~~Indicates Matter Stricken~~

Indicates New Matter

AMENDED

March 28, 2019

**H. 4260**

Introduced by Reps. Caskey, Clary, Lucas, Sandifer, Simrill and Toole

S. Printed 3/28/19--H.

Read the first time March 19, 2019.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “SOUTH CAROLINA RATEPAYER PROTECTION ACT OF 2019” BY ADDING SECTIONS 8‑27‑70, 8‑27‑80, AND 8‑27‑90 ALL SO AS TO PROVIDE PROTECTIONS FOR EMPLOYEES OF A PUBLIC UTILITY WHO REPORT WRONGDOING BY THE UTILITY AND TO PROVIDE REMEDIES FOR EMPLOYEES WHO ARE DISMISSED OR SUFFER ADVERSE EMPLOYMENT ACTIONS BECAUSE OF A REPORT OF WRONGDOING; BY ADDING SECTIONS 37‑6‑610, 37‑6‑611, AND 37‑6‑612 ALL SO AS TO PROVIDE THAT NO PERSON MAY SERVE AS THE CONSUMER ADVOCATE IF THE PUBLIC SERVICE COMMISSION REGULATES A BUSINESS WITH WHICH THAT PERSON IS ASSOCIATED, AND TO PLACE RESTRICTIONS ON FUTURE EMPLOYMENT AND SPECIFIED ETHICAL REQUIREMENTS ON THE CONSUMER ADVOCATE AND EMPLOYEES OF THE DEPARTMENT OF CONSUMER AFFAIRS, AND TO PROVIDE CRIMINAL PENALTIES FOR VIOLATIONS; TO AMEND SECTION 58‑3‑20, RELATING TO THE PUBLIC SERVICE COMMISSION, SO AS TO DELETE PROVISIONS WHICH PERMIT THE REVIEW COMMITTEE TO FIND A CANDIDATE QUALIFIED IF HE DOES NOT HAVE THE BACKGROUND OR EXPERTISE REQUIRED BY LAW AND PROVISIONS WHICH PERMIT CERTAIN INCUMBENT COMMISSIONERS TO BE REELECTED WHO DO NOT MEET THESE QUALIFICATIONS; BY ADDING SECTIONS 58‑3‑21 AND 58‑3‑22 BOTH SO AS TO AUTHORIZE MILEAGE AND SUBSISTENCE ALLOWANCES FOR PUBLIC SERVICE COMMISSIONERS, AND TO PROVIDE THAT MEMBERS OF THE COMMISSION ARE NOT PROHIBITED FROM CONSULTING WITH RETAINED EXPERTS AND ATTORNEYS IN CLOSED SESSION IN A MANNER CONSISTENT WITH THE APPELLATE COURTS OF THIS STATE; TO AMEND SECTION 58‑3‑25, RELATING TO CONFLICTS OF INTEREST OF MEMBERS OF THE PUBLIC SERVICE COMMISSION AND EMPLOYEES OF THE COMMISSION, SO AS TO FURTHER PROVIDE FOR THE CIRCUMSTANCES WHICH ARE CONSIDERED CONFLICTS, AND TO DELETE A REQUIREMENT FOR CERTAIN FILINGS BY EMPLOYEES; TO AMEND SECTION 58‑3‑30, RELATING TO CODES OF CONDUCT OF COMMISSIONERS AND EMPLOYEES OF THE COMMISSION, SO AS TO FURTHER PROVIDE FOR THE CODE OF CONDUCT AND PERMISSIBLE ACTIONS AND PRACTICES OF COMMISSIONERS AND EMPLOYEES OF THE COMMISSION, AND TO REQUIRE ANNUAL CONTINUING EDUCATION FOR COMMISSIONERS AND EMPLOYEES; TO AMEND SECTIONS 58‑3‑60, 58‑3‑190, AND 58‑3‑200, ALL RELATING TO AUDITS AND EXAMINATIONS OF PUBLIC UTILITIES, SO AS TO DELETE A PROVISION WHICH PROVIDES THAT THE INSPECTION, AUDIT, AND EXAMINATION OF PUBLIC UTILITIES IS THE SOLE RESPONSIBILITY OF THE OFFICE OF REGULATORY STAFF AND NOT THE COMMISSION, AND TO PERMIT THE COMMISSION TO DIRECT THE OFFICE OF REGULATORY STAFF TO AUDIT OR EXAMINE PUBLIC UTILITIES AND THE AUTHORITY OF THE COMMISSION TO UNDERTAKE THESE ACTIONS ON ITS OWN; BY ADDING SECTION 58‑3‑65 SO AS TO PROVIDE THAT THE PUBLIC SERVICE COMMISSION MAY EMPLOY, THROUGH CONTRACT OR OTHERWISE, THIRD‑PARTY CONSULTANTS AND EXPERTS IN CARRYING OUT