the director after giving due consideration to the company’s business plan, feasibility study, and pro‑formas, including the nature of the risks to be insured.

(2) Contributions to a captive insurance company incorporated as a nonprofit corporation must ~~be in the form of cash, cash equivalent, or an irrevocable letter of credit issued by a bank chartered by this State or a member bank of the Federal Reserve System with a branch office in this State or as approved by the director~~ conform with the requirements of subsection (A)(2)(a).

(C) For purposes of subsections (A) and (B), the director may issue a license expressly conditioned upon the captive insurance company providing to the director satisfactory evidence of possession of the minimum required unimpaired paid‑in capital. Until this evidence is provided, the captive insurance company may not issue any policy, assume any liability, or otherwise provide coverage. The director summarily may revoke the conditional license without legal recourse by the company if satisfactory evidence of the required capital is not provided within a maximum period of time, not to exceed one year, to be established by the director at the time the conditional license is issued.

(D) Notwithstanding the provisions of this section, the director may prescribe additional capital or net assets based upon the type, volume, and nature of insurance business transacted including, but not limited to, the net amount of risk retained for an individual risk. Contributions in connection with these prescribed additional net assets or capital must be in the form of:

(1) cash;

(2) cash equivalent;

(3) an irrevocable letter of credit issued by a bank chartered by this State or a member bank of the Federal Reserve System with a branch office in this State or as approved by the director; or

(4) securities invested as provided in Section 38‑90‑100.

(E) In the case of a branch captive insurance company, as security for the payment of liabilities attributable to branch operations, the director shall require that a trust fund, funded by an irrevocable letter of credit or other acceptable asset, be established and maintained in the United States for the benefit of United States policyholders and United States ceding insurers under insurance policies issued or reinsurance contracts issued or assumed, by the branch captive insurance company through its branch operations. The amount of the security may be no less than the capital and surplus required by this chapter and the reserves on these insurance policies or reinsurance contracts, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses and unearned premiums with regard to business written through branch operations; however, the director may permit a branch captive insurance company that is required to post security for loss reserves on branch business by its reinsurer or front company to reduce the funds in the trust account required by this section by the same amount so long as the security remains posted with the reinsurer or front company. If the form of security selected is a letter of credit, the letter of credit must be established by, or issued or confirmed by, a bank chartered in this State or a member bank of the Federal Reserve System.

(F)(1) A captive insurance company may not pay a dividend out of, or other distribution with respect to, capital or surplus, in excess of the limitations set forth in Section 38‑21‑250 through Section 38‑21‑270, without the prior approval of the director. Approval of an ongoing plan for the payment of dividends or other distributions must be conditioned upon the retention, at the time of each payment, of capital or surplus in excess of amounts specified by, or determined in accordance with formulas approved by, the director.

(2) A captive insurance company incorporated as a nonprofit corporation may not make any distributions without the prior approval of the director.

(G) An irrevocable letter of credit, which is issued by a financial institution other than a bank chartered by this State or a member bank of the Federal Reserve System, shall meet the same standards as an irrevocable letter of credit which has been issued by either entity.”

SECTION 8. Section 38‑90‑50 of the 1976 Code, as last amended by Act 217 of 2010, is amended to read:

“Section 38‑90‑50. (A)(1) The director may not issue a license to a captive insurance company unless the company possesses and maintains free surplus of:

(a) in the case of a pure captive insurance company, not less than one hundred fifty thousand dollars;

(b) in the case of an association captive insurance company incorporated as a stock insurer or organized as a limited liability company, not less than three hundred fifty thousand dollars;

(c) in the case of an industrial insured captive insurance company incorporated as a stock insurer or organized as a limited liability company, or in the case of a captive insurance company formed as a risk retention group, not less than three hundred thousand dollars;

(d) in the case of an association captive insurance company incorporated as a mutual insurer, not less than seven hundred fifty thousand dollars;

(e) in the case of an industrial insured captive insurance company, or a captive insurance company formed as a risk retention group incorporated as a mutual insurer, not less than five hundred thousand dollars;

(f) in the case of a sponsored captive insurance company, not less than five hundred thousand dollars; however, if the sponsored captive insurance company does not assume any risk, the risks insured by the protected cells are homogeneous and there are no more than ten cells, the director may reduce this amount to an amount not less than one hundred fifty thousand dollars; and

(g) in the case of a special purpose captive insurance company that is not a special purpose captive insurance company formed as a risk retention group, an amount determined by the director after giving due consideration to the company’s business plan, feasibility study, and pro‑formas, including the nature of the risks to be insured.

(2)(a) Except for a sponsored captive insurance company that does not assume any risk, the free surplus required in subsection (A)(1) must be in the form of ~~cash, cash equivalent, or an irrevocable letter of credit issued by a bank chartered by this State or a member bank of the Federal Reserve System with the branch office in this State and approved by the director~~:

(i) cash on deposit with a bank located in South Carolina;

(ii) cash equivalent accessible through a bank or investment manager located in South Carolina; or

(iii) an irrevocable letter of credit in a form approved by the director and issued by a bank chartered by this State or a member bank of the Federal Reserve System with a branch office in this State or as approved by the director.

(b) For a sponsored captive insurance company that does not assume any risk, the surplus also may be in the form of other high quality securities as approved by the director.

(B) Notwithstanding the requirements of subsection (A) a captive insurance company organized as a reciprocal insurer under this chapter may not be issued a license unless it possesses and thereafter maintains free surplus of one million dollars.

(C) For purposes of subsections (A) and (B), the director may issue a license expressly conditioned upon the captive insurance company providing to the director satisfactory evidence of possession of the minimum required free surplus. Until this evidence is provided, the captive may not issue any policy, assume any liability, or otherwise provide coverage. The director summarily may revoke the conditional license without legal recourse by the company if satisfactory evidence of the required capital is not provided within a maximum period of time, not to exceed one year, to be established by the director at the time the conditional license is issued.

(D) Notwithstanding another provisions of this section, the director may prescribe additional surplus based upon the type, volume, and nature of insurance business transacted including, but not limited to, the net amount of risk retained for an individual risk. This additional surplus must be in the form of:

(1) cash;

(2) cash equivalent;

(3) an irrevocable letter of credit issued by a bank chartered by this State, or a member bank of the Federal Reserve System with a branch in this State or as approved by the director; or

(4) securities invested as provided in Section 38‑90‑100.

(E) A captive insurance company may not pay a dividend out of, or other distribution with respect to, capital or surplus in excess of the limitations set forth in Section 38‑21‑270, without the prior approval of the director. Approval of an ongoing plan for the payment of dividends or other distribution must be conditioned upon the retention, at the time of each payment, of capital or surplus in excess of amounts specified by, or determined in accordance with formulas approved by, the director.

(F) An irrevocable letter of credit, which is issued by a financial institution other than a bank chartered by this State or a member bank of the Federal Reserve System, shall meet the same standards as an irrevocable letter of credit which has been issued by either entity.”

SECTION 9. Section 38‑90‑55 of the 1976 Code, as last amended by Act 28 of 2009, is further amended to read:

“Section 38‑90‑55. (A) A captive reinsurance company must be incorporated as a stock insurer with its capital divided into shares and held by its shareholders.

(B) ~~A captive reinsurance company may not have fewer than three incorporators of whom at least two must be residents of this State.~~

~~(C)~~ ~~Before the articles of incorporation are transmitted to the Secretary of State, the incorporators shall petition the director to issue a certificate finding that the establishment and maintenance of the proposed corporation promotes the general good of this State. In arriving at this finding the director may consider:~~

~~(1)~~ ~~the character, reputation, financial standing, and purposes of the incorporators;~~

~~(2)~~ ~~the character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors; and~~

~~(3)~~ ~~other factors the director considers advisable.~~

~~(D)~~ ~~The capital stock of a captive reinsurance company must be issued at par value or greater.~~

~~(E)~~ At least one of the members of the board of directors of a captive reinsurance company incorporated in this State must be a resident of this State.”

