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CHAPTER 29.

 EMPLOYMENT SECURITY ‑ EMPLOYMENT SECURITY COMMISSION

**SECTION 41‑29‑10.** Membership, term, vacancies and salaries.

Chapters 27 through 41 of this Title shall be administered by the South Carolina Employment Security Commission. The Commission shall consist of three members to be elected by the General Assembly, in joint session, for terms of four years and until their successors have been elected and qualified, commencing on the first day of July in each presidential election year. Any vacancy occurring shall be filled by appointment by the Governor for the temporary period until the next session of the General Assembly, whereupon the General Assembly shall elect a commissioner to fill the unexpired term. Each commissioner shall receive an annual salary payable in monthly installments.

**SECTION 41‑29‑20.** Chairman; quorum; effect of vacancies.

The Commission shall elect one of its members as chairman. Any two commissioners shall constitute a quorum and no vacancy shall impair the right of the remaining commissioners to exercise all of the powers of the Commission through action of a quorum.

**SECTION 41‑29‑30.** Secretary.

The Commission shall appoint in accordance with Section 41‑29‑70 an administrator who shall act as secretary and chief executive officer of the Commission and who shall, when the Commission is not in session, exercise the powers and authority of the Commission, subject to the approval or disapproval of the Commission at its next meeting.

**SECTION 41‑29‑40.** Unemployment Compensation and Employment Service Divisions; directors.

There are created under the Commission two coordinate divisions, the South Carolina State Employment Service Division created pursuant to Section 41‑5‑10, and a division to be known as the Unemployment Compensation Division. Each division shall be administered by a full‑time salaried director, who shall be subject to the supervision and direction of the Commission. The Commission may appoint, fix the compensation of and prescribe the duties of the directors of said divisions. Such appointments shall be made on a nonpartisan merit basis in accordance with the provisions of Section 41‑29‑90. The director of each division shall be responsible to the Commission for the administration of his particular division and shall have such powers and authority as may be vested in him by the Commission.

**SECTION 41‑29‑50.** Appointment of advisory councils.

The Commission shall appoint a State advisory council and may appoint local or industry advisory councils, composed in each case of equal numbers of employer representatives and employee representatives, who may fairly be regarded as representatives because of their vocation, employment or affiliations, and of such members representing the general public as the Commission may designate. Such councils shall aid the Commission in formulating policies and discussing problems relating to the administration of Chapters 27 through 41 of this Title and in assuring impartiality and freedom from political influence in the solution of such problems. Such advisory councils shall serve without compensation, but shall be reimbursed for any necessary expenses.

**SECTION 41‑29‑60.** Organization; procedure; seal.

The Commission shall determine its own organization and methods of procedure in accordance with the provisions of Chapters 27 through 41 of this Title and shall have an official seal, which shall be judicially noticed.

**SECTION 41‑29‑70.** Employment of personnel.

Subject to the provisions of Chapters 27 through 41 of this Title, the Commission may appoint and fix the compensation (subject to the approval of the State Budget and Control Board unless otherwise provided by the General Assembly) and prescribe the duties and powers of such officers, accountants, attorneys, experts and other persons as may be necessary in the performance of its duties under Chapters 27 through 41 of this Title.

**SECTION 41‑29‑80.** Classification of positions; salary schedules; personnel standards.

The Commission shall classify all positions under Chapters 27 through 41 of this Title, except those exempted by the Federal Social Security Act or regulations of the Secretary of Labor or his successors under authority thereof, and shall establish salary schedules and minimum personnel standards. Such standards shall conform to the minimum standards prescribed under the provisions of Section 303(a)(1) of the Federal Social Security Act, as amended.

**SECTION 41‑29‑90.** Regulations as to appointment, promotion and demotion of employees.

The Commission shall adopt and enforce fair and reasonable regulations for appointment, promotion and demotion of its employees based upon ratings of efficiency and fitness. Such regulations shall provide:

(1) For the establishment of a merit system council composed of three persons who do not hold political office, are not officers of a political party or organization, are of recognized standing and are in sympathy with the improvement of public administrations and the impartial selection of efficient government personnel on a merit basis, such council members to be selected for terms of five years, their initial appointment have been for terms of one, three and five years respectively, and to be removable only for cause;

(2) That no employee of the Commission shall be dismissed except for good cause, that any employee who is dismissed may appeal to the merit system council and that the decision of the council as to whether or not the termination was for proper cause in accordance with the regulations prescribed under this section shall be binding upon the Commission except in cases of dismissal due to reduction of force or curtailment of funds;

(3) For the holding of examinations to determine the qualification of applicants for vacancies in classified positions and that, except for temporary appointments not to exceed six months in duration, all personnel shall be appointed from registers set up as a result of such examinations; and

(4) That the merit system council shall be vested with the control of administration of merit examinations to determine fitness and efficiency and shall be charged with the selection and supervision of a supervisor of examinations to conduct actively and administer the merit system of personnel administration set up in accordance with the requirements of this section.

