CHAPTER 3

State Election Commission; Central Registration System

**SECTION 7‑3‑10.** State Election Commission created; appointment; term; composition; vacancies; chairman; meetings; powers and duties; eligibility.

 (A) There is hereby created the State Election Commission composed of five members, at least one of whom shall be a member of the majority political party represented in the General Assembly and at least one of whom shall be a member of the largest minority political party represented in the General Assembly, to be appointed by the Governor to serve terms of four years and until their successors have been appointed and qualify. Any vacancy on the commission shall be filled for the unexpired portion of the term in the same manner as the original appointment.

 (B) The Governor shall appoint one of the members to serve as chairman and one of the members to serve as vice chairman. The terms of chairman and vice chairman shall be for two years and until their successors are appointed and qualify. The commission shall select such other officers from among its members as it may deem necessary.

 (C) The commission shall meet at its offices in Columbia at least once each month or at such times as considered necessary by the commission. However, the commission may change the location of the meeting if the change is more convenient for the commission or any parties scheduled to appear before the commission.

 (D) The commission shall have the powers and duties as enumerated in this title.

 (E)(1) No person shall be eligible to be appointed to the commission who:

 (a) has not been a registered voter in this State for the five years immediately preceding the term of appointment;

 (b) is a member of a candidate's paid campaign staff, or a campaign volunteer;

 (c) held an elective public office, was a candidate for an elective public office, or was a lobbyist within the year preceding the start of the term of appointment; or

 (d) was an officer of a local or national committee of a political party or an officer in a partisan political club or organization within the year preceding the start of the term of appointment.

 (2) No person shall be eligible to continue to serve on the commission who, during the person's term of appointment:

 (a) is a candidate for an elective public office, a member of a candidate's paid campaign staff, or a campaign volunteer;

 (b) is an officer of a local or national committee of a political party or an officer in a partisan political club or organization;

 (c) is a lobbyist;

 (d) makes a contribution to a candidate or knowingly attends a fundraiser held for the benefit of a candidate;

 (e) takes an official action that contravenes a state election law;

 (f) makes a written or oral statement intended for general distribution or dissemination to the public at large discrediting the merit of a state election law; or

 (g) fails to supervise and instruct the executive director regarding the execution of the executive director's duties.

 (3) A person serving on the commission who was not eligible to be appointed pursuant to item (1), or a person serving on the commission who is no longer eligible to continue to serve pursuant to item (2), is subject to removal:

 (a) by the Governor; or

 (b) through an action filed in the original jurisdiction of the Supreme Court by the President of the Senate, on behalf of the Senate, or by the Speaker of the House of Representatives, on behalf of the House of Representatives, for a determination of the right of the person to continue to serve on the commission.

 (F) The commission shall promulgate regulations to establish standardized processes for the administration of elections and voter registration that must be followed by the county boards of voter registration and elections. The regulations must take into account unique circumstances around the State including, but not limited to, population and geographic disparities among the various counties. The commission is prohibited from promulgating emergency regulations pursuant to Section 1‑23‑130.

 (G) The commission shall provide for the supervision of the executive director to ensure that the State Election Commission and the county boards of voter registration and elections comply with applicable state and federal election law.

HISTORY: 1962 Code Section 23‑30; 1968 (55) 2316; 1992 Act No. 276, Section 1, eff March 10, 1992; 1996 Act No. 423, Section 2, eff June 18, 1996; 1998 Act No. 293, Section 1, eff April 20, 1998; 2022 Act No. 150 (S.108), Section 27.A, eff May 13, 2022.

Editor's Note

2022 Act No. 150, Sections 27.B to 27.D, and 35, provide as follows:

"[SECTION 27.]B. Notwithstanding Section 7‑3‑10(A), as amended by this act, the expiration dates for the terms of the current members of the commission shall be staggered as follows:

"(1) for members with terms expiring on September 15, 2022, the terms will now expire on June 30, 2023; and

"(2) for members with terms expiring on September 15, 2024, the terms will now expire on June 30, 2025.

"C. Notwithstanding Section 7‑3‑10(B), as amended by this act, the initial term of the vice chairman must run concurrently with the existing term of the chairman.

"D. The provisions of Section 7‑3‑10(E)(1), as added by the act, applies to a candidate for appointment to the State Election Commission on and after the effective date of this act."