SECTION 10. Section 38‑90‑60 of the 1976 Code, as last amended by Act 28 of 2009, is further amended to read:

“Section 38‑90‑60. (A) A ~~pure captive insurance company or a sponsored~~ captive insurance company may be:

(1) incorporated as a stock insurer ~~with its capital divided into shares and held by the stockholders~~;

(2) incorporated as a ~~public benefit, mutual benefit, or religious~~ nonprofit corporation ~~with members in accordance with the South Carolina Nonprofit Corporation Act of 1994~~; ~~or~~

(3) organized as a limited liability company ~~with its capital divided into capital accounts and held by its members~~;

(4) incorporated as a mutual insurer without capital stock, the governing body of which is elected by the members of the insurer; or

(5) organized as a reciprocal insurer pursuant to Chapter 17.

(B) ~~An association captive insurance company or an industrial insured captive insurance company may be:~~

~~(1)~~ ~~incorporated as a stock insurer with its capital divided into shares and held by the stockholders;~~

~~(2)~~ ~~organized as a limited liability company with its capital divided into capital accounts and held by its members;~~

~~(3)~~ ~~incorporated as a mutual insurer without capital stock, the governing body of which is elected by the member organizations of its association; or~~

~~(4)~~ ~~organized as a reciprocal insurer in accordance with Chapter 17.~~

~~(C)~~ ~~A captive insurance company may not have fewer than three incorporators or organizers of whom not fewer than two must be residents of this State.~~

~~(D)~~ ~~In the case of a captive insurance company formed as a corporation, a nonprofit corporation, or a limited liability company, before the articles of incorporation or articles of organization are transmitted to the Secretary of State, the incorporators or organizers shall petition the director to issue a certificate setting forth a finding that the establishment and maintenance of the proposed entity will promote the general good of the State. In arriving at this finding the director may consider:~~

~~(1)~~ ~~the character, reputation, financial standing, and purposes of the incorporators or organizers;~~

~~(2)~~ ~~the character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors or managers; and~~

~~(3)~~ ~~other aspects as the director considers advisable.~~

~~(E)~~ ~~The articles of incorporation or articles of organization, the certificate issued pursuant to subsection (D), and the organization fees required by Section 33‑1‑220, 33‑31‑122, or 33‑44‑1204, as applicable, must be transmitted to the Secretary of State, who shall record both the articles of incorporation or articles of organization and the certificate.~~

~~(F)~~ ~~In the case of a captive insurance company formed as a reciprocal insurer, the organizers shall petition the director to issue a certificate setting forth the director’s finding that the establishment and maintenance of the proposed association will promote the general good of the State. In arriving at this finding the director may consider:~~

~~(1)~~ ~~the character, reputation, financial standing, and purposes of the incorporators or organizers;~~

~~(2)~~ ~~the character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors or managers; and~~

~~(3)~~ ~~other aspects the director considers advisable.~~ No captive insurance company shall do any business in this State unless it first obtains from the director a certificate of authority authorizing it to do business in this State. In determining whether to issue a certificate of authority to a captive insurance company, the director may consider:

(1) the character, reputation, financial responsibility, insurance experience, and business qualifications of the incorporators, officers, and directors or managers; and

(2) other aspects the director considers advisable.

(~~G~~C) In the case of a captive insurance company licensed as a branch captive insurance company, the alien captive insurance company ~~shall petition the director to issue a certificate setting forth the director’s finding that the licensing and maintenance of the branch operations will promote the general good of the State. In arriving at this finding, the director or his designee may consider the character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors or managers of the alien captive insurance company and other aspects the director considers advisable. The alien captive insurance company may~~ must register to do business in this State after the ~~director’s~~ certificate of authority has been issued.

~~(H)~~ ~~The capital stock or membership interests of a captive insurance company incorporated as a stock insurer or limited liability company must be issued at not less than par value.~~

~~(I)~~ ~~In the case of a captive insurance company formed as a corporation or a nonprofit corporation, at least one of the members of the board of directors of a captive insurance company incorporated in this State must be a resident of this State.~~

~~(J)~~ ~~In the case of a captive insurance company formed as a limited liability company, at least one of the managers of the captive insurance company must be a resident of this State.~~

~~(K)~~ ~~In the case of a captive insurance company formed as a reciprocal insurer, at least one of the members of the subscribers’ advisory committee must be a resident of this State.~~

(D) The articles of incorporation, articles of organization, or the application of a branch captive insurance company to qualify to do business in South Carolina, and the organization fees required by Section 33‑1‑220, 33‑31‑122, or 33‑44‑1204, as applicable, must be transmitted to the Secretary of State, who shall record the articles of incorporation, articles of organization, or application to qualify to do business in South Carolina.

(~~L~~E) A captive insurance company formed as a corporation, a nonprofit corporation, or a limited liability company, pursuant to the provisions of this chapter has the privileges and is subject to the provisions of the general corporation law, including the South Carolina Nonprofit Corporation Act of 1994 for nonprofit corporations and the South Carolina Uniform Limited Liability Company Act of 1996 for limited liability companies, as applicable, as well as the applicable provisions contained in this chapter. If a conflict occurs between a provision of the general corporation law, including the South Carolina Nonprofit Corporation Act of 1994 for nonprofit corporations and the South Carolina Uniform Limited Liability Company Act of 1996 for limited liability companies, as applicable, and a provision of this chapter, the latter controls. The provisions of this title pertaining to mergers, consolidations, conversions, mutualizations, and redomestications apply in determining the procedures to be followed by a captive insurance company in carrying out any of the transactions described in those provisions, except the director may waive or modify the requirements for public notice and hearing in accordance with regulations which the director may promulgate addressing categories of transactions. If a notice of public hearing is required, but no one requests a hearing, the director may cancel the hearing.

(~~M~~F) A captive insurance company formed as a reciprocal insurer pursuant to the provisions of this chapter has the privileges and is subject to Chapter 17 in addition to the applicable provisions of this chapter. If a conflict occurs between the provisions of Chapter 17 and the provisions of this chapter, the latter controls. To the extent a reciprocal insurer is made subject to other provisions of this title pursuant to Chapter 17, the provisions are not applicable to a reciprocal insurer formed pursuant to the provisions of this chapter unless the provisions are expressly made applicable to a captive insurance company pursuant to the provisions of this chapter.

(G) In the case of a captive insurance company formed as a corporation, a mutual insurer, or a nonprofit corporation, at least one of the members of the board of directors of a captive insurance company incorporated in this State must be a resident of this State.

(H) In the case of a captive insurance company formed as a limited liability company, at least one of the managers of the captive insurance company must be a resident of this State.

(I) In the case of a captive insurance company formed as a reciprocal insurer, at least one of the members of the subscribers’ advisory committee must be a resident of this State.

(~~N~~J) The articles of incorporation or bylaws of a captive insurance company may authorize a quorum of a board of directors to consist of no fewer than one‑third of the fixed or prescribed number of directors as provided for in Section 33‑8‑240(b). In the case of a limited liability company, the articles of organization or operating agreement of a captive insurance company may authorize a quorum to consist of no fewer than one‑third of the managers required by the articles of organization or the operating agreement.”

SECTION 11. Section 38‑90‑70(B) of the 1976 Code, as last amended by Act 217 of 2010, is further amended to read:

“(B) Before March first of each year, a captive insurance company or a captive reinsurance company shall submit to the director a report of its financial condition, verified by oath of two of its executive officers. Except as provided in Sections 38‑90‑40 and 38‑90‑50, a captive insurance company or a captive reinsurance company shall report using generally accepted accounting principles, unless the director approves the use of statutory accounting principles, with useful or necessary modifications or adaptations required or approved or accepted by the director for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the director. Except as otherwise provided, an association captive insurance company ~~and~~, an industrial insured group, and a captive insurance company formed as a risk retention group shall file its report in the form and manner required by Section 38‑13‑80, and each industrial insured group and each captive insurance company formed as a risk retention group shall comply with the requirements provided for in Section 38‑13‑85. The director by regulation shall prescribe the forms in which pure captive insurance companies and industrial insured captive insurance companies shall report. Information submitted pursuant to this section is confidential as provided in Section 38‑90‑35, except for reports submitted by a ~~captive insurance company~~ risk retention group formed as a risk retention group under the Product Liability Risk Retention Act of 1986, 15 U.S.C. Section 3901, et seq., as amended.”