The provisions of this section relating to the merit system shall not operate to repeal any prior act of the General Assembly which may provide for a State personnel board or which may provide for a joint administration of the merit system for this Commission and any other department and agency of the State, and in so far as the provisions of this section are in conflict with any such act they shall be inoperative. The Commission shall not employ or pay any person who is an officer or committee member of any political party or organization.

**SECTION 41‑29‑100.** Delegation of authority; bonds.

The Commission may delegate to any person employed pursuant to Section 41‑29‑70 such power and authority as it deems reasonable and proper for the effective administration of Chapters 27 through 41 of this Title and may in its discretion bond any person handling moneys or signing checks under such chapters.

**SECTION 41‑29‑110.** Duties and powers of Commission.

The Commission shall administer Chapters 27 through 41 of this Title and it may adopt, amend or rescind such rules and regulations, employ such persons, make such expenditures, require such reports as are not otherwise provided for in such chapters, make such investigations and take such other action as it deems necessary or suitable to that end.

**SECTION 41‑29‑120.** Employment stabilization; report requirements.

(A) The commission, with the advice and aid of its advisory councils and through its appropriate divisions, shall take all appropriate steps to reduce and prevent unemployment, to encourage and assist in the adoption of practical methods of vocational training, retraining, and vocational guidance, to investigate, recommend, advise and assist in the establishment and operation, by municipalities, counties, school districts and the State, of reserves for public works to be used in times of business depression and unemployment and to promote the reemployment of unemployed workers throughout the State in every other way that may be feasible and to these ends shall carry on and publish the results of statistical surveys, investigations, and research studies.

(B) The commission may require from an employing unit for the commission’s cooperation with the Bureau of Labor Statistics of the United States Department of Labor or its successor agency the following reports:

(1) The United States Bureau of Labor Statistics report to assign industry codes to South Carolina employers under the ES‑202 Covered Employment and Wages Program;

(2) The United States Bureau of Labor Statistics report to collect employment information on multiple worksites for South Carolina employers under the ES‑202 Covered Employment and Wages Program;

(3) The United States Bureau of Labor Statistics report to collect monthly employment, hours, and earnings from South Carolina employers under the BLS‑790 Current Employment Statistics Program;

(4) The United States Bureau of Labor Statistics report to collect employment information from federal employers under the ES‑202 Covered Employment and Wages Program;

(5) The United States Bureau of Labor Statistics report to collect occupational employment and wage information from South Carolina employers under the Occupational Employment Statistics Program.

(C) As used in this section, “employing unit” means those entities employing more than twenty individuals.

**SECTION 41‑29‑130.** Rules and regulations.

General and special rules may be adopted, amended or rescinded by the Commission only after public hearing or opportunity to be heard thereon, of which proper notice has been given. Such notice shall be given by mail to the secretaries of the various commercial, business and trade organizations of the State who keep on file with the Commission their names and addresses for the purpose of receiving such notices. General rules shall become effective ten days after filing with the Secretary of State and publication in one or more newspapers of general circulation in this State. Special rules shall become effective ten days after notification to or mailing to the last known address of the individuals or concerns affected thereby. Regulations may be adopted, amended or rescinded by the Commission and shall become effective in the manner and at the time prescribed by the Commission.

**SECTION 41‑29‑140.** Reciprocal agreements.

The Commission may enter into arrangements with the appropriate agencies of other states or of the Federal Government with respect to the combination of wages, viz.:

(1) The Commission may enter into an agreement with the Federal Government whereby wages or services, upon the basis of which an individual may become entitled to benefits under any unemployment compensation law of the Federal Government shall be deemed to be wages for employment by employers for the purpose of Sections 41‑35‑10 to 41‑35‑100; provided, such agency of the Federal Government has agreed to reimburse the fund for such portion of benefits paid under Chapters 27 through 41 of this Title upon the basis of such wages or services as the Commission finds will be fair and reasonable and the Commission will reimburse such agency of the Federal Government with such reasonable portion of benefits paid under any law of the Federal Government upon the basis of employment or wages for employment by employers as the Commission finds will be fair and reasonable to all affected interests.