"SECTION 35. The State Election Commission must establish a voter education program concerning the provisions contained in this legislation. The State Elections Commission must educate the public as follows:

"(1) post information concerning changes contained in this legislation in a conspicuous location at each county board of registration and elections, each satellite office, the State Elections Commission office, and their respective websites;

"(2) train poll managers and poll workers at their mandatory training sessions to answer questions by electors concerning the changes in this legislation;

"(3) require documentation describing the changes in this legislation to be disseminated by poll managers and poll workers at every election held from the effective date of this act until October 21, 2022;

"(4) coordinate with each county board of voter registration and elections so that at least one seminar is conducted with each county's election officials prior to September 16, 2022;

"(5) coordinate with local and service organizations to provide for additional informational seminars at a local or statewide level;

"(6) send a media release describing the changes in this legislation in South Carolina newspapers of general circulation by no later than June 20, 2022;

"(7) coordinate with local media outlets to disseminate information concerning the changes in this legislation.

"In addition to the items above, the State Election Commission may implement additional educational programs in its discretion."

Effect of Amendment

2022 Act No. 150, Section 27.A, rewrote the section.

**SECTION 7‑3‑20.** Executive director of the State Election Commission.

 (A) The State Election Commission shall appoint an executive director, upon the advice and consent of the Senate, who shall be directly responsible to the commission and who shall serve at the pleasure of the commission. The executive director shall be the chief administrative officer for the State Election Commission. The term of the executive director is for four years, and he may be reappointed, upon the advice and consent of the Senate, for succeeding terms. In the event of a vacancy in the position of executive director, an interim director must be appointed by the State Election Commission and an appointment for a permanent executive director must be submitted to the Senate as soon as practicable. If a person is appointed by the State Election Commission to be executive director and he is not confirmed by the Senate by the date for the sine die adjournment of the General Assembly following the submission of the appointment, then the person must not serve as an interim or permanent executive director.

 (B) The executive director shall receive such compensation and employ such staff, subject to the approval of the State Election Commission, as may be provided by law.

 (C)(1) No person shall be eligible to be appointed as the executive director who:

 (a) does not possess at least three years' experience in election administration;

 (b) is a member of a candidate's paid campaign staff, or a campaign volunteer;

 (c) held an elective public office, was a candidate for an elective public office, or was a lobbyist within the year preceding the start of the term of appointment; or

 (d) was an officer of a local or national committee of a political party or an officer in a partisan political club or organization within the year preceding the start of the term of appointment.

 (2) No person shall be eligible to continue to serve as the executive director who, during the person's term of appointment:

 (a) is a candidate for an elective public office, a member of a candidate's paid campaign staff, or a campaign volunteer;

 (b) is an officer of a local or national committee of a political party or an officer in a partisan political club or organization;

 (c) is a lobbyist;

 (d) makes a contribution to a candidate or knowingly attends a fundraiser held for the benefit of a candidate;

 (e) takes an official action that contravenes a state election law;

 (f) makes a written or oral statement intended for general distribution or dissemination to the public at large discrediting the merit of a state election law; or

 (g) fails to supervise and instruct the county boards of voter registration and elections regarding compliance with state and federal election laws.

 (3) A person serving as the executive director who was not eligible to be appointed pursuant to item (1), or a person serving as the executive director who is no longer eligible to continue to serve pursuant to item (2), is subject to removal through an action filed in the original jurisdiction of the Supreme Court by the President of the Senate, on behalf of the Senate, or by the Speaker of the House of Representatives, on behalf of the House of Representatives, for a determination of the right of the person to continue to serve as the executive director.

 (D) The executive director shall:

 (1) direct and supervise the implementation of the standardized processes established by the commission pursuant to Section 7‑3‑10(F);

 (2) supervise the conduct of the county boards of voter registration and elections, as established pursuant to Article 1, Chapter 5, which administers elections and voter registration in the State, and ensure those boards' compliance with the requirements with applicable state or federal law or State Election Commission policies and procedures with regard to the conduct of elections or the voter registration process by all persons involved in the elections process;

 (3) conduct reviews, audits, or other postelection analysis of the county boards of voter registration and elections, as established pursuant to Article 1, Chapter 5, to ensure those boards' compliance with the requirements with applicable state or federal law or State Election Commission policies, procedures, or standardized processes with regard to the conduct of elections or the voter registration process by all persons involved in the elections process;

 (4) maintain a complete master file of all qualified electors by county and by precincts;

 (5) delete the name of any elector:

 (a) who is deceased;