SECTION 12. Section 38‑90‑80(A) of the 1976 Code, as last amended by Act 28 of 2009, is further amended to read:

“(A) At least once every five years, and whenever the director determines it to be prudent, the director personally, or by a competent person appointed by the director, shall visit each captive insurance company and thoroughly inspect and examine its affairs to ascertain its financial condition, its ability to fulfill its obligations, and whether it has complied with this chapter. The director may waive the requirement for a visit to the captive insurance company ~~for pure captive insurance companies and for special purpose captive insurance companies~~. The expenses and charges of the examination must be paid to the State by the company or companies examined and the department shall issue its warrants for the proper charges incurred in all examinations.”

SECTION 13. Section 38‑90‑90(C) of the 1976 Code, as added by Act 28 of 2009, is amended to read:

“(C) ~~Instead~~ In lieu of suspending or revoking the license of a captive insurance company, the director may impose fines as provided for in Section 38‑2‑10.”

SECTION 14. Section 38‑90‑100 of the 1976 Code, as last amended by Act 332 of 2006, is further amended to read:

“Section 38‑90‑100. (A) An association captive insurance company ~~and~~, an industrial insured captive insurance company insuring the risks of an industrial insured group, and a captive insurance company formed as a risk retention group shall comply with the investment requirements contained in this title. Notwithstanding any other provision of this title, the director may approve the use of alternative reliable methods of valuation and rating.

(B) A pure captive insurance company, a captive reinsurance company, a special purpose captive insurance company, other than a special purpose captive insurance company formed as a risk retention group, and a sponsored captive insurance company are not subject to any restrictions on allowable investments contained in this title; however, the director may request a written investment plan and may prohibit or limit an investment that threatens the solvency or liquidity of the company.

(C) Only a pure captive insurance company or a sponsored captive insurance company may make loans to its parent company or affiliates and only ~~upon the prior written approval~~ by order of the director and must be evidenced by a note in a form approved by the director. Loans of minimum capital and surplus funds required by Sections 38‑90‑40(A) and 38‑90‑50(A) are prohibited.”

SECTION 15. Section 38‑90‑110(B)(2) of the 1976 Code, as last amended by Act 86 of 2007, is further amended to read:

“(2) An industrial insured captive insurance company or a captive insurance company formed as a risk retention group may not take credit for reserves on risks or portions of risks ceded to a reinsurer if the reinsurer is not in compliance with Sections 38‑9‑200, 38‑9‑210, and 38‑9‑220.”

SECTION 16. Section 38‑90‑130 of the 1976 Code, as last amended by Act 28 of 2009, is further amended to read:

“Section 38‑90‑130. A captive insurance company, including a captive insurance company organized as a reciprocal insurer under this chapter, may not join or contribute financially to a plan, pool, association, or guaranty or insolvency fund in this State, and a captive insurance company, or its insured or its parent or any affiliated company or any member organization of its association, or in the case of a captive insurance company organized as a reciprocal insurer, a subscriber of the company, may not receive a benefit from a plan, pool, association, or guaranty or insolvency fund for claims arising out of the operations of such captive insurance company. Subject to the prior written approval of the director or his designee, participation by a captive insurance company, including a pure captive insurance company, in a pool for the purpose of commercial risk sharing is not prohibited under this section. Nothing in this section may be interpreted to permit the writing of third‑party risk by a captive insurance company outside of a commercial risk sharing arrangement approved by the director.”

SECTION 17. Section 38‑90‑160 of the 1976 Code, as last amended by Act 18 of 2013, is further amended to read:

“Section 38‑90‑160. (A) No provisions of this title, other than those contained in this chapter or contained in specific references contained in this chapter and regulations applicable to them, apply to captive insurance companies.

(B) The director may exempt, by rule, regulation, or order, special purpose captive insurance companies, other than a special purpose captive insurance company formed as a risk retention group, on a case by case basis, from provisions of this chapter that he determines to be inappropriate given the nature of the risks to be insured.

(C) The provisions of Sections 38‑5‑120(A)~~(3)~~(5), 38‑5‑120~~(C)~~(B), 38‑5‑120(D)(1), 38‑5‑120(D)(2), 38‑9‑225, 38‑9‑230, 38‑21‑10, 38‑21‑30, 38‑21‑60, 38‑21‑70, 38‑21‑90, 38‑21‑95, 38‑21‑120, 38‑21‑130, 38‑21‑140, 38‑21‑150, 38‑21‑160, 38‑21‑170, 38‑21‑250, 38‑21‑270, 38‑21‑280, 38‑21‑310, 38‑21‑320, 38‑21‑330, 38‑21‑360, 38‑55‑75 and Chapters 44 and 46, Title 38 apply in full to a risk retention group licensed as ~~an industrial insured~~ a captive insurance company and, if a conflict occurs between those code sections and chapters referenced in this subsection and this chapter (Chapter 90, Title 38), then the code sections and chapters referenced in this subsection control.

(D) Except as provided elsewhere in this chapter, the provisions of Chapter 87, Title 38 apply to a risk retention group licensed as ~~an industrial insured~~ a captive insurance company.

(E)(1) Except for Section 38‑9‑330(F) and Section 38‑9‑440, the provisions of Article 3 and Article 5, Chapter 9, Title 38 apply in full to a risk retention group licensed as ~~an industrial insured~~ a captive insurance company, and if a conflict occurs between those provisions and this chapter, the provisions of this subsection control.

(2) The director may elect not to take regulatory action as otherwise required by Sections 38‑9‑330, 38‑9‑340, 38‑9‑350, and 38‑9‑360 if any of the following conditions exist:

(a) the director establishes that the risk retention group’s members, sponsoring organizations, or both, are well‑capitalized entities whose financial condition and support for the risk retention group is adequately documented. In making this determination, the director shall, at a minimum, require the filing of at least three years of historical, audited financial statements of the members, sponsor, or both, to assess the financial ability of the members’, sponsor’s, or both, support of the risk retention group. In addition, one year of projected financial information must be reviewed if available. The members, sponsor, or both, shall have:

(i) an investment grade rating from a nationally recognized statistical rating organization or A.M. Best rating of A‑ or better; or

(ii) equity equal to or greater than one hundred million dollars or equity equal to or greater than ten times the risk retention group’s largest net retained per occurrence limit;

(b) each policyholder qualifies as an industrial insured in their state or this State, depending on which has the greater requirements, provided that if the policyholder’s home state does not have an industrial insured exemption or equivalent, the policyholder must qualify under the industrial insured requirement of this State; or

(c) the risk retention group’s certificate of authority date of issue was before January 1, 2011, and, based on a minimum five‑year history of successful operations, is specifically exempted, in writing, from the requirements for mandatory risk‑based capital action by the director.”

SECTION 18. Section 38‑90‑180(B) of the 1976 Code, as last amended by Act 58 of 2001, is further amended to read:

“(B) In the case of a sponsored captive insurance company:

(1) the assets of the protected cell may not be used to pay expenses or claims other than those attributable to the protected cell; and

(2) its capital and surplus at all times must be available to pay expenses of or claims against the sponsored captive insurance company and may not be used to pay expenses or claims attributable to a protected cell.

(3) Notwithstanding another provision of law or regulation, upon an order of conservation, rehabilitation, or liquidation of a sponsored captive insurance company, the receiver shall deal with the sponsored captive insurance company’s assets and liabilities, including protected cell assets and protected cell liabilities, pursuant to the requirements of this chapter.”

SECTION 19. Section 38‑90‑210 of the 1976 Code is amended to read:

“Section 38‑90‑210. (A) One or more sponsors may form a sponsored captive insurance company under this chapter.

(B) A sponsored captive insurance company formed or licensed under this chapter may establish and maintain one or more protected cells to insure risks of one or more participants, subject to the following conditions:

(1) the shareholders of a sponsored captive insurance company must be limited to its participants and sponsors;

(2) each protected cell must be accounted for separately on the books and records of the sponsored captive insurance company to reflect the participants of the protected cell, the financial condition and results of operations of the protected cell, net income or loss, dividends or other distributions to participants, and other factors may be provided in the participant contract or required by the director;

(3) the assets of a protected cell must not be chargeable with liabilities arising out of any other insurance business the sponsored captive insurance company may conduct;

(4) no sale, exchange, or other transfer of assets may be made by the sponsored captive insurance company between or among any of its protected cells without the consent of the protected cells;

(5) no sale, exchange, transfer of assets, dividend, or distribution may be made from a protected cell to a sponsor or participant without the director’s approval and in no event may the approval be given if the sale, exchange, transfer, dividend, or distribution would result in insolvency or impairment with respect to a protected cell;

(6) a sponsored captive insurance company annually shall file with the director financial reports the director requires, which shall include, but are not limited to, accounting statements detailing the financial experience of each protected cell;

(7) a sponsored captive insurance company shall notify the director in writing within ten business days of a protected cell that is insolvent or otherwise unable to meet its claim or expense obligations;

(8) no participant contract shall take effect without the director’s prior written approval, and the addition of each new protected cell and withdrawal of any participant of any existing protected cell constitutes a change in the business plan requiring the director’s prior written approval.