ITS DUTIES IF THE COMMISSION DETERMINES IT IS IN THE BEST INTEREST OF RATEPAYERS AND IT IS APPROVED BY THE PUBLIC UTILITIES REVIEW COMMITTEE; TO AMEND SECTION 58‑3‑225, RELATING TO CONDUCT OF HEARINGS BY THE COMMISSION, SO AS TO PROVIDE THAT BEFORE MAKING A DETERMINATION, THE COMMISSION SHALL QUESTION THE PARTIES THOROUGHLY DURING HEARINGS OF CONTESTED CASES WHEN APPROPRIATE; TO AMEND SECTION 58‑3‑260, RELATING TO THE PROHIBITION AGAINST COMMUNICATIONS BETWEEN THE COMMISSION AND PARTIES TO A PROCEEDING, SO AS TO PERMIT CERTAIN COMMUNICATIONS BETWEEN THE COMMISSION AND THE PUBLIC UTILITIES REVIEW COMMITTEE, AND A LEGISLATIVE COMMITTEE CHARGED WITH REVIEW OF THE COMMISSION; BY ADDING SECTIONS 58‑3‑281, 58‑3‑282, 58‑3‑283, 58‑3‑284, 58‑3‑285, 58‑3‑286, AND 58‑3‑287 ALL SO AS TO IMPOSE CERTAIN CIVIL AND CRIMINAL PENALTIES AND SANCTIONS AGAINST A PUBLIC UTILITY WHICH VIOLATES THE PROVISIONS OF TITLE 58 OR REFUSES TO OBEY A RULE, ORDER, OR REGULATION OF THE OFFICE OF REGULATORY STAFF OR THE COMMISSION, OR WHICH FILES OR SUBMITS FALSE INFORMATION, INCLUDING A REQUIREMENT THAT THE PRINCIPAL EXECUTIVE OFFICER AND THE PRINCIPAL FINANCIAL OFFICER OF A UTILITY CERTIFY THE ACCURACY OF INFORMATION PROVIDED; TO AMEND SECTION 58‑3‑520, RELATING TO THE PUBLIC UTILITIES REVIEW COMMITTEE, SO AS TO REVISE THE MEMBERSHIP OF THE COMMITTEE AND PREVENT A PERSON FROM BEING APPOINTED TO THE COMMITTEE WHO HAS MADE CERTAIN POLITICAL CONTRIBUTIONS TO THE APPOINTING AUTHORITY; TO AMEND SECTION 58‑3‑530, RELATING TO THE POWERS AND DUTIES OF THE REVIEW COMMITTEE, SO AS TO PROVIDE THAT THE COMMITTEE SHALL NOMINATE ALL CANDIDATES IT FINDS QUALIFIED FOR EACH SEAT ON THE COMMISSION, AND TO PROVIDE THAT THE COMMITTEE SHALL APPOINT THE EXECUTIVE DIRECTOR OF THE OFFICE OF REGULATORY STAFF; TO AMEND SECTION 58‑3‑560, RELATING TO ELECTION OF COMMISSIONERS, SO AS TO PROVIDE THAT THE PROVISIONS OF SECTION 58‑3‑24 PROHIBITING THE ELECTION OF MEMBERS OF THE GENERAL ASSEMBLY OR MEMBERS OF THEIR IMMEDIATE FAMILY TO THE COMMISSION, NO LONGER PROHIBITS THEIR ELECTION, AND TO PROVIDE THAT BEGINNING WITH THE 2020 ELECTIONS, THE ELECTIONS MUST BE HELD AT LEAST FORTY‑FIVE DAYS AFTER THE SCREENING AND NOMINATION PROCESS; BY ADDING SECTION 58‑3‑565 SO AS TO PROVIDE THAT MEMBERS OF THE REVIEW COMMITTEE ARE PROHIBITED FROM CERTAIN ACTIONS OR HAVING CERTAIN BUSINESS RELATIONSHIPS; TO AMEND SECTION 58‑4‑40, RELATING TO THE DUTIES AND RESPONSIBILITIES OF THE OFFICE OF REGULATORY STAFF, SO AS TO REVISE CERTAIN DISCLOSURE REQUIREMENTS ON THE PART OF EMPLOYEES AND TO PROHIBIT CERTAIN OTHER ACTIONS BY THESE EMPLOYEES; TO AMEND SECTION 58‑31‑20, RELATING TO THE BOARD OF DIRECTORS OF THE PUBLIC SERVICE AUTHORITY, SO AS TO PROHIBIT CERTAIN ACTIONS BY BOARD MEMBERS AND TO PROHIBIT CERTAIN BUSINESS RELATIONSHIPS BY BOARD MEMBERS; AND TO REPEAL SECTION 58‑4‑30 RELATING TO THE QUALIFICATIONS AND APPOINTMENT OF THE EXECUTIVE DIRECTOR OF THE OFFICE OF REGULATORY STAFF.

