~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE AMENDMENT ADOPTED

May 9, 2018

**H. 4379**

Introduced by Reps. McCoy, Ott, Lucas, Anderson, Ballentine, Blackwell, Caskey, Crawford, Crosby, Davis, Finlay, Forrester, Gilliard, Hardee, Henegan, Hixon, Mack, Pope, Rutherford, J.E. Smith, Sandifer, Stavrinakis, Erickson, Huggins, W. Newton, Bales, Young, McEachern, Clary, Tallon, Brown, Fry, Robinson‑Simpson, V.S. Moss, Clyburn, Bennett, Arrington, Daning, Pendarvis, Govan and Toole

S. Printed 5/9/18--S.

Read the first time January 25, 2018.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 9 TO CHAPTER 7, TITLE 1 SO AS TO CREATE THE UTILITIES CONSUMER ADVOCATE IN THE OFFICE OF THE ATTORNEY GENERAL, AND TO PROVIDE FOR THE DUTIES AND RESPONSIBILITIES OF THE UTILITIES CONSUMER ADVOCATE, AMONG OTHER THINGS; TO AMEND SECTION 58‑4‑10, RELATING TO THE OFFICE OF REGULATORY STAFF AND ITS MISSION, SO AS TO REMOVE THE PRESERVATION OF THE FINANCIAL INTEGRITY OF THE STATE’S PUBLIC UTILITIES, CONTINUED INVESTMENT, AND MAINTENANCE OF FACILITIES FROM THE MISSION; TO AMEND SECTION 58‑4‑50, RELATING TO REGULATORY STAFF DUTIES AND RESPONSIBILITIES, SO AS TO ADD THAT THE OFFICE SHALL PROVIDE RESEARCH, EXPERTISE, AND OTHER ASSISTANCE TO THE UTILITIES CONSUMER ADVOCATE AND MAKE OTHER CONFORMING CHANGES; TO AMEND SECTION 58‑4‑55, RELATING TO THE OFFICE OF REGULATORY STAFF’S ABILITY TO REQUEST CERTAIN INFORMATION, SO AS TO ADD THAT THE OFFICE SHALL HAVE SUBPOENA POWERS AND THAT THE UTILITIES CONSUMER ADVOCATE MAY REQUEST THE EXECUTIVE DIRECTOR TO ISSUE SUBPOENAS ON HIS BEHALF, AND TO PROVIDE A PENALTY FOR FAILURE TO PROVIDE REQUESTED INFORMATION UNDER CERTAIN CIRCUMSTANCES; AND TO AMEND SECTION 58‑4‑80, RELATING TO INTERVENTION IN CIVIL PROCEEDINGS BY THE EXECUTIVE DIRECTOR OF THE OFFICE OF REGULATORY STAFF, SO AS TO PROVIDE THAT ON APPEAL THE OFFICE DOES NOT REPRESENT THE PUBLIC SERVICE COMMISSION.

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

Amend Title To Conform

SECTION 1. Section 37‑6‑602 of the 1976 Code of Laws is amended to read:

The Consumer Advocate may be the Administrator of Consumer Affairs or he may be appointed by the administrator with the approval of the Commission on Consumer Affairs. The Consumer Advocate must be an attorney qualified to practice in all courts of this State with a minimum of ~~three~~ eight years’ practice experience.

SECTION 2. Section 37‑6‑604 of the 1976 Code of Laws is amended to read:

(A) The functions and duties of the Division of Consumer Advocacy are:

(1) to provide legal representation of the consumer interest before the state and federal regulatory agencies which undertake to fix rates or prices for consumer products or services or to enact regulations or establish policies related thereto and to provide legal representation of the consumer interest concerning insurance matters, certificates of need for health facilities and services as required for an activity under Section 44‑7‑160, and other health‑related provisions;

(2) to monitor existing regulations, rate structures, and policies of that agency of special interest to consumers and report to the public through the news media proposed changes therein under consideration and the effect of those changes on the lives of the citizens of the State; and

(3) to evaluate and act upon requests from consumers concerning the matters set forth in items (1) and (2), except that any proceedings initiated by the Consumer Advocate must be brought on behalf of the public at large and not for individuals; initiation or continuation of any proceedings is in the sole discretion of the Consumer Advocate.

(B) The annual report required of the Commission on Consumer Affairs must include a report on the activities of the Division of Consumer Advocacy.

(C) ~~After January 1, 2005, the division must not represent consumers in matters arising under Title 58. Matters or appeals under Title 58 that are pending on January 1, 2005, shall be transferred to the Office of Regulatory Staff.~~ The Consumer Advocate shall be provided notice of any matter filed at the Public Service Commission that could impact consumers’ utility rates, and may intervene as a party to advocate for the interest of consumers before the Public Service Commission and appellate courts in such matters as the Consumer Advocate deems necessary and appropriate.

SECTION 3. Section 37‑6‑607 of the 1976 Code of Laws is amended to read:

~~With the exception of matters arising under Title 58, the~~ The Consumer Advocate is considered to have an interest sufficient to maintain actions for judicial review and may, as of right and in the manner prescribed by law, intervene or otherwise participate in any civil proceeding which involves the review or enforcement of an agency action that the Consumer Advocate determines may substantially affect the interests of consumers.

SECTION 4. Section 58‑4‑10 of the 1976 Code of Laws is amended to read:

“Section 58‑4‑10. (A) There is hereby created the Office of Regulatory Staff as a separate agency of the State with the duties and organizations as hereinafter provided.

(B) Unless and until it chooses not to participate, the Office of Regulatory Staff must be considered a party of record in all filings, applications, or proceedings before the commission. The regulatory staff must represent the public interest of South Carolina before the commission. For purposes of this chapter, ‘public interest’ means the ~~a balancing of the following:~~

~~(1)~~ concerns of the using and consuming public with respect to public utility services, regardless of the class of customer~~;~~

~~(2)~~ ~~economic development and job attraction and retention in South Carolina;~~ and

~~(3)~~ preservation of ~~the financial integrity of the state’s public utilities and~~ continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

(C) The Office of Regulatory Staff is subject to the provision of Section 58-3-260 prohibiting ex parte communications with the commission, and any advice given to the commission by the regulatory staff must be given in a form, forum, and manner as may lawfully be given by any other party or person.”

SECTION 5. Section 58‑4‑80 of the 1976 Code of Laws is amended to read:

The executive director representing the regulatory staff is considered to have an interest sufficient to maintain actions for judicial review from commission orders or decisions and may, as of right and in a manner prescribed by law, intervene or otherwise participate in any civil proceeding which involves the review or enforcement of commission action that the executive director determines may substantially affect the public interest. This right includes intervention in any action for judicial review from commission orders or decisions that are pending at any stage of the action. The executive director representing the regulatory staff has the same rights of appeal from commission orders or decisions as other parties to commission proceedings. On appeal, the Office of Regulatory Staff does not represent the commission.

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

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