**South Carolina General Assembly**

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**S. 915**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Timmons

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Companion/Similar bill(s): 766, 931

Introduced in the Senate on January 23, 2018

Currently residing in the Senate Committee on **Judiciary**

Summary: Candidate income tax returns

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/23/2018 Senate Introduced and read first time ([Senate Journal‑page 11](file:///h:\sj\20180123.docx))

1/23/2018 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 11](file:///h:\sj\20180123.docx))

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**VERSIONS OF THIS BILL**

[1/23/2018](file:///p:\pprever\2017-18\915_20180123.docx)

**A** **BILL**

TO AMEND SECTION 8-13-1312 OF THE 1976 CODE, RELATING TO CAMPAIGN BANK ACCOUNTS, TO PROVIDE THAT ALL CONTRIBUTIONS RECEIVED BY CANDIDATES SHALL BE DEPOSITED INTO AN INTEREST ON CAMPAIGN ACCOUNT KNOWN AS AN “IOCA,” TO PROVIDE THAT AN IOCA BENEFITS THE STATE ETHICS COMMISSION, TO PROVIDE THAT AN IOCA SHALL BE ESTABLISHED WITH AN ELIGIBLE INSTITUTION THAT VOLUNTARILY CHOOSES TO PARTICIPATE, TO PROVIDE FOR THE RATE OF INTEREST OR DIVIDENDS PAYABLE ON ANY IOCA, TO PROVIDE THAT ONE PERCENT OF ALL CONTRIBUTIONS DEPOSITED INTO AN IOCA SHALL BE REMITTED TO BENEFIT THE COMMISSION, AND TO PROVIDE THAT THE FUNDS REMITTED TO THE COMMISSION PURSUANT TO THIS SECTION SHALL BE USED BY THE COMMISSION TO CREATE A POSITION OR POSITIONS WITHIN ITS EMPLOY TO CHECK AND CONFIRM THE COMPLETENESS OF CANDIDATE FILINGS; TO AMEND SECTION 8-13-320 OF THE 1976 CODE, RELATING TO THE DUTIES AND POWERS OF THE STATE ETHICS COMMISSION, TO PROVIDE THAT THOSE DUTIES AND RESPONSIBILITIES INCLUDE RECEIVING, ADMINISTERING, INVESTING, DISBURSING, AND SEPARATELY ACCOUNTING FOR FUNDS REMITTED TO IT PURSUANT TO SECTION 8-13-1312; TO AMEND SECTION 8-13-340 OF THE 1976 CODE, RELATING TO THE ANNUAL REPORT OF THE STATE ETHICS COMMISSION, TO PROVIDE THAT 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, THE MONEY IT HAS DISBURSED, AND THE AMOUNT OF FUNDS IT HAS RECEIVED FROM IOCAS AND THAT THE COMMISSION SHALL ALSO MAKE OTHER REPORTS ON MATTERS WITHIN ITS JURISDICTION AND RECOMMENDATIONS FOR FURTHER LEGISLATION AS MAY APPEAR DESIRABLE; TO AMEND ARTICLE 3, CHAPTER 13, TITLE 8 OF THE 1976 CODE, RELATING TO THE STATE ETHICS COMMISSION, BY ADDING SECTION 8-13-367, TO PROVIDE THAT THE COMMISSION SHALL BE GRANTED ACCESS TO A CANDIDATE’S INCOME TAX RETURNS ON FILE WITH THE SOUTH CAROLINA DEPARTMENT OF REVENUE IF THE COMMISSION, BY A TWO-THIRDS VOTE DURING A PENDING INVESTIGATION OR OPEN COMPLAINT, DECIDES A CANDIDATE’S INCOME TAX RETURN IS RELEVANT TO A PENDING INVESTIGATION OR OPEN COMPLAINT; TO AMEND ARTICLE 3, CHAPTER 4, TITLE 12 OF THE 1976 CODE, RELATING TO THE GENERAL POWERS AND DUTIES OF THE SOUTH CAROLINA DEPARTMENT OF REVENUE, BY ADDING SECTION 12-4-365, TO PROVIDE THAT THE DEPARTMENT, WHEN REQUESTED BY THE STATE ETHICS COMMISSION IN ACCORDANCE WITH SECTION 8-13-367, SHALL PROVIDE INFORMATION CONTAINED ON THE INDIVIDUAL INCOME TAX RETURNS OF A CANDIDATE, AS DEFINED IN SECTION 8-13-1300(4), TO THE STATE ETHICS COMMISSION; AND TO DEFINE NECESSARY TERMS.

