CHAPTER 4

Department of Natural Resources

**SECTION 48‑4‑10.** Department created; composition; transfer of powers, from predecessor agencies; certain commissions abolished.

 (A) The South Carolina Department of Natural Resources is created to administer and enforce the laws of this State relating to wildlife, marine resources, and natural resources and other laws specifically assigned to it. The department must be comprised of a Natural Resources Enforcement Division, a Wildlife and Freshwater Fisheries Division, a Marine Resources Division, a Water Resources Division, and a Land Resources and Conservation Districts Division. Each division of the department must have the functions and powers provided by law.

 (B) All functions, powers, and duties provided by law to the South Carolina Wildlife and Marine Resources Department, the Geological Survey Division of the Budget and Control Board, to include the State Geologist, and the South Carolina Migratory Waterfowl Committee are transferred to the Department of Natural Resources. All nonregulatory functions, powers, and duties provided by law to the South Carolina Water Resources Commission and the State Land Resources Conservation Commission are transferred to the Department of Natural Resources. All rules, regulations, standards, orders, or other actions of these entities remain in effect unless specifically changed or voided by the department in accordance with the Administrative Procedures Act.

 (C) All divisions are directly accountable to and subject to the Department of Natural Resources.

 (D) The Wildlife and Marine Resources Commission, the Land Resources Conservation Commission, and the Water Resources Commission are abolished.

HISTORY: 1993 Act No. 181, Section 1174; 1994 Act No. 497, Part II, Section 59C.

Library References

Environmental Law 13.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 101, 106, 130 to 132, 173.

**SECTION 48‑4‑20.** Definitions.

 For the purposes of this chapter:

 (1) “Board” means the governing body of the department.

 (2) “Department” means the South Carolina Department of Natural Resources.

 (3) “Director” or “Executive Director” means the administrative head of the department, appointed by the board.

HISTORY: 1993 Act No. 181, Section 1174.

**SECTION 48‑4‑30.** Governing board; composition; removal; terms; filling vacancies; oath.

 (A) The department must be governed by a board consisting of nonsalaried board members to be appointed and constituted in a manner provided by law. The Governor shall appoint one member to serve as chairman, upon the advice and consent of the Senate. The appointment to chairman is subject to the advice and consent of the Senate, even if the person appointed to serve as chairman is already a current member of the board.

 (B) All board members must be appointed by the Governor with the advice and consent of the Senate. One member must be appointed from each congressional district of the State.

 (C) Notwithstanding subsection (B), membership on the board also shall include the at‑large board member serving on the board on March 1, 2012. The at‑large board member may continue to serve on the board until that board member’s term expires, he is removed from the board as provided by law, or he resigns from the board. At the expiration of the at‑large board member’s term, or upon his removal from or resignation from the board, the provisions of this subsection no longer apply to the composition of the membership of the board.

 (D) In making appointments, 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; however, consideration of these factors in making an appointment in no way creates a cause of action or basis for an employee grievance for a person appointed or for a person who fails to be appointed. Board members must possess sound moral character, superior knowledge in the fields of wildlife, marine, and natural resource management, and proven administrative ability.

 (E) The Governor may remove any board member pursuant to the provisions of Section 1‑3‑240.

 (F) Terms of the members must be for four years and until their successors are appointed and qualify. If a vacancy occurs when the General Assembly is not in session, it must be filled by the Governor’s appointment for the unexpired term, subject to confirmation by the Senate at the next session of the General Assembly.

 (G) Each board member, within thirty days after notice of appointment and before taking office, shall take and file with the Secretary of State the oath of office prescribed by the State Constitution.

 (H) Notwithstanding subsection (E), the terms of members representing congressional districts serving on the board on March 1, 2012, shall terminate on the dates provided in this subsection. The terms of the members representing the Fourth and the Sixth Congressional Districts shall expire July 1, 2012. The terms of the members representing the First, Second, Third, and Fifth Congressional Districts shall expire on July 1, 2014.

 (I) Notwithstanding subsection (E), the initial term of the member representing the Seventh Congressional District shall expire July 1, 2016.

HISTORY: 1993 Act No. 181, Section 1174; 2012 Act No. 215, Section 1, eff June 7, 2012; 2012 Act No. 279, Section 17, eff June 26, 2012.

Code Commissioner’s Note

At the direction of the Code Commissioner, the 2012 amendments were read together. The text of the section as amended by Act 279 is set forth above; Act 215 differs from Act 279 only in nonsubstantive respects.