Amend Title To Conform

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

SECTION 1. This act is known and may be cited as the “South Carolina Ratepayer Protection Act of 2019”.

SECTION 2. Chapter 27, Title 8 of the 1976 Code is amended by adding:

“Section 8‑27‑70. For purposes of Sections 8‑27‑80 and 8‑27‑90:

(1) ‘Public utility’ means public utility as defined in Sections 58‑3‑5(6) and 58‑33‑20 (6), the South Carolina Public Service Authority, and electric cooperatives.

(2) ‘Employee’ means an employee of a public utility.

(3) ‘Appropriate authority’ means, respectively, the public utility that employs the person making the report or the Office of Regulatory Staff. If a report is made to the Office of Regulatory Staff, the employing public utility must be notified as soon as practicable by the entity that received the report.

(4) ‘Report’ means:

(a) a written or oral allegation of waste or wrongdoing that contains the following information:

(i) the date of disclosure;

(ii) the name of the employee making the report; and

(iii) the nature of the wrongdoing and the date or range of dates on which the wrongdoing allegedly occurred. A report must be made within one hundred eighty days of the date the reporting employee first learns of the alleged wrongdoing; or

(b) sworn testimony regarding wrongdoing, regardless of when the wrongdoing allegedly occurred, given to any standing committee, subcommittee of a standing committee, oversight committee, oversight subcommittee, or study committee of the Senate or the House of Representatives.

(5) ‘Wrongdoing’ means action by a public utility which results in substantial abuse, misuse, destruction, or loss of substantial public utility funds or public utility resources. ‘Wrongdoing’ also includes an allegation that a public utility has intentionally violated federal or state statutory law or regulations or other political subdivision ordinances or regulations or a code of ethics, which violation is not merely technical or of a minimum nature.

Section 8‑27‑80. (A) A public utility may not dismiss, suspend from employment, demote, or decrease the compensation of an employee of a public utility because the employee files a report with an appropriate authority of wrongdoing. If the appropriate authority determines the employee’s report is unfounded, or amounts to a mere technical violation, and is not made in good faith, the public utility may take disciplinary action including termination. Any public utility covered by this chapter may impose disciplinary sanctions, in accordance with its internal disciplinary procedures, against any of its direct line supervisory employees who retaliate against another employee for having filed a good faith report under this chapter.

(B) Notwithstanding the filing of a report pursuant to this chapter, a public utility may dismiss, suspend, demote, or decrease the compensation of an employee for causes independent of the filing of a protected report as described in this section.

Section 8‑27‑90. (A) If an employee is dismissed, suspended from employment, demoted, or receives a decrease in compensation, within one year after having timely reported an alleged wrongdoing under this chapter, the employee may institute a nonjury civil action against the employing public utility for:

(1) reinstatement to his former position;

(2) lost wages;

(3) actual damages not to exceed fifteen thousand dollars; and

(4) reasonable attorney’s fees as determined by the court. This award of attorney’s fees may not exceed ten thousand dollars for a trial and five thousand dollars for an appeal. The action must be brought in the court of common pleas of the county in which the employment action occurred. An action may not be brought under this chapter unless the employee has exhausted all available grievance or other administrative remedies, and any previous proceedings have resulted in a finding that the employee would not have been disciplined but for the reporting of alleged wrongdoing.

(B) An action under this chapter must be commenced within one year after the accrual of the cause of action or exhaustion of all available grievance or other administrative and judicial remedies or is forever barred.”

SECTION 3. Part 6, Chapter 6, Title 37 of the 1976 Code is amended by adding:

“Section 37‑6‑610. For purposes of Sections 37‑6‑611 and 37‑6‑612, ‘business with which he is associated’ means a business of which the person or a member of his immediate family is a director, an officer, owner, employee, a compensated agent, or holder of stock worth one hundred thousand dollars or more at fair market value and which constitutes five percent or more of the total outstanding stock of any class.

Section 37‑6‑611. (A) Unless otherwise provided by law, a person may not serve as the Consumer Advocate if the Public Service Commission regulates a business with which that person is associated.

(B)(1) The Consumer Advocate may not interview or seek employment with a public utility while serving as the Consumer Advocate. The Consumer Advocate may not represent a public utility or appear on behalf of a public utility in a proceeding before the Public Service Commission in a matter within the commission’s jurisdiction for a period of one year after the termination of his service as the Consumer Advocate.

(2) A person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or be imprisoned for not more than one year, or both.

Section 37‑6‑612. (A) An employee of the Department of Consumer Affairs may not solicit, receive, or accept anything of value from a person or entity that is regulated by the public service commission.

(B) A person or entity that is regulated by the public service commission may not offer, facilitate, or provide anything of value to a department employee.

(C) A person may not be an employee of the department if the public service commission regulates a business with which that person is associated.

(D) For purposes of this section, ‘anything of value’ has the same meaning as provided in Section 8‑13‑100(1).

(E) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or be imprisoned not more than one year, or both.”

SECTION 4. Section 58‑3‑20 of the 1976 Code is amended to read:

“Section 58‑3‑20. (A) The commission is composed of seven members to be elected by the General Assembly in the manner prescribed by this chapter. Each member must have:

(1) a baccalaureate or more advanced degree from:

(a) a recognized institution of higher learning requiring face‑to‑face contact between its students and instructors prior to completion of the academic program;

(b) an institution of higher learning that has been accredited by a regional or national accrediting body; or

(c) an institution of higher learning chartered before 1962; and

(2) a background of substantial duration and an expertise in at least one of the following:

(a) energy issues;

(b) telecommunications issues;

(c) consumer protection and advocacy issues;

(d) water and wastewater issues;

(e) finance, economics, and statistics;

(f) accounting;

(g) engineering; or

(h) law.