(C) The name of a sponsored captive insurance company shall include the words ‘Sponsored Captive’ or the abbreviation ‘SC’. Any captive insurance company or protected cell formed prior to July 31, 2013 may not be required to change its name to comply with the provisions of this subsection.

(D) A sponsored captive insurance company may establish one or more protected cells with the prior written approval of the director of a plan of operation or amendments submitted by the sponsored captive insurance company with respect to each protected cell. Upon the written approval of the director of the plan of operation, which shall include, but is not limited to, the specific business objectives and investment guidelines of the protected cell, the sponsored captive insurance company, in accordance with the approved plan of operation, may attribute to the protected cell insurance obligations with respect to its insurance business and assets to fund the obligations. The sponsored captive insurance company shall transfer all assets attributable to a protected cell to one or more separately established and identified protected cell accounts bearing the name or designation of that protected cell. Protected cell assets must be held in the protected cell accounts for the purpose of satisfying the obligations of that protected cell.

(E) All attributions of assets and liabilities between a protected cell and the general account must be in accordance with the plan of operation approved by the director. No other attribution of assets or liabilities may be made by a sponsored captive insurance company between the sponsored captive insurance company’s general account and its protected cells.

(F) A sponsored captive insurance company shall establish administrative and accounting procedures necessary to properly identify the one or more protected cells of the sponsored captive insurance company and the protected cell assets and protected cell liabilities attributable to the protected cells. The directors of a sponsored captive insurance company shall keep protected cell assets and protected cell liabilities:

(1) separate and separately identifiable from the assets and liabilities of the sponsored captive insurance company’s general account; and

(2) attributable to one protected cell separate and separately identifiable from protected cell assets and protected cell liabilities attributable to other protected cells.

Notwithstanding the provisions of this subsection, if this subsection is violated, the remedy of tracing is applicable to protected cell assets when commingled with protected cell assets of other protected cells or the assets of the sponsored captive insurance company’s general account. The remedy of tracing must not be construed as an exclusive remedy.

(G) When establishing a protected cell, the sponsored captive insurance company shall attribute to the protected cell assets with a value at least equal to the reserves and other insurance liabilities attributed to that protected cell.”

SECTION 20. Section 38‑90‑220 of the 1976 Code, as last amended by Act 58 of 2001, is further amended to read:

“Section 38‑90‑220. ~~A sponsor of a sponsored captive insurance company must be an insurer licensed pursuant to the laws of a state, an insurance holding company that controls an insurer licensed pursuant to the laws of any state and subject to registration pursuant to the insurance holding company system laws of the state of domicile of the insurer, a reinsurer authorized or approved pursuant to the laws of a state, or a captive insurance company formed or licensed pursuant to this chapter. A risk retention group may not be either a sponsor or a participant of a sponsored captive insurance company. The business written by a sponsored captive insurance company with respect to each protected cell must be:~~

~~(1)~~ ~~fronted by an insurance company licensed pursuant to the laws of:~~

~~(a)~~ ~~any state; or~~

~~(b)~~ ~~any jurisdiction if the insurance company is a wholly owned subsidiary of an insurance company licensed pursuant to the laws of any state;~~

~~(2)~~ ~~reinsured by a reinsurer authorized or approved by this State; or~~

~~(3)~~ ~~secured by a trust fund in the United States for the benefit of policyholders and claimants funded by an irrevocable letter of credit or other asset acceptable to the director. The amount of security provided by the trust fund may not be less than the reserves associated with those liabilities, including reserves for losses, allocated loss adjustment expenses, incurred but unreported losses, and unearned premiums for business written through the participant’s protected cell. The director may require the sponsored captive to increase the funding of a trust established pursuant to this item. If the form of security in the trust is a letter of credit, the letter of credit must be established, issued, or confirmed by a bank chartered in this State, a member of the federal reserve system, or a bank chartered by another state if that state‑chartered bank is acceptable to the director. A trust and trust instrument maintained pursuant to this item must be in a form and upon terms approved by the director.~~

(A) The sponsored captive insurance company shall attribute all insurance obligations, assets, and liabilities relating to a participant’s risks to the participant’s protected cell.

(B) The protected cell assets of a protected cell may not be charged with liabilities arising out of any other business the sponsored captive insurance company may conduct. All contracts or other documentation reflecting protected cell liabilities shall clearly indicate that only the protected cell assets are available for the satisfaction of those protected cell liabilities. Under no circumstances may a protected cell be authorized to issue insurance or reinsurance contracts directly to policyholders or reinsureds or have any obligation to the policyholders or reinsureds of the sponsored captive insurance company’s general account.

(C) The income, gains and losses, realized or unrealized, from protected cell assets and protected cell liabilities must be credited to or charged against the protected cell without regard to other income, gains or losses of the sponsored captive insurance company, including income, gains or losses of other protected cells. Investments must be handled pursuant to Section 38‑90‑100(B).

(D) In all sponsored captive insurance company transactions, the contracts or other documentation effecting the transaction shall contain provisions identifying the protected cell to which the transaction will be attributed. In addition, the contracts or other documentation must clearly disclose that the assets of that protected cell, and only those assets are available to pay the obligations of that protected cell. Notwithstanding the provisions of this subsection and subject to the provisions of this chapter and any other applicable law or regulation, the failure to include such language in the contracts or other documentation may not be used as the sole basis by creditors, reinsurers, or other claimants to circumvent the provisions of this chapter.

(E) Assets attributed to a protected cell must be valued at their market value on the date of valuation or if there is no readily available market, as provided in the contract or the rules or other written documentation applicable to the protected cell.

(F) At the cessation of business of a protected cell in accordance with the plan approved by the director, the sponsored captive insurance company voluntarily shall close out the protected cell account.”

SECTION 21. Section 38‑90‑230 of the 1976 Code, as last amended by Act 58 of 2001, is further amended to read:

“Section 38‑90‑230. (A) ~~An association, a corporation, a limited liability company, a partnership, a trust, or other business entity may be a participant in a sponsored captive insurance company formed or licensed pursuant to this chapter.~~

~~(B)~~ ~~A sponsor may be a participant in a sponsored captive insurance company.~~

~~(C)~~ ~~A participant need not be a shareholder of the sponsored captive insurance company or an affiliate of the company.~~

~~(D)~~ ~~A participant shall insure only its own risks through a sponsored captive insurance company, unless otherwise approved by the director.~~ Protected cell assets are only available to the creditors of the sponsored captive insurance company that are creditors with respect to that protected cell and are therefore entitled, in conformity with this chapter, to have recourse to the protected cell assets attributable to that protected cell. Protected cell assets are absolutely protected from the creditors of the sponsored captive insurance company that are not creditors with respect to that protected cell and who, therefore, are not entitled to have recourse to the protected cell assets attributable to that protected cell. Creditors with respect to a protected cell are not entitled to have recourse against the protected cell assets of other protected cells or the assets or the sponsored captive insurance company’s general account. Protected cell assets are only available to creditors of a sponsored captive insurance company after all protected cell liabilities have been extinguished or otherwise provided for in accordance with the plan of operation relating to that protected cell.

(B) When an obligation of a sponsored captive insurance company to a person arises from a transaction, or is otherwise imposed, with respect to a protected cell:

(1) that obligation of the sponsored captive insurance company extends only to the protected cell assets attributable to that protected cell, and the person, with respect to that obligation, is entitled to have recourse only to the protected cell assets attributable to that protected cell; and

(2) that obligation of the sponsored captive insurance company does not extend to the protected cell assets of any other protected cell or the assets of the sponsored captive insurance company’s general account, and that person, with respect to that obligation, is not entitled to have recourse to the protected cell assets of any other protected cell or the assets of the sponsored captive insurance company’s general account.