(2) The Commission shall participate in any arrangements for the payment of compensation on the basis of combining an individual’s wages and employment covered under Chapters 27 through 41 of this Title with his wages and employment covered under the unemployment compensation laws of other states which are approved by the United States Secretary of Labor in consultation with the state unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of compensation in such situations and which include provisions for:

(a) Applying the base period of a single state law to a claim involving the combining of an individual’s wages and employment covered under two or more state unemployment compensation laws, and

(b) Avoiding the duplicate use of wages and employment by reason of such combining.

(3) Reimbursement so payable shall be deemed to be benefits for the purpose of Section 41‑35‑50 and Article 1 of Chapter 33 of this Title. The Commission may make to other state or Federal agencies and receive from such state or Federal agencies reimbursements from or to the fund, in accordance with arrangements made pursuant to this section.

**SECTION 41‑29‑150.** Records and reports.

Each employing unit shall keep true and accurate work records, containing such information as the Commission may prescribe. Such records shall be open to inspection and be subject to being copied by the Commission or its authorized representatives at any reasonable time and as often as may be necessary. The Commission and the chairman of any appeal tribunal may require from any employing unit any sworn or unsworn report with respect to persons employed by it which he or it deems necessary for the effective administration of Chapters 27 through 41 of this Title. Information thus obtained, or obtained from an individual pursuant to the administration of such chapters, shall, except to the extent necessary for the proper administration of such chapters, be held confidential and shall not be published or be open to public inspection, other than to the public employees in the performance of their public duties, in any manner revealing the individual’s or employing unit’s identity, but any claimant or his legal representative at a hearing before an appeal tribunal shall be supplied with information from such records to the extent necessary for the proper presentation of his claim. Any employee or member of the Commission who violates any provision of this section shall be fined not less than twenty dollars nor more than two hundred dollars, or imprisoned for not longer than ninety days or both.

**SECTION 41‑29‑160.** Information generally confidential.

Except as otherwise provided in Chapters 27 through 41 of this Title information obtained from any employing unit or individual pursuant to the administration of such chapters and determinations as to the benefit rights of any individual shall be held confidential and shall not be disclosed or be open to public inspection in any manner revealing the individual’s or employing unit’s identity.

**SECTION 41‑29‑170.** Permitted disclosure of information.

(A) A claimant or a claimant’s legal representative must be supplied with information from the records, to the extent necessary for the proper presentation of the claim in any proceeding under Chapters 27 through 41 subject to restrictions the commission may by regulation prescribe.

(B) Upon written request the commission may furnish information obtained through the administration of Chapters 27 through 42 including, but not limited to, the name, address, ordinary occupation, wages, and employment status of each covered worker or recipient of benefits and the recipient’s rights to further benefits under Chapters 27 through 41, to:

(1) an agency or agent of the United States charged with the administration of public works or assistance through public employment;

(2) a state agency similarly charged; or

(3) an agency or entity to which disclosure is permitted or required by federal statute or regulation or by state law.

This disclosure must be made subject to restrictions the commission may by regulation prescribe.

(C) The State Employment Office shall furnish, upon request of a public agency administering the Temporary Assistance to Needy Families (TANF) and child support programs, a state agency administering food stamp coupons, the state or federal agency administering the new hire directory, or any public housing authority, any information in its possession relating to:

(1) individuals who are receiving, have received, or have applied for unemployment insurance;

(2) the amount of benefits being received;

(3) the current home address of these individuals;

(4) whether any offer of work has been refused and, if so, a description of the job and the terms, conditions, and rate of pay;

(5) in the case of requests from a public housing authority, a listing of the current employer and previous employers for the available preceding six calendar quarters;

(6) in the case of requests from the state or federal agency which issues food stamp coupons or the new hire directory, a listing of the current employer and address and any previous employers and their addresses, including wage information, for the available preceding six calendar quarters.

The requesting agency is responsible for reimbursing the South Carolina Employment Security Commission for actual costs incurred in supplying the information. This information must be provided in the most useful and economical format possible.

**SECTION 41‑29‑180.** Reports shall be kept to minimum.

The Commission shall endeavor, both for the relief of the clerical work of employers and its own office, to confine reporting to the minimum necessary for the proper administration of the law, and, except for necessary separation, low earnings, special reports or notices, or wage and employment reports required under Section 41‑29‑140, it shall not require reports as to the earnings of individual employees more frequently than quarterly.

**SECTION 41‑29‑190.** Witnesses, oaths, certifications, production of books and the like.

In the discharge of the duties imposed by Chapters 27 through 41 of this Title the Commission or any duly authorized representative thereof as designated by its rules may administer oaths and affirmations, take depositions, certify to official acts and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary as evidence in connection with a disputed claim or the administration of such chapters.