(B) ~~The review committee may find a candidate qualified although the candidate does not have a background of substantial duration and expertise in one of the eight enumerated areas contained in subsection (A)(2) of this section if three‑fourths of the review committee vote to qualify the candidate and provide written justification of their decision in the report as to the qualifications of the candidates.~~

~~(C)~~ ~~The qualification provisions of subsection (A) of this section do not apply to the reelection of a commissioner elected by the General Assembly on March 3, 2004, so long as there is no break in service.~~

~~(D)~~(1) Beginning in 2004, the members of the Public Service Commission must be elected to staggered terms. In 2004, the members representing the Second, Fourth, and Sixth Congressional Districts must be elected for terms ending on June 30, 2006, and until their successors are elected and qualify. Thereafter, members representing the Second, Fourth, and Sixth Congressional Districts must be elected to terms of four years and until their successors are elected and qualify. In 2004, the members representing the First, Third, and Fifth Congressional Districts and the State at large must be elected for terms ending on June 30, 2008, and until their successors are elected and qualify. Thereafter, members representing the First, Third, and Fifth Congressional Districts and the State at large must be elected to terms of four years and until their successors are elected and qualify. Notwithstanding the provisions of this section, members representing the First, Third, and Fifth Congressional Districts shall serve until the expiration of their terms, and in 2013, members representing the First, Third, and Fifth Congressional Districts must be elected for terms ending on June 30, 2016, and until their successors are elected and qualified.

(2) In the event there are Seven Congressional Districts, the member elected from the State at large shall serve until the expiration of his term, and in 2013, a member representing the Seventh Congressional District must be elected for a term ending on June 30, 2016, and until his successor is elected and qualified. Thereafter, the member representing the Seventh Congressional District must be elected to terms of four years and until his successor is elected and qualified. Upon the election and qualification of the member representing the Seventh Congressional District, the at large member elected to satisfy the requirements of subsection (E) immediately shall cease to be a member of the commission.

~~(E)~~(C) The General Assembly must provide for the election of the seven‑member commission and elect its members based upon the congressional districts established by the General Assembly pursuant to the latest official United States Decennial Census. If the number of congressional districts is less than seven, additional members must be elected at large to provide for a seven‑member commission. In the event the congressional districts established by the General Assembly are under review by a court for compliance with statutory or constitutional requirements, an election scheduled pursuant to this section shall not be held until a final determination is made by the courts regarding the congressional districts. The inability to hold an election due to judicial review of the congressional districts does not constitute a vacancy on the commission and the commissioners serve until their successors are elected and qualify.

~~(F)~~(D) The Governor may fill vacancies in the office of commissioner until the successor in the office for a full term or an unexpired term, as applicable, has been elected by the General Assembly. In cases where a vacancy occurs on the commission when the General Assembly is not in session, the Governor may fill the vacancy by an interim appointment. The Governor must report the interim appointment to the General Assembly and must forward a formal appointment at its next ensuing regular session.”

SECTION 5. Article 1, Chapter 3, Title 58 of the 1976 Code is amended by adding:

“Section 58‑3‑21. While hearing cases or any other matter within the commission’s jurisdiction or on other official business outside the county in which he resides, within fifty miles of his residence, a public service commissioner is entitled to a subsistence allowance in the amount of thirty‑five dollars per day plus such mileage allowance for travel as is provided for other employees of the State. While hearing cases or any other matter within the commission’s jurisdiction or on other official business at a location fifty miles or more from his residence, a public service commissioner is entitled to a subsistence allowance in the amount as provided for members of the General Assembly plus such mileage allowance for travel as is provided for other employees of the State.

Section 58‑3‑22. Members of the Public Service Commission are not prohibited from consulting with commission‑retained experts and attorneys in closed session and are not prohibited from deliberating together in closed session in a manner consistent with the appellate courts in this State.”

SECTION 6. Section 58‑3‑25 of the 1976 Code is amended to read:

“Section 58‑3‑25. (A) Unless otherwise provided by law, ~~no~~ a person may not serve as a member of the commission if the commission regulates any business with which that person is associated.

(B) ~~If the commission regulates a business with which an employee of the commission is associated, the employee must annually file a statement of economic interests notwithstanding the provisions of Section 8‑13‑1110.~~

~~(C)~~ ~~No~~ A person may not be an employee of the commission if the commission regulates a business with which the employee is associated~~, and this relationship creates a continuing or frequent conflict with the performance of his official responsibilities~~.

(C)(1) A commission employee may not solicit, receive, or accept anything of value from a person or entity that is regulated by the commission.

(2) A person or entity that is regulated by the commission may not offer, facilitate, or provide anything of value to a commission employee.

(D) For purposes of this section, ‘anything of value’ has the same meaning as provided in Section 8‑13‑100(1).”

SECTION 7. Section 58‑3‑30 of the 1976 Code is amended to read:

“Section 58‑3‑30. (A) The commissioners shall take the oath of office provided by the Constitution and the oaths prescribed by law for state officers.

(B) The commissioners and commission employees are bound by the Code of Judicial Conduct, as contained in Rule 501 of the South Carolina Appellate Court Rules, except as provided in Section 58‑3‑260, and the State Ethics Commission must enforce and administer those rules pursuant to Section 8‑13‑320. In addition, commissioners and commission employees must comply with the applicable requirements of Chapter 13, ~~of~~ Title 8.

(C)(1) Each year, the commissioners and their employees must attend a workshop of at least six contact hours concerning ethics and the Administrative Procedures Act. This workshop must be developed with input from the review committee. Also, each year, the commissioners and their employees must attend at least six hours of continuing education curriculum which directly relates to the subject matter for which the commission is responsible. The continuing education curriculum must be approved by the Public Utilities Review Committee.