(C) When an obligation of a sponsored captive insurance company relates solely to the general account, the obligation of the sponsored captive insurance company extends only to the sponsored captive insurance company, and that person, with respect to that obligation, is entitled to have recourse only to the assets of the sponsored captive insurance company’s general account.

(D) The establishment of one or more protected cells alone does not constitute, and may not be deemed to be, a fraudulent conveyance, an intent by the sponsored captive insurance company to defraud creditors, or the carrying out of business by the sponsored captive insurance company for any other fraudulent purpose.”

SECTION 22. Section 38‑90‑240 of the 1976 Code is amended to read:

“Section 38‑90‑240. ~~A licensed captive insurance company that meets the necessary requirement of this title imposed upon an insurer must be considered for issuance of a certificate of authority to act as an insurer in this State.~~ (A) The following may be participants in a sponsored captive insurance company formed or licensed pursuant to this chapter:

(1) an association, a corporation, limited liability company, partnership, trust, or other business entity; and

(2) a sponsor may be a participant in a sponsored captive insurance company.

(B) A participant does not need to be a shareholder of the sponsored captive insurance company or an affiliate of the company.

(C) A participant shall insure only its own risks through a sponsored captive insurance company, unless otherwise approved by the director.

(D) A risk retention group may not be either a sponsor or participant in a sponsored captive insurance company.

(E) A sponsored captive insurance company established pursuant to Section 38‑90‑210 may not be used to facilitate insurance securitizations, but may be established for the purpose of isolating the expenses and claims. Insurance securitization transactions utilizing protected cells are governed by Chapter 10 of this title.”

SECTION 23. Section 38‑90‑450 of the 1976 Code, as last amended by Act 28 of 2009, is further amended to read:

“Section 38‑90‑450. (A) A SPFC may be established as a stock corporation, limited liability company, mutual, partnership, or other form of organization approved by the director.

(B) The SPFC’s organizational documents must limit the SPFC’s authority to transact the business of insurance or reinsurance to those activities the SPFC conducts to accomplish its purpose as expressed in this article.

(C) The SPFC may not adopt a name that is the same as, deceptively similar to, or likely to be confused with or mistaken for another existing business name registered in this State.

(D) ~~A SPFC may not have fewer than three incorporators or organizers of whom not fewer than two must be residents of this State.~~

~~(E)~~ ~~Before transmitting its organizational documents to the Secretary of State, the incorporators or organizers shall petition the director to issue a certificate setting forth a finding that the establishment and maintenance of the proposed SPFC promotes the general good of the State. In arriving at this finding the director may consider:~~

~~(1)~~ ~~the character, reputation, financial standing, and purposes of the incorporators or organizers;~~

~~(2)~~ ~~the character, reputation, financial responsibility, insurance experience, and business qualifications of the officers, directors, partners, members, manager, or organizers, as applicable;~~

~~(3)~~ ~~other aspects as the director considers advisable.~~

~~(F)~~ The organizational documents~~, the certificate issued pursuant to subsection (E),~~ and the required organization fees must be transmitted to the Secretary of State, who shall record the relevant organizational documents.

(~~G~~E) At least one of the members of the management of the SPFC must be a resident of this State.

(~~H~~F) A SPFC formed pursuant to the provisions of this article has the privileges of and is subject to the provisions of the 1976 Code, applicable to its formation, as well as the applicable provisions contained in this article. If a conflict occurs between a provision of the applicable law and a provision of this article, the latter controls. Nothing contained in this provision with respect to a SPFC shall abrogate, limit, or rescind in any way the authority of the Securities Commissioner pursuant to the provisions of Title 35.”

SECTION 24. Section 38‑90‑235 of the 1976 Code is repealed.

SECTION 25. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Rep. GAMBRELL explained the amendment.

The amendment was then adopted.

The question then recurred to the passage of the Bill.

The yeas and nays were taken resulting as follows:

Yeas 104; Nays 0

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Alexander | Allison | Anderson |
| Anthony | Atwater | Bales |
| Ballentine | Bannister | Barfield |
| Bedingfield | Bernstein | Bingham |
| Brannon | G. A. Brown | R. L. Brown |
| Burns | Chumley | Clemmons |
| Clyburn | Cobb-Hunter | Cole |
| H. A. Crawford | K. R. Crawford | Crosby |
| Daning | Delleney | Dillard |
| Douglas | Edge | Erickson |
| Felder | Finlay | Forrester |
| Funderburk | Gagnon | Gambrell |
| George | Gilliard | Goldfinch |
| Govan | Hamilton | Hardwick |
| Harrell | Hayes | Henderson |
| Hiott | Hixon | Horne |
| Hosey | Howard | Huggins |
| Jefferson | Knight | Loftis |
| Long | Lowe | Lucas |
| Mack | McCoy | McEachern |
| M. S. McLeod | W. J. McLeod | Merrill |
| D. C. Moss | V. S. Moss | Nanney |
| Newton | Norman | R. L. Ott |
| Owens | Parks | Patrick |
| Pitts | Pope | Quinn |
| Ridgeway | Riley | Rivers |
| Robinson-Simpson | Rutherford | Sabb |
| Sandifer | Skelton | G. M. Smith |
| G. R. Smith | J. E. Smith | J. R. Smith |
| Sottile | Southard | Spires |
| Stavrinakis | Stringer | Tallon |
| Taylor | Thayer | Toole |
| Vick | Weeks | Wells |
| Whipper | White | Whitmire |
| Willis | Wood |  |

**Total--104**

Those who voted in the negative are:

**Total--0**

So, the Bill, as amended, was read the second time and ordered to third reading.

**S. 569--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

S. 569 -- Senators Davis, Turner, Campsen, Young, O'Dell, Cromer, Cleary, Hembree, Pinckney and Sheheen: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE "COMPETITIVE INSURANCE ACT" BY AMENDING SECTION 38-3-110, RELATING TO DUTIES OF THE CHIEF INSURANCE COMMISSIONER, TO PROVIDE THAT THE DIRECTOR MUST ENGAGE IN EFFORTS TO PROVIDE MARKET ASSISTANCE AND PROMOTE CONSUMER EDUCATION TO COASTAL RESIDENTIAL PROPERTY INSURANCE CONSUMERS, AND THE DIRECTOR MUST SUBMIT A REPORT TO THE PRESIDENT PRO TEMPORE OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE CHAIRMAN OF THE SENATE BANKING AND INSURANCE COMMITTEE, AND THE CHAIRMAN OF THE HOUSE LABOR, COMMERCE AND INDUSTRY COMMITTEE BY NO LATER THAN JANUARY THIRTY-FIRST OF EACH YEAR REGARDING THE STATUS OF THE COASTAL PROPERTY INSURANCE MARKET; TO AMEND SECTION 38-7-200, RELATING TO CREDITS AGAINST PREMIUM TAX, TO DEFINE ESSENTIAL TERMS, AND TO PROVIDE THAT INSURERS MAY BE ELIGIBLE TO RECEIVE A PREMIUM TAX CREDIT AGAINST THE PREMIUM TAX IMPOSED BY SECTION 38-7-20 ON FULL COVERAGE POLICIES WRITTEN OUTSIDE OF THE COASTAL AREA TO REDUCE THE INSURANCE PREMIUM TAX LEVIED TO ONE PERCENT OF THE TOTAL PREMIUMS WRITTEN ON FULL COVERAGE POLICIES OUTSIDE OF THE COASTAL AREA, AND THE DIRECTOR OR HIS DESIGNEE SHALL DEVELOP PROCEDURES TO BE USED IN IMPLEMENTING THIS TAX CREDIT; TO AMEND SECTION 38-75-485, RELATING TO THE IMPLEMENTATION OF THE SOUTH CAROLINA HURRICANE DAMAGE MITIGATION PROGRAM BY THE DEPARTMENT, TO PROVIDE THAT ONE PERCENT OF THE PREMIUM TAXES DUE TO THIS STATE BY BROKERS PLACING PROPERTY INSURANCE WITHIN THE ELIGIBLE SURPLUS LINES MARKET AND TWO PERCENT OF THE PREMIUM TAXES COLLECTED ANNUALLY AND REMITTED TO THE DEPARTMENT BY INSURERS LICENSED TO DO BUSINESS IN THIS STATE; AND TO AMEND SECTION 38-75-755, RELATING TO NOTIFICATION OF APPLICANTS OR RENEWING POLICYHOLDERS OF AVAILABLE CREDITS, DISCOUNTS, AND DEDUCTIONS, TO PROVIDE THAT ALL INSURERS, AT THE ISSUANCE OF A NEW POLICY AND AT EACH RENEWAL SHALL NOTIFY THE APPLICANT OR POLICYHOLDER OF A PERSONAL LINES RESIDENTIAL PROPERTY INSURANCE POLICY OF CERTAIN DISCLOSURES, AND THE DIRECTOR OR HIS DESIGNEE SHALL PRESCRIBE THE FORM AND MANNER FOR INSURER NOTICES OR DISCLOSURES, AND ANY DISCLOSURE SHALL BE FOR INFORMATIONAL PURPOSES ONLY AND SHALL NOT AMEND, EXTEND, OR ALTER COVERAGE PROVIDED IN A POLICY.