Editor’s Note

2012 Act No. 215, Section 4, provides as follows:

“Notwithstanding another provision of law to the contrary, a person appointed to serve, or serving, as a member of the Department of Natural Resources Board 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, as the representative of the district to which he was transferred for the term of office for which he was appointed; however, the appointing authority shall appoint an additional member to the board from the district which loses a resident member on it 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.”

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 amendments rewrote the section.

Library References

Environmental Law 13.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 101, 106, 130 to 132, 173.

**SECTION 48‑4‑40.** Expenses of board members reimbursed.

 The board members shall receive reimbursement for their expenses incurred while engaged in the work of the board as provided by law for state boards and commissions.

HISTORY: 1993 Act No. 181, Section 1174.

Library References

Environmental Law 13.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 101, 106, 130 to 132, 173.

**SECTION 48‑4‑50.** Board to set policies of department.

 The board must be vested with the duty and authority to set the policies for the department subject only to the laws of this State and the United States. The board has no duty or authority concerning the management of, control over, or administration of the day to day affairs of the department.

HISTORY: 1993 Act No. 181, Section 1174; 2012 Act No. 215, Section 3, eff June 7, 2012.

Editor’s Note

2012 Act No. 215, Section 4, provides as follows:

“Notwithstanding another provision of law to the contrary, a person appointed to serve, or serving, as a member of the Department of Natural Resources Board 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, as the representative of the district to which he was transferred for the term of office for which he was appointed; however, the appointing authority shall appoint an additional member to the board from the district which loses a resident member on it 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.”

Effect of Amendment

The 2012 amendment rewrote the section.

Library References

Environmental Law 13.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 101, 106, 130 to 132, 173.

Attorney General’s Opinions

Discussion of the amendment of this section by 2012 Act No. 215. S.C. Op.Atty.Gen. (March 9, 2015) 2015 WL 1382879.

**SECTION 48‑4‑60.** Director.

 The board shall appoint a director upon the advice and consent of the Senate. The director shall serve at the pleasure of the board and must be the administrative head of the department. The director must carry out the policies of the board and administer the affairs of the department. The director may exercise all powers belonging to the board within the guidelines and policies established by the board. The director shall manage the administration and organization of the department and may appoint such assistants or deputies the director considers necessary. The director may hire these employees as the director considers necessary for the proper administration of the affairs of the department. The director must prescribe the duties, powers, and functions of all assistants, deputies, and employees of the department.

HISTORY: 1993 Act No. 181, Section 1174; 2012 Act No. 215, Section 2, eff June 7, 2012.

Editor’s Note

2012 Act No. 215, Section 4, provides as follows:

“Notwithstanding another provision of law to the contrary, a person appointed to serve, or serving, as a member of the Department of Natural Resources Board 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, as the representative of the district to which he was transferred for the term of office for which he was appointed; however, the appointing authority shall appoint an additional member to the board from the district which loses a resident member on it 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.”

Effect of Amendment

The 2012 amendment inserted “, upon the advice and consent of the Senate. The director shall” and made other, nonsubstantive, changes.

Library References

Environmental Law 13.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 101, 106, 130 to 132, 173.

**SECTION 48‑4‑70.** General duties of board.

 The board shall:

 (1) hold meetings, as considered necessary by the chairman, with a majority of the board members constituting a quorum. The board may hold meetings, transact business, or conduct investigations at any place necessary; however, its primary office is in Columbia;

 (2) formulate and recommend legislation to enhance uniformity, enforcement, and administration of the wildlife, marine, and natural resource laws;

 (3) make an annual report to the General Assembly on all matters relating to its action;

 (4) require those of its officers, agents, and employees it designates to give bond for the faithful performance of their duties in the sum and with the sureties it determines, and all premiums on the bonds must be paid by the board;

 (5) pay travel expenses; and purchase or lease all necessary facilities, equipment, books, periodicals, and supplies for the performance of its duties; and

 (6) exercise and perform other powers and duties as granted to it or imposed upon it by law.

HISTORY: 1993 Act No. 181, Section 1174.

Library References

Environmental Law 13.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 101, 106, 130 to 132, 173.

**SECTION 48‑4‑80.** Power of board to make rules, promulgate regulations, exercise authority under certain other rules and regulations, and conduct hearings.

 The board may:

 (1) make rules and promulgate regulations, not inconsistent with law, to aid in the performance of its duties. The board may prescribe the extent, if any, to which these rules and regulations must be applied without retroactive effect.

 (2) exercise all authority granted to it under the laws and regulations relating to wildlife, marine and natural resources.

 (3) conduct such hearings as may be required by law.

HISTORY: 1993 Act No. 181, Section 1174.

Library References

Environmental Law 13, 16.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 101, 105 to 106, 109, 130 to 133, 135, 173.