(2) In meeting the requirements of this subsection:

(a) Commissioners and commission employees may receive reimbursement of expenses for the extra‑judicial activities permitted by the Code of Judicial Conduct, if the source of such payments does not give the appearance of influencing the commissioners and commission employees’ performance of duties or otherwise give the appearance of impropriety.

(b) Reimbursement shall not exceed a reasonable amount nor shall it exceed what a person who is not a commissioner or commission employee would receive for the same activity.

(c) Expense reimbursements are limited to the actual cost of travel, food, and lodging reasonably incurred, pursuant to Canon 4 contained in Rule 501 of the South Carolina Appellate Court Rules, regardless of the source of the reimbursement.

(d) Notwithstanding another provision of law or the Code of Judicial Conduct, commissioners and commission employees may only receive reimbursements reasonably related to obtaining the continuing education required by this subsection.

(e) Commissioners and commission employees shall report the date, place, and nature of any activity for which the commissioners or commission employees received reimbursement. The commissioners and commission employees further shall report the name of the payor and the amount of reimbursement received. The report must be made at least annually and must be filed as a public document with the State Ethics Commission.

(D) Pursuant to the requirements enumerated in this subsection, commissioners and commission employees may receive reimbursement of expenses for the extra‑judicial activities permitted by the Code of Judicial Conduct.

(1) The source of such payments does not give the appearance of influencing the commissioners and commission employees’ performance of duties or otherwise give the appearance of impropriety.

(2) Reimbursement may not exceed a reasonable amount nor may it exceed what a person who is not a commissioner or commission employee would receive for the same activity.

(3) Expense reimbursements are limited to the actual costs of travel, food, and lodging reasonably incurred, pursuant to Canon 4 contained in Rule 501 of the South Carolina Appellate Court Rules, regardless of the source of the reimbursement.

(4) Notwithstanding another provision of law or the Code of Judicial Conduct, commissioners and commission employees only may receive reimbursements reasonably related to obtaining the continuing education required by this section.

(5) Commissioners and commission employees shall report the date, place, and nature of any activity for which the commissioners or commission employees received reimbursement. The commissioners and commission employees further shall report the name of the payor and the amount of reimbursement received. The report must be made at least annually and must be filed as a public document with the State Ethics Commission.”

SECTION 8. A. Section 58‑3‑60 of the 1976 Code is amended to read:

“Section 58‑3‑60. (A) The commission is authorized and empowered to employ: a chief clerk and deputy clerk; a commission attorney and assistant commission attorneys; hearing officers; hearing reporters; and such other professional, administrative, technical, and clerical personnel as the commission determines to be necessary in the proper discharge of the commission’s duties and responsibilities as provided by law. The chairman must organize and direct the work of the commission staff. The salaries of the chairman, the commissioners, and the chief clerk shall not be construed as limiting the maximum salary which may be paid to other employees of the Public Service Commission. The commission staff shall not appear as a party in commission proceedings and shall not offer testimony on issues before the commission.

(B) Subject to Section 58‑3‑580, the commission must be staffed and equipped to perform the functions set forth in this title except for those responsibilities and functions reserved to the Office of Regulatory Staff. The expenses must be paid from the assessments collected pursuant to Section 58‑3‑100. The chairman, within allowed budgetary limits and as otherwise allowed by law, must authorize and approve travel, subsistence, and related expenses of personnel incurred while traveling on official business.

(C) The commissioners shall not supervise the Office of Regulatory Staff.

~~(D)~~ ~~The commission shall not inspect, audit, or examine public utilities. The inspection, auditing, and examination of public utilities is solely the responsibility of the Office of Regulatory Staff.~~”

B. Section 58‑3‑190(C) of the 1976 Code is amended to read:

“(C) The commission may ~~request~~ direct the Office of Regulatory Staff to make, pursuant to Section 58‑4‑50(A)(2), an inspection, audit, or examination of the persons or entities referred to in subsection (A) regarding matters the commission requires to be addressed in the reports referred to in subsection (A).”

C. Section 58‑3‑200 of the 1976 Code is amended to read:

“Section 58‑3‑200. In addition to any authority granted to the Office of Regulatory Staff, the commission has the authority to initiate inspections~~, audits,~~ and examinations of all persons and entities subject to its jurisdiction, including a physical inspection of facilities. Such inspections~~, audits,~~ and examinations must relate to matters within the commission’s jurisdiction. ~~Notwithstanding any other provision of law, the commission must not conduct such inspections, audits, and examinations itself, but must request that they be conducted by the Office of Regulatory Staff pursuant to Section 58‑4‑50(A)(2).~~”

SECTION 9. Article 1, Chapter 3, Title 58 of the 1976 Code is amended by adding:

“Section 58‑3‑65. The Public Service Commission may employ, through contract or otherwise, third‑party consultants and experts in carrying out its duties if the commission determines it is in the best interests of ratepayers and it is approved by the Public Utilities Review Committee. Prior to employing any third‑party consultants or experts, the commission shall apply to the Public Utilities Review Committee for authorization. The application is considered granted if not acted upon by the review committee within thirty days. The commission is exempt from complying with the State Procurement Code in the selection and hiring of third‑party consultants or experts authorized by this subsection. The expenses must be paid from the assessments collected pursuant to Section 58‑3‑100.”