The Committee on Labor, Commerce and Industry proposed the following Amendment No. 1 to S. 569 (COUNCIL\AGM\569C003. AGM.AB14), which was adopted:

Amend the bill, as and if amended, Section 38‑3‑110(5)(b), as contained in SECTION 1, page 2, line 38, by deleting / coastal / and inserting / South Carolina /.

Amend the bill further, SECTION 3, by deleting the SECTION in its entirety.

Amend the bill further, Section 38‑75‑755(B)(3)(e), as contained in SECTION 4, by deleting the subitem in its entirety and inserting:

/ (e) whether a separate deductible is required for hurricane, wind, or named storm damage, as opposed to some other type of loss, and if so, include an example which illustrates how the deductible functions for a policy valued at one hundred thousand dollars and this illustration will include a clear explanation of the event which will trigger the deductible to the requirements of South Carolina Code of Regulations 69‑56. /

Renumber sections to conform.

Amend title to conform.

Rep. GAMBRELL explained the amendment.

The amendment was then adopted.

Reps. DELLENEY, SIMRILL, POPE, G. R. SMITH, BEDINGFIELD, LOFTIS and HAMILTON proposed the following Amendment No. 2 to S. 569 (LEGWORK\HOUSE\569C001.NL. SD14KRL), which was ruled out of order:

Amend the bill, as and if amended, immediately after SECTION 1, by adding an appropriately numbered SECTION to read:

/ SECTION \_\_. Section 38‑3‑110(5) of the 1976 Code is amended by adding a new subitem (d) to read:

“(d) A healthcare sharing ministry is not considered to be engaging in the business of insurance and is not subject to the insurance laws of this State. The director must therefore make clear in the reports he prepares pursuant to the requirements of this section that under South Carolina law a healthcare sharing ministry is not considered to be engaging in the business of insurance and is not subject to the insurance laws of this State. For purposes of this subitem, “healthcare sharing ministry’ means a faith‑based, nonprofit organization that is tax‑exempt under the Internal Revenue Code that:

(1) limits its participants to those who are of a similar faith;

(2) acts as a facilitator among participants who have financial or medical needs, or both, and matches those participants with other participants with the present ability to assist those with financial or medical needs, or both, in accordance with criteria established by the healthcare sharing ministry;

(3) provides for the financial or medical needs, or both, of a participant through contributions from one participant or multiple participants to another;

(4) provides amounts that participants may contribute with no assumption of risk or promise to pay among the participants and no assumption of risk or promise to pay by the healthcare sharing ministry to the participants;

(5) provides a written monthly statement to all participants that lists the total dollar amount of qualified needs submitted to the healthcare sharing ministry, as well as the amount actually published or assigned to participants for their contributions;

(6) satisfies Title 26, Chapter 48, Section 5000A(d)(2)(B)(ii)(IV) of the United States Code;

(7) provides a written disclaimer on or accompanying all applications and guideline materials distributed by or on behalf of the organization that reads:

‘Important Notice: The healthcare sharing ministry facilitating the sharing of medical expenses is not a health insurance company, and neither its guidelines nor plan of operation is an insurance policy. Whether anyone chooses to assist you with your medical bills will be totally voluntary because no other participant or group of participants will be compelled by law to contribute toward your medical bills. As such, participation in the organization or a subscription to any of its documents should never be considered to be insurance. Regardless of whether you receive any payment for medical expenses or whether this organization continues to operate, you are always personally responsible for the payment of your own medical bills’; and

(8) provides a written disclaimer on all participation cards issued by or on behalf of the organization that states the healthcare sharing ministry is not insurance.” /

Amend the bill further, immediately before SECTION 6, by adding an appropriately numbered SECTION to read:

/ SECTION \_\_. If any section, subsection, paragraph, subparagraph, 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 act, and each and every section, subsection, paragraph, subparagraph, 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. /

Renumber sections to conform.

Amend title to conform.

Rep. DELLENEY explained the amendment.

**POINT OF ORDER**

Rep. SANDIFER raised the Point of Order that under Rule 9.3 Amendment No. 2 on S. 596 was out of order in that it was not germane to the Bill.

Rep. DELLENEY spoke against the Point.

SPEAKER HARRELL sustained the Point of Order. The SPEAKER stated that the Bill dealt with property insurance, specifically residential and coastal property insurance, but Amendment No. 2 dealt with health insurance. Therefore, the SPEAKER sustained the Point of Order and ruled Amendment No. 2 to not be germane.

The question then recurred to the passage of the Bill.

The yeas and nays were taken resulting as follows:

Yeas 98; Nays 3

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Alexander | Allison | Anderson |
| Anthony | Bales | Ballentine |
| Barfield | Bedingfield | Bernstein |
| Bingham | Brannon | G. A. Brown |
| R. L. Brown | Burns | Chumley |
| Clemmons | Clyburn | Cobb-Hunter |
| Cole | H. A. Crawford | K. R. Crawford |
| Crosby | Delleney | Dillard |
| Douglas | Edge | Erickson |
| Felder | Finlay | Forrester |
| Funderburk | Gagnon | Gambrell |
| George | Gilliard | Goldfinch |
| Govan | Hardwick | Harrell |
| Hart | Hayes | Herbkersman |
| Hiott | Hixon | Hodges |
| Horne | Hosey | Howard |
| Huggins | Jefferson | Kennedy |
| Knight | Loftis | Long |
| Lowe | Lucas | Mack |
| McCoy | McEachern | M. S. McLeod |
| W. J. McLeod | Merrill | D. C. Moss |
| V. S. Moss | Nanney | Newton |
| Norman | R. L. Ott | Patrick |
| Pitts | Pope | Ridgeway |
| Riley | Rivers | Robinson-Simpson |
| Rutherford | Sabb | Sandifer |
| Skelton | G. M. Smith | G. R. Smith |
| J. E. Smith | J. R. Smith | Sottile |
| Spires | Stavrinakis | Stringer |
| Tallon | Taylor | Thayer |
| Toole | Vick | Weeks |
| Wells | Whipper | Whitmire |
| Willis | Wood |  |

**Total--98**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Atwater | Quinn | White |

**Total--3**

So, the Bill, as amended, was read the second time and ordered to third reading.

Further proceedings were interrupted by expiration of time on the uncontested Calendar.

**RECURRENCE TO THE MORNING HOUR**

Rep. HOWARD moved that the House recur to the morning hour, which was agreed to.

**CONCURRENT RESOLUTION**

The Senate sent to the House the following:

S. 1318 -- Senator Lourie: A CONCURRENT RESOLUTION TO CONGRATULATE MR. WILLIAM HAPPY HAYS OF COLUMBIA, TERRITORY REPRESENTATIVE FOR PATTERSON DENTAL COMPANIES, UPON THE OCCASION OF HIS RETIREMENT, TO COMMEND HIM FOR HIS MANY YEARS OF DEDICATED SERVICE, AND TO WISH HIM MUCH HAPPINESS AND FULFILLMENT IN ALL HIS FUTURE ENDEAVORS.

The Concurrent Resolution was agreed to and ordered returned to the Senate with concurrence.

