CHAPTER 31

State Commission for Minority Affairs

**SECTION 1‑31‑10.** Commission for Minority Affairs created; composition; majority to be African‑American; term of office; filling vacancies.

There is created a State Commission for Minority Affairs consisting of nine members and the Governor ex officio. The Governor must appoint one person from each of the congressional districts of the State and two persons from the State at large upon the advice and consent of the Senate. The Governor shall designate the chairman. The members serve for a term of four years and until their successors are appointed and qualify. A vacancy must be filled in the same manner as original appointment for the remainder of the unexpired term. A majority of the members of the commission must be African American.

HISTORY: 1993 Act No. 164, Part II, Section 110; 2003 Act No. 85, Section 3; 2012 Act No. 279, Section 3, eff June 26, 2012.

Editor’s Note

2012 Act No. 279, Section 33, provides as follows:

“Due to the congressional redistricting, any person elected or appointed to serve, or serving, as a member of any board, commission, or committee to represent a congressional district, whose residency is transferred to another district by a change in the composition of the district, may serve, or continue to serve, the term of office for which he was elected or appointed; however, the appointing or electing authority shall appoint or elect an additional member on that board, commission, or committee from the district which loses a resident member as a result of the transfer to serve until the term of the transferred member expires. When a vacancy occurs in the district to which a member has been transferred, the vacancy must not be filled until the full term of the transferred member expires. Further, the inability to hold an election or to make an appointment due to judicial review of the congressional districts does not constitute a vacancy.”

Effect of Amendment

The 2012 amendment deleted “six” before “congressional districts” and substituted “two persons from the State” for “three persons from the State”.

LIBRARY REFERENCES

Westlaw Key Number Search: 360k45.

States 45.

C.J.S. States Sections 79, 82, 136.

Attorney General’s Opinions

Because the regulations provide no grandfather provisions, deference will be made to the Commission’s decision regarding a request for State Recognition as a Tribe by a Group recognized before the 2006 amendments to the regulations. S.C. Op.Atty.Gen. (Sept. 9, 2011) 2011 WL 4592375.

No entity formed after January 1, 2006 may be granted State Recognition as a Tribe. S.C. Op.Atty.Gen. (Sept. 9, 2011) 2011 WL 4592375.

The sole function of the Native American Indian Advisory Committee is to make non‑binding recommendations to advise the State Commission for Minority Affairs on matters delegated to the Commission by the Legislature. Selection of members to serve on the Minority Affairs’ Advisory Committee is made by the Commission’s Executive Director, subject to the review and approval of the Commission; and the Executive Director of the Commission is authorized to appoint a designee Chair for the Committee. S.C. Op.Atty.Gen. (July 22, 2011) 2011 WL 3346431.

**SECTION 1‑31‑20.** Commission to meet at least quarterly; purpose.

The commission must meet quarterly and at other times as the chairman determines necessary to study the causes and effects of the socio‑economic deprivation of minorities in the State and to implement programs necessary to address inequities confronting minorities in the State.

HISTORY: 1993 Act No. 164, Part II, Section 110; 2001 Act No. 26, Section 1.

LIBRARY REFERENCES

Westlaw Key Number Search: 360k73.

States 73.

C.J.S. States Sections 130 to 136, 140.

**SECTION 1‑31‑30.** Hiring of executive director and other personnel; appropriations.

The commission is authorized to hire an executive director and other personnel necessary to carry out its duties and functions under this chapter. The General Assembly shall provide for the funds in the annual appropriations act.

HISTORY: 1993 Act No. 164, Part II, Section 110.

LIBRARY REFERENCES

Westlaw Key Number Search: 360k46.

States 46.

C.J.S. States Sections 61, 80, 84, 102.

Attorney General’s Opinions

The Board of Commissioners can hire an executive director and other personnel; there is no legislative prohibition on the Board taking an active role in hiring employees. S.C. Op.Atty.Gen. (December 21, 2016) 2016 WL 7627025.

**SECTION 1‑31‑40.** Powers and duties of Commission.

(A) The commission shall:

(1) provide the minority community consisting of African Americans, Native American Indians, Hispanics/Latinos, Asians, and others with a single point of contact for statistical and technical assistance in the areas of research and planning for a greater economic future;

(2) work with minority officials on the state, county, and local levels of government in disseminating statistical data and its impact on their constituencies;

(3) provide for publication of a statewide statistical abstract on minority affairs;

(4) provide statistical analyses for members of the General Assembly on the state of minority communities as the State experiences economic growth and changes;

(5) provide the minority community with assistance and information on Voting Rights Act submissions in the State, as well as other related areas of concern to the minority community;

(6) determine, approve, and acknowledge by certification state recognition for Native American Indian entities; however, notwithstanding their state certification, the tribes have no power or authority to take any action which would establish, advance, or promote any form of gambling in this State;

(7) establish advisory committees representative of minority groups, as the commission considers appropriate to advise the commission;

(8) act as liaison with the business community to provide programs and opportunities to fulfill its duties under this chapter;

(9) seek federal and other funding on behalf of the State of South Carolina for the express purpose of implementing various programs and services for African Americans, Native American Indians, Hispanics/Latinos, Asians, and other minority groups;

(10) promulgate regulations as may be necessary to carry out the provisions of this article including, but not limited to, regulations regarding State Recognition of Native American Indian entities in the State of South Carolina;

(11) establish and maintain a twenty‑four hour toll free telephone number and electronic website in accordance with Section 8‑30‑10; and

(12) perform other duties necessary to implement programs.

(B) The commission may delegate these powers and duties as necessary.

(C) Nothing in this chapter recognizes, creates, extends, or forms the basis of any right or claim of interest in land or real estate in this State for any Native American tribe which is recognized by the State.

HISTORY: 1993 Act No. 164, Part II, Section 110; 2003 Act No. 85, Section 4; 2008 Act No. 280, Section 2, eff June 4, 2008.

Effect of Amendment

The 2008 amendment added subparagraph (A)(11) relating to a toll free telephone number and electronic website, and redesignated subparagraph (A)(11) as (A)(12).

CROSS REFERENCES

State recognition of Native American Indian entities, see S.C. Code of Regulations R. 139‑100.

LIBRARY REFERENCES

Westlaw Key Number Searches: 360k68; 360k73.

States 68, 73.

C.J.S. States Sections 130 to 136, 139 to 140.

Attorney General’s Opinions

It is logical to conclude that implicit with the power to approve State Recognition, the Commission has authority to subsequently review (i.e., remove) State Recognition of an entity based upon circumstances determined by the Commission. The Commission should adopt standards to further regulate these recognized entities, provided such do not conflict with or change any existing statute conferring powers upon the Commission. S.C. Op.Atty.Gen. (Sept. 9, 2011) 2011 WL 4592375.

**SECTION 1‑31‑50.** Promulgation of regulations to carry out duties.

The commission may promulgate those regulations necessary to carry out its duties under this chapter.

HISTORY: 1993 Act No. 164, Part II, Section 110.

LIBRARY REFERENCES

Westlaw Key Number Search: 360k68.

States 68.

C.J.S. States Sections 130 to 135, 139.