SECTION 10. Section 58‑3‑225 of the 1976 Code is amended by adding an appropriately lettered subsection to read:

“( ) Before making a determination, the commissioners shall question the parties thoroughly during hearings of contested cases when appropriate.”

SECTION 11. Section 58‑3‑260(C) of the 1976 Code is amended by adding an appropriately numbered item at the end to read:

“( ) a communication made by or to a member or staff of the Public Utilities Review Committee, or any other legislative committee charged with review of the commission, in the furtherance of the duties of the committees. The exemption contained in this item does not extend to any communication made regarding a pending matter.”

SECTION 12. Article 1, Chapter 3, Title 58 of the 1976 Code is amended by adding:

“Section 58‑3‑281. (A) A public utility which violates any of the provisions of this title or refuses to conform to or obey any rule, order, or regulation of the Office of Regulatory Staff or Public Service Commission shall, in addition to the other penalties prescribed in this chapter, forfeit and pay a sum up to ten thousand dollars for each offense; and each day the public utility continues to violate any provision of this title or continues to refuse to obey or perform any rule, order, or regulation prescribed by the commission must be a separate offense.

(B) A public utility or its officers or agents in charge that fail or refuses, upon the written demand of the Office of Regulatory Staff or Public Service Commission, to permit the Regulatory Staff or Commission, its authorized representatives, or employees to examine and inspect its books, records, accounts, and documents, or its plant, property, or facilities, as provided by law, must be punishable by a fine up to ten thousand dollars for each offense and each day the violation occurs.

(C) Such action may be instituted by the Public Service Commission or the Office of Regulatory Staff and prosecuted by the Attorney General. The procedure in such actions, the right of appeal, and the rules regulating appeals must be the same as provided by law in other civil actions.

Section 58‑3‑282. The wilful act of an officer, agent, or employee of a public utility acting within the scope of his official duties of employment, for the purpose of this article, must be considered to be the wilful act of the utility.

Section 58‑3‑283. If a public utility doing business in this State by its agents or employees is guilty of the violation of the rules and regulations provided and prescribed by the commission, and if after due notice of the violation given to the principal officer of the utility, if residing in the State, or, if not, to the manager or superintendent or secretary or treasurer if residing in the State, or, if not, then to any local agent of the utility, ample and full recompense for the wrong or injury done to a person as may be directed by the commission, must not be made within thirty days from the time of the notice, the public utility shall incur a civil penalty for each offense of not more than five thousand dollars.

Section 58‑3‑284. An officer, agent or employee of a public utility, who wilfully neglects or refuses to make and furnish any report required by the commission for the purposes of this chapter, or who wilfully or unlawfully hinder, delay or obstruct the commission in the discharge of the duties imposed upon it, shall forfeit and pay five thousand dollars for each offense. A delay of ten days to make and furnish the report shall raise the presumption that the same was wilful.

Section 58‑3‑285. (A) A person, firm, or corporation operating under the jurisdiction of the Office of Regulatory Staff or the Public Service Commission or who is required by law to file reports with the commission who knowingly or willfully file or give false information to the Office of Regulatory Staff or the Public Service Commission in a report, reply, response, or other statement or document furnished to the commission is guilty of a misdemeanor, and upon conviction, punishable by a fine of not more than one thousand dollars or not more than thirty days imprisonment, or both.

(B) A person, firm, or corporation operating under the jurisdiction of the utilities commission or who is required by law to file reports with the commission who wilfully withholds clearly specified and reasonably obtainable information from the commission in any report, response, reply, or statement filed with the commission in the performance of the duties of the commission or who shall fail or refuse to file a report, response, reply or statement required by the commission in the performance of the duties of the commission is guilty of a misdemeanor, and upon conviction, punishable by a fine of not more than one thousand dollars or not more than thirty days imprisonment, or both.

Section 58‑3‑286. The remedies provided by this chapter must be regarded as cumulative to the remedies otherwise provided by law against public utilities.

Section 58‑3‑287. (A) The legislative purpose behind the certification provisions of this section is to ensure that a public utility’s principal executive officer and principal financial officer take a proactive role in their company’s submission and disclosure of data and calculations associated with proceedings before the Public Service Commission, in order to give the public more confidence in the accuracy, quality, and reliability of a company’s interaction with the Public Service Commission.

(B) The principal executive officer and principal financial officer of the public utility will sign as individuals, powers of attorney are not permitted, rather than for the company as an authorized signer.

(C) Certifications from the principal executive officer and principal financial officer of the licensee will be required for submittals related to any procedure specified by the Public Service Commission.

(D) The principal executive officer and principal financial officer of licensee will certify that:

(1) they have reviewed the submittal;

(2) based on their knowledge, the submittal does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the submittal made not misleading;

(3) based on their knowledge, the calculations, data, and other inputs and assumptions provided to the Public Service Commission included with the submittal, fairly present in all material respects the information used by the company in performing the calculations and drawing the conclusions as submitted to the Public Service Commission. Where a single data point is required to be selected from a reasonable range, the company has provided that range in addition to the single data point that was ultimately utilized in the calculations;

(4) based on their knowledge, the public utility has complied with the timelines set out by the Public Service Commission specified for the respective proceeding; and

(5) they acknowledge that they are responsible for establishing and maintaining controls and procedures over the compiling of data, the ultimate calculations, and other information submitted to the Public Service Commission for the accompanying submittal of the public utility, and have designed controls and procedures, or caused such controls and procedures to be designed under their supervision, to provide reasonable assurance regarding the reliability of the calculations, data, and other information included in the submittal.