**SECTION 41‑29‑200.** Self‑incriminating testimony.

No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda or other records before the Commission, an appeal tribunal or any duly authorized representative of either of them or in obedience to the subpoena of either of them in any cause or proceeding before the Commission or an appeal tribunal on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture. But no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he is compelled, after having claimed his privilege against self incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

**SECTION 41‑29‑210.** Penalties for contumacy or failure to obey subpoena.

(1) In case of contumacy by any person or refusal to obey a subpoena issued to any person, any court of this State or judge thereof within the jurisdiction of which such person guilty of contumacy or refusal to obey is found, resides, or transacts business, upon application by the Commission or any duly authorized representative may issue to such person an order requiring him to appear before the Commission or any duly authorized representative there to produce evidence if so ordered or to give testimony touching the matter under investigation or in question. Any failure to obey an order of the court may be punished as a contempt thereof.

(2) Any person who shall, without just cause, fail or refuse to attend and testify, to answer any lawful inquiry or to produce books, papers, correspondence, memoranda and other records, if it is in his power to do so in accordance with a subpoena of the Commission or any duly authorized representative shall be punished by a fine of not less than twenty nor more than two hundred dollars or by imprisonment for not more than thirty days. Each failure to obey a subpoena shall constitute a separate offense.

**SECTION 41‑29‑220.** Examination of returns or reports of national banks.

The Commission may request the Comptroller of the Currency of the United States to cause an examination of the correctness of any return or report of any national banking association rendered pursuant to the provisions of Chapters 27 through 41 of this Title and may in connection with such request transmit any such report or return to the Comptroller of the Currency of the United States as provided in Section 3305(c) of the Federal Internal Revenue Code.

**SECTION 41‑29‑230.** State and Federal cooperation.

(1) In the administration of Chapters 27 through 41 of this Title, the Commission shall cooperate with the United States Secretary of Labor to the fullest extent consistent with the provisions of such chapters, and shall take such action, through the adoption of appropriate rules, regulations, administrative methods and standards, as may be necessary to secure to this State and its citizens all advantages available under the provisions of the Social Security Act that relate to unemployment compensation, the Federal Unemployment Tax Act, the Wagner‑Peyser Act, and the Federal‑State Extended Unemployment Compensation Act of 1970.

(2) In the administration of the provisions in Chapter 35, Article 3 of this Title, which are enacted to conform with the requirements of the Federal‑State Extended Unemployment Compensation Act of 1970, the Commission shall take such action as may be necessary (a) to ensure that the provisions are so interpreted and applied as to meet the requirements of such Federal act as interpreted by the United States Secretary of Labor, and (b) to secure to this State the full reimbursement of the Federal share of extended benefits paid under this Title that are reimbursable under the Federal act.

**SECTION 41‑29‑240.** Cooperation with Railroad Retirement Board and other Federal agencies.

The Commission may make the State’s record relating to the administration of Chapters 27 through 41 of this Title available to the Railroad Retirement Board and may furnish the Railroad Retirement Board, at the expense of such Board, such copies thereof as the Railroad Retirement Board deems necessary for its purposes. The Commission may afford reasonable cooperation with every agency of the United States charged with the administration of an unemployment insurance law.

**SECTION 41‑29‑250.** Publication and furnishing of certain material.

The commission shall cause to be printed for distribution to the public the text of Chapters 27 through 41 of this Title, the Commission’s regulations, its general and special rules, its annual reports to the Governor and General Assembly and any other material the Commission deems relevant and suitable and shall furnish such material to any person upon application therefor.

**SECTION 41‑29‑260.** Commissioners may file opinions.

Each commissioner of the Commission may file with the official minutes or decisions his opinion or reasons for his vote on any matters arising in the administration of Chapters 27 through 41 of this Title.

**SECTION 41‑29‑270.** Emergency unemployment compensation system.

Notwithstanding the provisions of Chapters 27 through 41 of this Title, the Commission may issue such regulations as deemed necessary for the operation of an emergency unemployment compensation system in the event of an enemy attack which disrupts or endangers the usual procedures or facilities of the Commission.

**SECTION 41‑29‑280.** Annual reports.

Not later than the fifteenth day of January of each year the Commission shall submit to the Governor and to the General Assembly a report covering the administration and operation of Chapters 27 through 41 of this Title during the preceding fiscal year and shall make such recommendations for amendments to such chapters as the Commission deems proper. Such reports shall include a balance sheet of the moneys in the fund in which there shall be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then current contributions, which reserves shall be set up by the Commission in accordance with accepted actuarial principles on the basis of statistics of employment, business activity and other relevant factors for the longest possible period.

**SECTION 41‑29‑290.** Recommendations as to change in contribution or benefit rates.

Whenever the Commission believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund it shall promptly so inform the Governor and the General Assembly and make recommendations with respect thereto.