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

SECTION 1. Section 8-13-1312 of the 1976 Code is amended to read:

“Section 8-13-1312. (A) As used in this section:

(1) ‘Commission’ means the South Carolina State Ethics Commission.

(2) ‘IOCA’ means an Interest on Campaign Account benefiting the commission that is established with an eligible institution for the deposit of contributions. The account product may be an interest-bearing account; a money market account with or tied to check writing; a sweep account that is a government money market fund or daily overnight financial institution repurchase agreement invested solely in or fully collateralized by United States government securities; or an open-end money market fund solely invested in or fully collateralized by United States government securities.

(a) ‘Open-end money market fund’ means a fund holding itself out as a money market fund as defined by applicable federal statutes and regulations under the Investment Act of 1940 and, at the time of the investment, having total assets of at least $250,000,000.

(b) ‘United States government securities’ means United States treasury obligations and obligations issued or guaranteed as to principal and interest by the United States or any agency or instrumentality thereof, including obligations of government sponsored enterprises.

(3) ‘Eligible institution’ means a financial institution with an office located within the State that conducts business within the State with the general public; that is authorized by federal or state laws to do business in South Carolina; and that is insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, or any successor insurance corporation established by federal or state laws.

(4) ‘Reasonable fees’ for IOCAs are per check charges, per deposit charges, a fee in lieu of a minimum balance, federal deposit insurance fees, sweep fees, and a reasonable IOCA administrative fee.

(B) All contributions received by candidates shall be deposited into an IOCA.

(C)(1) An IOCA shall be established with an eligible institution that voluntarily chooses to participate. Funds deposited in an IOCA shall be subject to withdrawal upon request without delay.

(2) The rate of interest or dividends payable on any IOCA shall be no less than:

(a) the highest interest rate or dividend generally available from the institution to its non-IOCA customers for each IOCA that meets the same minimum balance or other eligibility qualifications, if any. In determining the highest interest rate or dividend generally available from the institution to its non-IOCA customers, the institution may consider factors, in addition to the IOCA balance, customarily considered by the institution when setting interest rates or dividends for its customers, if such factors do not discriminate between IOCAs and accounts of non-IOCA customers and these factors do not include that the account is an IOCA. The institution also shall consider all product option types as provided in item (A)(2) for an IOCA offered by the financial institution to its non-IOCA customers by either establishing the applicable product as an IOCA or paying the comparable interest rate or dividend on the IOCA in lieu of actually establishing the comparable highest interest rate or dividend product; or

(b) a rate equal to the greater of the ‘index,’ 0.65% or 65%, of the Federal Funds Target Rate, which is the ‘benchmark,’ as of the first business day of the IOCA remitting period, a rate that is deemed to be net of reasonable fees on an IOCA. The index and benchmark are determined periodically, but not more frequently than every six months, by the commission to reflect an overall comparable rate for the commission. When applicable, the commission will express its benchmark in relation to the Federal Funds Target Rate.

(3) In addition to the amount of interest received by the commission, one percent of all contributions deposited into an IOCA shall be remitted to benefit the commission.

(D) A candidate or committee shall advise the commission of the establishment and closing of an IOCA for funds covered by this section. The notice shall include the name of the candidate or committee, the name of the institution where the IOCA is established or closed, the IOCA number assigned by the institution, and the institution’s address.