(F) Whoever:

(1) certifies any submittal as set forth in this section knowing that the submittal does not comport with all the requirements set forth in this section is guilty of a felony and upon conviction, must be fined not more than one hundred thousand dollars or imprisoned not more than five years, or both; or

(2) wilfully certifies any submittal as set forth in this section knowing that the submittal does not comport with all the requirements set forth in this section is guilty of a felony and upon conviction, must be fined not more than one hundred thousand dollars or imprisoned not more than five years, or both;

(E) The certification from the principal executive officer and principal financial officer of licensee must be in the form below:

‘FORM OF CERTIFICATION

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, certify that:

I have reviewed this submittal of \_\_\_\_\_\_\_\_\_\_ (the Company);

Based on my knowledge, this submittal does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the submittal made not misleading.

Based on my knowledge, the calculations, data, and other inputs and assumptions provided to the Public Service Commission included with this submittal, fairly present in all material respects the information used by the company in performing the calculations and drawing the conclusions as submitted to the Public Service Commission, and were provided to the Public Service Commission in a manner consistent with the timelines established by the Public Service Commission for this submittal. Where a single data point was required to be selected from a reasonable range, the company has provided that range in addition to the single data point that was ultimately utilized in the calculations.

The company’s other certifying officer and I are responsible for establishing and maintaining controls and procedures over the compiling of data, the ultimate calculations utilized, and the other information submitted by the company to the Public Service Commission, and have designed controls and procedures, or caused such controls and procedures to be designed under our supervision, to provide reasonable assurance regarding the reliability of the compiling of data, the ultimate calculations utilized, and the other information submitted by the company to the Public Service Commission.

Dated:\_\_\_\_\_\_\_\_\_\_\_\_ /s/

Signed:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_’”

SECTION 13. Article 1, Chapter 3, Title 58 of the 1976 Code is amended by adding:

“Section 58‑3‑290. The commission is empowered with the authority to require mediation or alternative dispute resolution related to matters or cases that are pending before the commission. The mediation or alternative dispute resolution ordered by the commission shall be conducted in accordance with the South Carolina Court‑Annexed Alternative Dispute Resolution (ADR) Rules.”

SECTION 14. Section 58‑3‑520 of the 1976 Code is amended to read:

“Section 58‑3‑520. (A) The review committee ~~shall~~ must be composed of ~~ten~~ twelve members, three of whom ~~shall~~ must be members of the House of Representatives, including the Chairman of the Labor, Commerce and Industry Committee, or his designee, three of whom ~~shall~~ must be members of the Senate, including the Chairman of the Judiciary Committee or his designee, ~~two~~ one of whom ~~shall~~ must be appointed by the Chairman of the Senate Judiciary Committee from the general public at large, ~~and two~~ one of whom must be appointed by the Speaker of the House of Representatives from the general public at large, and four of whom must be appointed by the Governor from the general public at large. The Speaker of the House of Representatives shall determine how its legislative members ~~shall~~ must be selected. The Chairman of the Senate Judiciary Committee will select the members of the Senate. Provided, however, that in making appointments to the joint committee, race, gender, and other demographic factors should be considered to assure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of the State. The members of the general public appointed by the Speaker and the Chairman of the Senate Judiciary Committee must be representative of all citizens of this State and must not be members of the General Assembly.

(B) The review committee must meet as soon as practicable after appointment and organize itself by electing one of its members as chairman and such other officers as the review committee may consider necessary. Thereafter, the review committee must meet at least annually and at the call of the chairman or by a majority of the members. A quorum consists of ~~six~~ seven members.

(C) Unless the review committee finds a candidate qualified and nominates the candidate for a seat on the Public Service Commission or for the Executive Director of the Office of Regulatory Staff, the candidate must not be elected to the Public Service Commission or appointed to serve as Executive Director of the Office of Regulatory Staff.

(D) A person may not be appointed to the review committee if that person has made a political contribution to the appointing authority in the appointing authority’s applicable current election cycle or the previous two election cycles. For purposes of this section, ‘election cycle’ has the same meaning as provided in Section 8‑13‑1300.”