**S. 826--ORDERED TO THIRD READING**

The following Bill was taken up:

S. 826 -- Senator Rankin: A BILL TO AMEND SECTION 38-73-500(C) OF THE 1976 CODE, RELATING TO RANDOM DRUG AND ALCOHOL TESTING PROCEDURES CONCERNING MERIT RATING FOR WORKER'S COMPENSATION INSURANCE; TO PROVIDE THAT A SINGLE SAMPLE MAY BE USED FOR THE FIRST AND SECOND TESTS IF A SECOND TEST IS ADMINISTERED.

Rep. TOOLE explained the Bill.

The yeas and nays were taken resulting as follows:

Yeas 93; Nays 2

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Allison | Anderson | Anthony |
| Atwater | Bales | Ballentine |
| Barfield | Bedingfield | Bernstein |
| Bingham | G. A. Brown | Burns |
| Chumley | Clemmons | Cobb-Hunter |
| Cole | H. A. Crawford | Crosby |
| Daning | Delleney | Dillard |
| Douglas | Edge | Erickson |
| Felder | Finlay | Forrester |
| Funderburk | Gagnon | Gambrell |
| George | Goldfinch | Govan |
| Hardwick | Harrell | Hart |
| Hayes | Henderson | Hiott |
| Hixon | Hodges | Horne |
| Howard | Huggins | Kennedy |
| Knight | Loftis | Long |
| Lowe | Lucas | McCoy |
| McEachern | M. S. McLeod | W. J. McLeod |
| Merrill | D. C. Moss | V. S. Moss |
| Nanney | Newton | Norman |
| R. L. Ott | Parks | Patrick |
| Pitts | Pope | Quinn |
| Ridgeway | Riley | Rivers |
| Robinson-Simpson | Rutherford | Sabb |
| Sandifer | Skelton | G. M. Smith |
| G. R. Smith | J. E. Smith | J. R. Smith |
| Sottile | Spires | Stavrinakis |
| Stringer | Tallon | Taylor |
| Thayer | Toole | Vick |
| Weeks | Wells | White |
| Whitmire | Willis | Wood |

**Total--93**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Brannon | Gilliard |  |

**Total--2**

So, the Bill was read the second time and ordered to third reading.

**S. 998--ORDERED TO THIRD READING**

The following Bill was taken up:

S. 998 -- Senators Shealy, Malloy, Turner, Massey and Corbin: A BILL TO AMEND SECTION 56-16-140 OF THE 1976 CODE, RELATING TO THE ISSUANCE OF MOTORCYCLE DEALER AND WHOLESALER LICENSES BY THE DEPARTMENT OF MOTOR VEHICLES, TO PROVIDE FOR THE ISSUANCE OF A DEALER'S EXHIBITION LICENSE THAT ALLOWS A HOLDER TO EXHIBIT MOTORCYCLES AND THEIR RELATED PRODUCTS AT FAIRS, RECREATIONAL OR SPORTS SHOWS, VACATION SHOWS, AND OTHER SIMILAR EVENTS OR SHOWS.

Rep. TOOLE explained the Bill.

The yeas and nays were taken resulting as follows:

Yeas 96; Nays 0

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Alexander | Allison | Anderson |
| Anthony | Atwater | Bales |
| Ballentine | Barfield | Bedingfield |
| Bernstein | Bingham | Brannon |
| G. A. Brown | R. L. Brown | Burns |
| Chumley | Clemmons | Clyburn |
| Cole | H. A. Crawford | Crosby |
| Daning | Delleney | Dillard |
| Douglas | Edge | Erickson |
| Felder | Finlay | Forrester |
| Funderburk | Gagnon | Gambrell |
| George | Gilliard | Goldfinch |
| Govan | Hardwick | Harrell |
| Henderson | Hiott | Hixon |
| Hodges | Horne | Hosey |
| Howard | Huggins | Jefferson |
| Kennedy | Knight | Loftis |
| Long | Lowe | Lucas |
| Mack | McCoy | McEachern |
| M. S. McLeod | W. J. McLeod | Merrill |
| D. C. Moss | V. S. Moss | Nanney |
| Newton | Norman | Owens |
| Patrick | Pope | Quinn |
| Ridgeway | Riley | Rivers |
| Robinson-Simpson | Rutherford | Sabb |
| Sandifer | Skelton | G. R. Smith |
| J. E. Smith | J. R. Smith | Sottile |
| Spires | Stavrinakis | Stringer |
| Tallon | Taylor | Thayer |
| Toole | Vick | Weeks |
| Wells | Whipper | White |
| Whitmire | Willis | Wood |

**Total--96**

Those who voted in the negative are:

**Total--0**

So, the Bill was read the second time and ordered to third reading.

**S. 1026--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

S. 1026 -- Senator Alexander: A BILL TO AMEND SECTION 29-5-440, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SUITS ON CONTRACTOR PAYMENT BONDS, SO AS TO PROVIDE THAT CERTAIN WRITTEN NOTICE REQUIRED OF A REMOTE CLAIMANT MUST BE SENT BY CERTIFIED OR REGISTERED MAIL, AND MUST GENERALLY CONFORM WITH STATUTORY LIMITS ON THE AGGREGATE AMOUNT OF LIENS FILED BY A SUB-SUBCONTRACTOR OR SUPPLIER; TO PROVIDE ANY PAYMENT BOND SURETY FOR THE BONDED CONTRACTOR SHALL HAVE THE SAME RIGHTS AND DEFENSES OF THE BONDED CONTRACTOR; TO MAKE THE LANGUAGE APPLICABLE TO ANY PAYMENT BOND WHETHER PRIVATE, COMMON LAW, PUBLIC, OR STATUTORY IN NATURE, WHEN THE BONDS ARE NOT OTHERWISE REQUIRED OR GOVERNED BY STATUTE; AND TO PROVIDE NECESSARY DEFINITIONS.

The Committee on Labor, Commerce and Industry proposed the following Amendment No. 1 to S. 1026 (COUNCIL\AGM\1026C001. AGM.AB14), which was adopted:

Amend the bill, as and if amended, Section 57‑5‑1660(b), as contained in SECTION 4, page 7, line 1, by deleting / 29‑5‑70(B) / and inserting / 29‑5‑20(B) /

Renumber sections to conform.

Amend title to conform.

Rep. TOOLE explained the amendment.

The amendment was then adopted.

Rep. TOOLE explained the Bill.

The question then recurred to the passage of the Bill.

The yeas and nays were taken resulting as follows:

Yeas 99; Nays 0

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Alexander | Allison | Anderson |
| Anthony | Atwater | Bales |
| Ballentine | Barfield | Bedingfield |
| Bernstein | Bingham | Branham |
| Brannon | G. A. Brown | R. L. Brown |
| Burns | Chumley | Clemmons |
| Clyburn | Cole | H. A. Crawford |
| Crosby | Daning | Delleney |
| Dillard | Douglas | Edge |
| Erickson | Felder | Finlay |
| Forrester | Funderburk | Gagnon |
| Gambrell | George | Gilliard |
| Goldfinch | Govan | Hardwick |
| Harrell | Henderson | Hiott |
| Hixon | Hodges | Horne |
| Hosey | Howard | Huggins |
| Jefferson | Kennedy | Knight |
| Loftis | Long | Lowe |
| Lucas | McCoy | McEachern |
| M. S. McLeod | W. J. McLeod | Merrill |
| D. C. Moss | V. S. Moss | Nanney |
| Newton | Norman | R. L. Ott |
| Parks | Patrick | Pitts |
| Pope | Quinn | Ridgeway |
| Riley | Rivers | Robinson-Simpson |
| Rutherford | Sabb | Sandifer |
| Skelton | G. M. Smith | G. R. Smith |
| J. E. Smith | J. R. Smith | Sottile |
| Southard | Spires | Stavrinakis |
| Tallon | Taylor | Thayer |
| Toole | Vick | Weeks |
| Wells | Whipper | White |
| Whitmire | Willis | Wood |

**Total--99**

Those who voted in the negative are:

**Total--0**

So, the Bill, as amended, was read the second time and ordered to third reading.

**S. 1065--ORDERED TO THIRD READING**

The following Bill was taken up:

S. 1065 -- Senator Hayes: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 5 TO CHAPTER 43, TITLE 38 SO AS TO PROVIDE FOR THE LIMITED LICENSING OF SELF-STORAGE FACILITIES TO SELL OR OFFER INSURANCE.