(E) 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 account~~ IOCA and one campaign savings account for each office sought, and a committee shall not establish more than one IOCA ~~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~~.

(F) The candidate or a duly authorized officer of a committee must maintain the IOCAs ~~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. (G) 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~~ IOCA and issued on a check signed 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~~ IOCA 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.

(H) A candidate depositing contribution funds into an IOCA shall direct the depository institution to:

(1) calculate and remit interest or dividends, as net of reasonable service charges or fees, if any, on the average monthly balance in the account, or as otherwise computed in accordance with the institution’s standard accounting practice, monthly to the commission, which shall be the sole beneficial owner of the interest or dividends generated by the accounts;

(2) transmit monthly to the commission a report, listing by account the name of the candidate or the committee for which each remittance is made, the candidate’s or the committee’s IOCA number as assigned by the institution, the rate and type of interest or dividend applied, the average account balance for the reporting period or the other amount from which interest or dividends are determined, the amount of each remittance, the amount and type of any service charges or fees assessed during the remittance period, and the net amount of interest remitted for the period; and

(3) transmit at least quarterly to the depositing candidate or committee a report or statement in accordance with normal procedures for reporting to its depositors.

(I) Reasonable fees as defined in item (A)(4) may be deducted from interest or dividends on an IOCA provided that such charges or fees shall be calculated in accordance with an eligible institution’s standard practice for non-IOCA customers. No other fees or charges shall be assessed against the interest on an IOCA but rather shall be the responsibility of, and may be charged to, the lawyer or law firm maintaining the IOCA. Fees or charges in excess of the interest or dividend earned on the account for any month shall not be taken from interest or dividends earned on other IOCAs or from the principal of the account. Eligible institutions may elect to waive any or all fees on IOCAs.

(J) Participating eligible institutions shall allow the commission, the House of Representatives Legislative Ethics Committee, and the Senate Legislative Ethics Committee view-only access to IOCAs. The House of Representatives Legislative Ethics Committee’s and the Senate Legislative Ethics Committee’s view only access shall be limited to those IOCAs in the name of candidates for the House of Representatives and the Senate, respectively.

(K) Each candidate or committee shall certify annually on the candidate’s or committee’s filings with the commission that he is in compliance with the provisions of this section.

(L) The commission shall, in accordance with its duties and responsibilities prescribed by law, receive, administer, invest, disburse, and separately account for all funds remitted to it pursuant to this section.

(M) The funds remitted to the commission pursuant to this section shall be used by the commission to create positions within its employ to check and confirm the completeness and accuracy of candidate filings.”

SECTION 2. Section 8-13-320 of the 1976 Code is amended by adding:

“( ) to receive, administer, invest, disburse, and separately account for funds remitted to it pursuant to Section 8-13-1312.”

SECTION 3. Section 8-13-340 of the 1976 Code is amended to read:

“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 the amount of funds it has received from IOCAs and shall make other reports on matters within its jurisdiction and recommendations for further legislation as may appear desirable.”

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

“Section 8-13-367. The commission shall be granted access to a candidate’s income tax returns on file with the South Carolina Department of Revenue if the commission, by a two-thirds vote during a pending investigation or open complaint, decides a candidate’s income tax return is relevant to a pending investigation or open complaint. The commission shall request the income tax return from the South Carolina Department of Revenue following the two-thirds vote.”

SECTION 5. Article 3, Chapter 4, Title 12 of the 1976 Code is amended by adding:

“Section 12-4-365. The department, when requested by the State Ethics Commission in accordance with Section 8-13-367, shall provide information contained on the individual income tax returns of a candidate, as defined in Section 8-13-1300(4), to the State Ethics Commission. The State Ethics Commission shall furnish to the department any requested information and evidence of a two-thirds vote by the State Ethics Commission to view the income tax return.”

SECTION 6. This act takes effect upon approval by the Governor.

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