SECTION 15. Section 58‑3‑530(1) of the 1976 Code is amended to read:

“(1) to nominate~~:~~

~~(a)~~ ~~no more than three~~ all candidates found qualified for each seat on the Public Service Commission to be elected by the General Assembly. In order to be nominated, a candidate must be found qualified by meeting the requirements as provided in Sections 58‑3‑20 and 58‑3‑560~~;~~, and to appoint

~~(b)~~ ~~no more than one qualified candidate for the Governor to consider in appointing~~ the Executive Director of the Office of Regulatory Staff. In order to be ~~nominated~~ appointed, a candidate must be found qualified ~~by meeting the minimum requirements as provided in Section 58‑4‑30~~. The review committee must give due consideration to a candidate’s experience and expertise in matters related to public utilities. ~~A person must not be appointed to serve as Executive Director of the Office of Regulatory Staff unless nominated by the review committee. If the Governor rejects a person nominated for the position of executive director by the review committee, the review committee must nominate another candidate for the Governor to consider, until the Governor makes an appointment~~ The Executive Director of the Office of Regulatory Staff must be an attorney qualified to practice in all courts of this State with a minimum of eight years’ practice experience. The executive director must be appointed for a term of six years and until his successor is appointed. Notwithstanding the six‑year term, the executive director shall serve at the will of the committee and may be removed by a majority vote of the review committee. Upon removal, the committee shall appoint a permanent or interim successor for the executive director;”

SECTION 16. Section 58‑3‑560 of the 1976 Code is amended to read:

“Section 58‑3‑560. (A) Whenever an election is to be held by the General Assembly in joint session to elect a person to serve on the commission, the review committee must conduct its screening pursuant to the provisions of Section 2‑20‑10, et seq.; however, Section 2‑20‑40 is not applicable to a screening by the review committee. Beginning with the 2020 election for persons to serve on the commission, the election must be held at least forty‑five days after the screening and nomination process is complete.

(B) In order to be nominated for a seat on the commission, candidates must meet the requirements of Section 58‑3‑20, ~~and~~ this section, and Section 58‑3‑24. In screening candidates for the commission and making its findings, the review committee must seek to find the best qualified people by giving due consideration to:

(1) ability, dedication, compassion, common sense, and integrity of the candidates; and

(2) the race and gender of the candidates and other demographic factors to assure nondiscrimination to the greatest extent possible of all segments of the population of the State.”

SECTION 17. Article 5, Chapter 3, Title 58 of the 1976 Code is amended by adding:

“Section 58‑3‑565. (A) A member of the review committee may not knowingly, directly or indirectly, while serving in the position:

(1) have a business relationship with or receive any form of income or compensation from a public utility, an affiliate of a public utility, an association representing a public utility, or other person or entity whose business is regulated, whether wholly or in part, by the Office of Regulatory Staff or the Public Service Commission; or

(2) ask, demand, solicit, seek, accept, receive, or agree to receive a campaign contribution, lodging, transportation, entertainment, food, meals, beverages, money, or anything of value from a public utility, an affiliate of a public utility, an association representing a public utility, or other person or entity whose business is regulated, whether wholly or in part, by the Office of Regulatory Staff or the Public Service Commission.

(B) A public utility, an affiliate of a public utility, an association representing a public utility, or other person or entity whose business is regulated, whether wholly or in part, by the Office of Regulatory Staff or the Public Service Commission may not:

(1) enter into a business relationship with or provide any form of income or compensation to a member of the review committee; or

(2) offer, solicit, facilitate, or provide a campaign contribution, lodging, transportation, entertainment, food, meals, beverages, money, or anything of value to a member of the review committee.

(C) For purposes of this section:

(1) ‘Person’ has the same meaning as provided in Section 8‑13‑100(24).

(2) ‘Public utility’ has the same meaning as provided in Section 58‑3‑5(6).

(D) A violation of this section subjects the violator, upon conviction, to the penalties provided in Article 15, Chapter 13, Title 8.”

SECTION 18. Section 58‑4‑40 of the 1976 Code is amended to read:

“Section 58‑4‑40. (A) Unless otherwise provided by law, ~~no~~ aperson may not serve as the Executive Director of the Office of Regulatory Staff if the commission regulates any business with which that person is associated.

(B) ~~If the commission regulates a business with which an employee of the Office of Regulatory Staff is associated, the employee must annually file a statement of economic interests notwithstanding the provisions of Section 8‑13‑1110.~~

~~(C) No~~ A person may not be an employee of the Office of Regulatory Staff if the Public Service Commission regulates a business with which he is associated ~~and this relationship creates a continuing or frequent conflict with the performance of his official responsibilities~~.

(C)(1) An employee of the Office of Regulatory Staff may not solicit, receive, or accept anything of value from a person or entity that is regulated by the Office of Regulatory Staff or the Public Service Commission.

(2) A person or entity that is regulated by the Office of Regulatory Staff or the Public Service Commission may not offer, facilitate, or provide anything of value to an employee of the Office of Regulatory Staff.

(D) For purposes of this section, ‘anything of value’ has the same meaning as provided in Section 8‑13‑100(1).”

SECTION 19. Chapter 4, Title 58 of the 1976 Code is amended by adding:

“Section 58‑4‑140. The Office of Regulatory Staff may employ, through contract or otherwise, third‑party consultants and experts in carrying out its duties if it determines it is in the best interests of ratepayers and it is approved by the Public Utilities Review Committee. Prior to employing any third‑party consultants or experts, the ORS shall apply to the Public Utilities Review Committee for authorization. The application is considered granted if not acted upon by the review committee within thirty days. The commission is exempt from complying with the State Procurement Code in the selection and hiring of third‑party consultants or experts authorized by this subsection. The expenses must be paid from the assessments collected pursuant to Section 58‑3‑100.”

SECTION 20. Section 58‑4‑30 of the 1976 Code is repealed.

SECTION 21. Unless otherwise stated, this act takes effect upon approval by the Governor.

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