Rep. GAMBRELL explained the Bill.

The yeas and nays were taken resulting as follows:

Yeas 92; Nays 2

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Allison | Anderson | Anthony |
| Atwater | Bales | Ballentine |
| Bedingfield | Bernstein | Bingham |
| Branham | Brannon | G. A. Brown |
| R. L. Brown | Burns | Chumley |
| Clemmons | Clyburn | Cobb-Hunter |
| Cole | H. A. Crawford | Crosby |
| Daning | Delleney | Dillard |
| Douglas | Edge | Erickson |
| Felder | Finlay | Forrester |
| Funderburk | Gagnon | Gambrell |
| Gilliard | Goldfinch | Hardwick |
| Harrell | Henderson | Hiott |
| Hodges | Horne | Hosey |
| Howard | Huggins | Jefferson |
| Kennedy | Knight | Loftis |
| Long | Lowe | Lucas |
| Mack | McCoy | McEachern |
| M. S. McLeod | W. J. McLeod | Merrill |
| D. C. Moss | V. S. Moss | Nanney |
| Newton | Norman | R. L. Ott |
| Parks | Patrick | Pitts |
| Pope | Quinn | Ridgeway |
| Riley | Rivers | Robinson-Simpson |
| Sabb | Sandifer | Skelton |
| G. M. Smith | G. R. Smith | J. E. Smith |
| J. R. Smith | Southard | Spires |
| Stavrinakis | Stringer | Tallon |
| Taylor | Thayer | Vick |
| Weeks | Wells | Whipper |
| Willis | Wood |  |

**Total--92**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Hixon | White |  |

**Total--2**

So, the Bill was read the second time and ordered to third reading.

STATEMENT FOR THE JOURNAL

I abstained from voting on S. 1065, because I own rental storage facilities and wish to avoid the appearance of a conflict of interest.

Rep. J. Wayne George

**S. 1099--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

S. 1099 -- Senators Sheheen and Bryant: A BILL TO AMEND SECTION 41-27-260 OF THE 1976 CODE, RELATING TO EXEMPTIONS FROM THE DEFINITION OF EMPLOYMENT FOR UNEMPLOYMENT BENEFIT PURPOSES, TO PROVIDE AN EXEMPTION FOR MOTOR CARRIERS THAT UTILIZE INDEPENDENT CONTRACTORS.

The Committee on Labor, Commerce and Industry proposed the following Amendment No. 1 to S. 1099 (COUNCIL\AGM\1099C001. AGM.AB14), which was adopted:

Amend the bill, as and if amended, by deleting all after the enacting words and inserting:

/ SECTION 1. Section 41‑27‑260 of the 1976 Code, as last amended by Act 63 of 2011, is further amended by adding appropriately numbered items at the end to read:

“(19) An individual or entity who owns, or holds under a bona fide lease purchase or installment‑purchase agreement, a tractor trailer, tractor, or other vehicle and who, under a valid independent contractor contract provides services as a driver of the tractor trailer, tractor, or other vehicle to a motor carrier.

(20) An individual performing a service for an automobile dealer related to the transportation of individual vehicles to purchasers or sellers of vehicles, including, but not limited to, when:

(a) an automobile auction is the purchaser, seller, or both;

(b) the contract of service contemplates that the service is to be performed personally by the individual;

(c) the individual does not own the vehicle used in connection with the performance of the service;

(d) the service is in the nature of a single transaction with no guarantee of a continuing relationship with the automobile dealer for whom the service is performed; or

(e) any combination of subitems (a) through (d).”

SECTION 2. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Rep. TOOLE explained the amendment.

The amendment was then adopted.

Rep. TOOLE explained the Bill.

The question then recurred to the passage of the Bill.

The yeas and nays were taken resulting as follows:

Yeas 96; Nays 2

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Alexander | Allison | Anderson |
| Anthony | Atwater | Bales |
| Ballentine | Barfield | Bedingfield |
| Bernstein | Bingham | Branham |
| Brannon | G. A. Brown | R. L. Brown |
| Burns | Chumley | Clemmons |
| Clyburn | Cobb-Hunter | Cole |
| H. A. Crawford | Crosby | Daning |
| Delleney | Dillard | Douglas |
| Edge | Erickson | Felder |
| Finlay | Forrester | Funderburk |
| Gambrell | George | Goldfinch |
| Govan | Hardwick | Harrell |
| Henderson | Hiott | Hixon |
| Hodges | Horne | Hosey |
| Howard | Huggins | Jefferson |
| Kennedy | Knight | Loftis |
| Long | Lowe | Lucas |
| Mack | McCoy | McEachern |
| M. S. McLeod | W. J. McLeod | Merrill |
| D. C. Moss | V. S. Moss | Nanney |
| Newton | Norman | R. L. Ott |
| Owens | Parks | Patrick |
| Pitts | Pope | Ridgeway |
| Riley | Rivers | Robinson-Simpson |
| Rutherford | Sabb | Sandifer |
| Skelton | G. M. Smith | J. E. Smith |
| Sottile | Southard | Spires |
| Stavrinakis | Tallon | Taylor |
| Thayer | Toole | Vick |
| Weeks | Wells | Whipper |
| Whitmire | Willis | Wood |

**Total--96**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Gilliard | J. R. Smith |  |

**Total--2**

So, the Bill, as amended, was read the second time and ordered to third reading.

**S. 1100--AMENDED AND INTERRUPTED DEBATE**

The following Bill was taken up:

S. 1100 -- Senators Bryant, Sheheen, Young and Setzler: A BILL TO AMEND ARTICLE 3, CHAPTER 27, TITLE 41 OF THE 1976 CODE, RELATING TO DEFINITIONS CONCERNING UNEMPLOYMENT BENEFITS AND CLAIMS, BY ADDING SECTION 41-27-265, TO PROVIDE THAT CORPORATE OFFICERS ARE EXEMPT FROM UNEMPLOYMENT BENEFITS UNLESS THE EMPLOYER ELECTS COVERAGE, AND TO PROVIDE FOR THE PROCESS OF ELECTING COVERAGE, AND TO PROVIDE FOR FEDERALLY REQUIRED EXEMPTIONS FROM THE PROVISIONS OF THIS SECTION FOR INDIVIDUALS EMPLOYED BY AN INDIAN TRIBE AND RELIGIOUS, CHARITABLE, EDUCATIONAL, OR OTHER FEDERALLY DEFINED ORGANIZATIONS.

The Committee on Labor, Commerce and Industry proposed the following Amendment No. 1 to S. 1100 (COUNCIL\AGM\1100C001. AGM.AB14), which was adopted:

Amend the bill, as and if amended, Section 41‑27‑265(A), as contained in SECTION 1, page 1, line 31, by deleting / Services / and inserting / Solely for purposes of this title, services /

Amend the bill further, SECTION 1, by deleting / This act takes effect upon approval of the Governor. / and inserting / This act takes effect January 1, 2015. /

Renumber sections to conform.

Amend title to conform.

Rep. TOOLE explained the amendment.

The amendment was then adopted.

Rep. TOOLE explained the Bill.

Further proceedings were interrupted by time expiring on the uncontested calendar the pending question being consideration of the Bill.

Rep. FINLAY moved that the House do now adjourn, which was agreed to.

**RETURNED WITH CONCURRENCE**

The Senate returned to the House with concurrence the following:

H. 5281 -- Reps. Barfield, H. A. Crawford, Clemmons, Anderson, Hardwick, George, Goldfinch, Hardee, Hayes and Ryhal: A CONCURRENT RESOLUTION TO RECOGNIZE AND HONOR WILBUR L. "WILL" GARLAND FOR EXTRAORDINARY SERVICE TO HIS COMMUNITY AND TO THE PALMETTO STATE AS AN EDUCATOR AND PUBLIC OFFICIAL.

**ADJOURNMENT**

At 4:56 p.m. the House, in accordance with the motion of Rep. BRANHAM, adjourned in memory of Nancy Truesdale DeBruhl of Camden, mother of Assistant Sergeant-at-Arms Benny DeBruhl, to meet at 10:00 a.m. tomorrow.

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