 (b) who is no longer qualified to vote in the precinct where currently registered;

 (c) who has been convicted of a disqualifying crime;

 (d) who is otherwise no longer qualified to vote as may be provided by law; or

 (e) who requests in writing that his name be removed;

 (6) enter names on the master file as they are reported by the county boards of voter registration and elections;

 (7) furnish each county board of voter registration and elections with a master list of all registered voters in the county, together with a copy of all registered voters in each precinct of the county, at least ten days prior to each election. The precinct copies shall be used as the official list of voters;

 (8) maintain all information furnished to his office relating to the inclusion or deletion of names from the master file for four years;

 (9) purchase, lease, or contract for the use of such equipment as may be necessary to properly execute the duties of his office, subject to the approval of the State Election Commission;

 (10) secure from the United States courts and federal and state agencies available information as to persons convicted of disqualifying crimes;

 (11) obtain information from any other source which may assist him in carrying out the purposes of this section;

 (12) perform such other duties relating to elections as may be assigned him by the State Election Commission;

 (13) furnish at reasonable price any precinct lists to a qualified elector requesting them;

 (14) serve as the chief state election official responsible for implementing and coordinating the state's responsibilities under the National Voter Registration Act of 1993;

 (15) serve as the chief state election official responsible for implementing and enforcing the state's responsibilities under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), as set forth in the U.S.C., Title 42, Section 1973ff, et seq.;

 (16) establish and maintain a statewide voter registration database that shall be administered by the commission and made continuously available to each county board of voter registration and elections and to other agencies as authorized by law;

 (17) promulgate regulations for voter registrations performed by private entities;

 (18) enter into the master file a separate designation for each voter casting an absentee ballot or an early ballot in an election; and

 (19) establish methods of auditing election results, which may include risk‑limiting audits, hand‑count audits, results verification through independent third‑party vendors that specialize in election auditing, ballot reconciliation, or any other method deemed appropriate by the executive director. Election result audits must be conducted in all statewide elections after the election concludes, but prior to certification by the State Board of Canvassers, and may be performed following any other election held in the State at the discretion of the executive director. Once completed, audit reports must be published on the commission's website.

 (E) The State Election Commission shall publish on the commission's website each change to voting procedures enacted by state or local governments. State and local governments shall file notice of all changes in voting procedures including, but not limited to, changes to precincts with the State Election Commission within five days after adoption of the change or thirty‑five days prior to the implementation, whichever is earlier. All voting procedure changes must remain on the commission's website at least through the date of the next general election. However, if changes are made within three months prior to the next general election, then the changes shall remain on the commission's website through the date of the following general election.

HISTORY: 1962 Code Section 23‑31; 1967 (55) 657; 1968 (55) 2316; 1996 Act No. 466, Section 2, eff August 21, 1996; 2006 Act No. 253, Section 1, eff March 24, 2006; 2012 Act No. 265, Section 4, eff upon preclearance approval or declaratory judgment; 2014 Act No. 196 (S.815), Sections 1, 10, eff June 2, 2014; 2022 Act No. 150 (S.108), Sections 25, 28.A, eff May 13, 2022.

Code Commissioner's Note

At the direction of the Code Commissioner, the amendment to (C) of this section by 2022 Act No. 150, Section 25, and the amendment to this full section by 2022 Act No. 150, Section 28.A, were read together, with the amendment to (C) being redesignated as (D)(19).

Editor's Note

2012 Act No. 265, Section 9, provides as follows:

"This act takes effect upon preclearance approval by the United States Department of Justice or approval by a declaratory judgment issued by the United States District Court for the District of Columbia, whichever occurs first."

Preclearance approval for 2012 Act No. 265 was received on October 1, 2012.

2022 Act No. 150, Sections 28.B and 28.C, provide as follows:

"[SECTION 28.]B. The provisions of Section 7‑3‑20(C)(1), as added by this act, do not apply to a person who holds the position of executive director on the effective date of this act.

"C. Notwithstanding Section 7‑3‑20(A), as amended by this act, the commission must provide an initial appointment for executive director to the Senate for advice and consent no later than January 10, 2023. The appointment must be made even if there is not a vacancy in the position at that time and the commission desires that the executive director continue to serve as the agency's executive director. The term of the initial appointment expires June 30, 2027."

Effect of Amendment

2022 Act No. 150, Section 25, in (D), inserted (19).

2022 Act No. 150, Section 28.A, rewrote the section.

**SECTION 7‑3‑25.** Noncompliant county boards of voter registration and elections.

 (A) In the event that the State Election Commission, acting through its executive director, determines that a county board of voter registration and elections has failed to comply with applicable state or federal law or State Election Commission policies, procedures, or standardized processes with regard to the conduct of the election or voter registration process, the State Election Commission, acting through its executive director or other designee, must supervise, pursuant to Section 7‑3‑20(D)(1) and (2), the county board to the extent necessary to:

 (1) identify the failure to comply with state or federal law or State Election Commission policies, procedures, or standardized processes;

 (2) establish a plan to correct the failure; and

 (3) implement the plan to correct the failure. The officials and employees of the State Election Commission and the county board must work together, in good faith, to remedy the failure of the county board to adhere to state or federal law or State Election Commission policies, procedures, or standardized processes. In the event of a difference of policy or opinion between a county election official or employee and the State Election Commission or its designee, pertaining to the manner in which particular functions must be performed, the policy or opinion of the State Election Commission shall control.

 (B) If a county board of voter registration and elections does not or cannot determine and certify the results of an election or referendum for which it is responsible by the time set for certification by applicable law, the responsibility to determine and certify the results is devolved upon the State Election Commission.

 (C) If the State Election Commission determines that an official or an employee of a county board of voter registration and elections has negligently failed to comply with applicable state or federal law or State Election Commission policies, procedures, or standardized processes with regard to the election or voter registration process or fails to comply with or cooperate with the corrective plan established by the State Election Commission or its designee under the provisions of subsection (A), the commission may order the decertification of that official or employee and if decertified the commission shall require that official to participate in a retraining program approved by the commission prior to recertification. If the commission finds that the failure to comply with state or federal law or State Election Commission policies, procedures, or standardized processes by an official is wilful, it shall recommend the termination of that official to the Governor or it shall recommend termination of a staff member to the director of the appropriate county board of voter registration and elections.

HISTORY: 2014 Act No. 196 (S.815), Section 2, eff June 2, 2014; 2022 Act No. 150 (S.108), Section 29, eff May 13, 2022.

Effect of Amendment

2022 Act No. 150, Section 29, in (A), substituted "voter registration and elections" for "elections and voter registration", ", procedures, or standardized processes" for "and procedures", and "Section 7‑3‑20(D)(1) and (2)" for "Section 7‑3‑20(C)(1)", in (1), substituted ", procedures, or standardized processes" for "and procedures", in (3), in the second sentence, inserted "or State Election Commission policies, procedures, or standardized processes" at the end; and in (C), in the first and second sentences, substituted ", procedures, or standardized processes" for "and procedures".

**SECTION 7‑3‑30.** Notice of deletion of elector's name from roster of electors; appeal by elector; restoration of name.

 (a) The executive director shall notify by mail each elector at the address last filed in the office, whose name has been deleted for the reasons of conviction or a change in the residence of a qualified voter. The notice shall state the reason for the deletion and inform the elector of his right to appeal to the county board of voter registration and elections and the time in which to perfect his appeal. A copy of the notice must be forwarded to the appropriate county board of voter registration and elections.

 (b) Each elector whose name has been deleted has twenty days from the date the notice is mailed to appeal. The appeal must be to the county board of voter registration and elections from whose master file the deletion has been made. If the board determines that the elector's name should not have been deleted, it shall instruct the executive director to restore his name to the registration books; however, if the deletion is for conviction, the appeal must be to the Executive Director of the State Election Commission.

HISTORY: 1962 Code Section 23‑32; 1967 (55) 657; 1968 (55) 2316; 1996 Act No. 466, Section 3, eff August 21, 1996; 2012 Act No. 265, Section 5, eff upon preclearance approval or declaratory judgment.

Editor's Note

2012 Act No. 265, Section 9, provides as follows:

"This act takes effect upon preclearance approval by the United States Department of Justice or approval by a declaratory judgment issued by the United States District Court for the District of Columbia, whichever occurs first."

Preclearance approval for 2012 Act No. 265 was received on October 1, 2012.

**SECTION 7‑3‑40.** Reports to be furnished by Bureau of Vital Statistics.

 The Bureau of Vital Statistics must furnish the executive director a monthly report of all persons eighteen years of age or older who have died in the State and all individuals eighteen years of age or older who have died out‑of‑state. All reports must contain the name of the deceased, county of residence, his social security or other identification number, and his date and place of birth.

HISTORY: 1962 Code Section 23‑33; 1967 (55) 657; 1968 (55) 2316; 1996 Act No. 434, Section 1, eff June 4, 1996; 2012 Act No. 265, Section 6, eff upon preclearance approval or declaratory judgment; 2022 Act No. 150 (S.108), Section 18, eff May 13, 2022.

Editor's Note

2012 Act No. 265, Section 9, provides as follows:

"This act takes effect upon preclearance approval by the United States Department of Justice or approval by a declaratory judgment issued by the United States District Court for the District of Columbia, whichever occurs first."

Preclearance approval for 2012 Act No. 265 was received on October 1, 2012.

Effect of Amendment

2022 Act No. 150, Section 18, in the first sentence, substituted "and all individuals eighteen years of age or older who have died out‑of‑state" for "since making the previous report", and deleted the third sentence, which related to the bureau providing this information at no charge.

**SECTION 7‑3‑45.** Reports of mentally incapacitated persons.

 Each county probate court must furnish to the Executive Director of the State Election Commission a monthly report of all persons eighteen years of age or older who have been declared mentally incapacitated by the county probate court. All reports must include the name, county of residence, social security number or other identification number, and date and place of birth of any incapacitated persons. The county probate court must provide the information to the Executive Director of the State Election Commission free of charge.

HISTORY: 2022 Act No. 150 (S.108), Section 34, eff May 13, 2022.

**SECTION 7‑3‑50.** Information to be furnished by boards.

 Each county board of voter registration and elections must furnish the executive director information as may be requested by him concerning each registered elector by the fifteenth day of each month and within five days after closing of the books prior to an election.

HISTORY: 1962 Code Section 23‑34; 1967 (55) 657; 1968 (55) 2316; 1984 Act No. 510, Section 1, eff June 28, 1984.

**SECTION 7‑3‑60.** Clerks and magistrates shall report persons convicted of certain offenses.

 The clerks of the courts of common pleas and general sessions and every magistrate in the State must, annually on or before June first, make out under their respective hands and seals and report to the executive director a complete list as shown by the records of their respective offices for the preceding calendar year of all persons convicted in that year of felonies or crimes against the election laws, together with the social security or identification numbers of these persons and the month of conviction. Where there is no person to be reported, the report shall so state. Any clerk of the court or magistrate who fails or neglects to make any report required by this section must forfeit and pay to the county in which he holds office the sum of fifty dollars for each failure or neglect to make the report.

HISTORY: 1962 Code Section 23‑92; 1952 Code Section 23‑92; 1950 (46) 2059; 1967 (55) 657; 1968 (55) 2316; 1984 Act No. 289, eff March 5, 1984.

**SECTION 7‑3‑70.** Reports furnished by Department of Motor Vehicles.

 (a) The Department of Motor Vehicles must furnish the executive director a monthly report of all persons eighteen years of age or older who have surrendered their driver's license or identification card and obtained a driver's license or identification card in another state. All reports must contain the name of the driver or identification cardholder, social security number, date of birth, South Carolina county where previously a resident, and the state in which the license or identification card was surrendered. The department must provide this information at no charge.

 (b) The Department of Motor Vehicles must furnish the executive director a monthly report of all persons eighteen years of age or older who were reported as deceased by Social Security Administration. All reports must contain the name, social security number, date of birth, and date of death. The department must provide this information at no charge.

 (c) The Department of Motor Vehicles must furnish the executive director a monthly report of all non‑United States citizens who are issued a driver's license or identification card. All reports must contain the name of the driver or identification cardholder, social security number, if any, and date of birth. The department must provide this information at no charge.

HISTORY: 2012 Act No. 265, Section 7, eff upon preclearance approval or declaratory judgment; 2022 Act No. 150 (S.108), Section 32.A, eff May 13, 2022.

Editor's Note

2012 Act No. 265, Section 9, provides as follows:

"This act takes effect upon preclearance approval by the United States Department of Justice or approval by a declaratory judgment issued by the United States District Court for the District of Columbia, whichever occurs first."

Preclearance approval for 2012 Act No. 265 was received on October 1, 2012.

2022 Act No. 150, Section 32.B, provides as follows:

"[SECTION 32.]B. The first monthly report provided by the Department of Motor Vehicles pursuant to this SECTION must include every non‑United States citizen in this State with a driver's license or identification card."

Effect of Amendment

2022 Act No. 150, Section 32.A, added (c).