

**COMMITTEE TO INVESTIGATE CANDIDATES FOR
THE SOUTH CAROLINA DEPARTMENT OF
EMPLOYMENT AND WORKFORCE**

Chairman

Vice Chairman

SENATOR SEAN BENNETT
SENATOR JOHN L. SCOTT
SENATOR SCOTT TALLEY
REPRESENTATIVE JOE DANING
REPRESENTATIVE PAT HENEGAN
REPRESENTATIVE DWIGHT LOFTIS
MR. RION COBB
MRS. SWATI S. PATEL
MRS. HOLLY PISARIK



POST OFFICE BOX 142
COLUMBIA, SOUTH CAROLINA 29202-0142
(803) 212-6220

LISA MANINI WIDENER
CHIEF OF STAFF

KENNETH M. MOFFITT
SENATE COUNSEL

STEVE DAVIDSON
HOUSE OF REPRESENTATIVES COUNSEL

CAROLYN YOUMANS
EXECUTIVE ASSISTANT

MEMORANDUM

TO: The Honorable John Scott
The Honorable Scott Talley
The Honorable Joe Daning
The Honorable Pat Henegan
The Honorable Dwight Loftis
Mr. Rion Cobb
Mrs. Swati S. Patel
Mrs. Holly Pisarik
cc: Ken Moffitt, Senate Counsel
Steve Davidson, House of Representatives Counsel
Richele Taylor, Office of the Governor

FROM: Senator Sean Bennett

DATE: February 11, 2019

RE: Organizational Meeting for the Committee to
Investigate Candidates for the SC DEW

We will hold a meeting for the purposes of organizing **on February 21, 2019 at 9:30 a.m.** in room #307 Gressette.

Please make every effort to attend this important meeting. If questions, please call Lisa Manini Widener at 212-6222. Thank you.

About the Committee to Investigate Candidates for the South Carolina Department of Employment and Workforce

The Committee to Investigate Candidates for the South Carolina Department of Employment and Workforce was established as part of Act 146 of 2010. The Committee to Investigate Candidates for the South Carolina Department of Employment and Workforce is responsible for determining if each candidate for the Executive Director of the South Carolina Department of Employment and Workforce is qualified and meets the requirements provided by law to serve. The Committee to Investigate Candidates for the South Carolina Department of Employment and Workforce submits three (3) names of qualified candidates to the Governor for selection.

Composition, duties and responsibilities of The Committee to Investigate Candidates for the South Carolina Department of Employment and Workforce, in pertinent part:

SECTION 41-27-710. Committee membership; organization; meetings; quorum

(A) The committee must be composed of nine members, three of whom must be members of the House of Representatives appointed by the Speaker, at least one of whom must be a member of the minority party; three of whom must be members of the Senate appointed by the President Pro Tempore, at least one of whom must be a member of the minority party; and three of whom shall be appointed by the Governor from the general public at large, of which one must represent businesses with fewer than fifty employees and one of whom must represent businesses with fewer than five hundred employees. A member of the general public appointed by the Governor may not be a member of the General Assembly.

(B) The committee must meet as soon as practicable after appointment and organize itself by electing one of its members as chairman and other officers as the committee considers necessary. Afterward, the committee at least annually shall meet and at the call of the chairman or a majority of the members. A quorum consists of five members.

(C) Unless the committee finds a person qualified to serve as the Executive Director of the Department of Employment and Workforce, the person may not be appointed.

(D) A member of the committee that misses three consecutive scheduled meetings at which a quorum is present must be removed from and replaced on the committee by the person that appointed that member.

(E) The committee must discharge its duties related to screening and nominating qualified individuals for appointment by the Governor in the manner provided in Chapter 20, Title 2.

SECTION 41-27-720. Duties of committee.

The committee shall:

(1) nominate three qualified applicants for the Governor to consider in appointing the executive director. In order to be found qualified, the person must meet the minimum requirements as provided in Section 41-29-35. The committee must consider a person's experience and expertise in matters related to unemployment, workforce development, and economic development. A person may not be appointed to serve as the permanent executive director unless he is found qualified by the committee. If the Governor rejects all of the nominees, the committee must reopen the nominating process;

(2) screen Department of Employment and Workforce Appellate Panel candidates for qualifications. In order to be found qualified, the person must meet the minimum requirements as provided in Section

41-29-300(E). The committee must consider a person's experience and expertise in matters related to unemployment, workforce development, and economic development. A person may not be elected to serve on the Department of Employment and Workforce Appellate Panel unless he is found qualified by the committee;

(3) conduct an annual performance review of the executive director, which must be submitted to the General Assembly and the Governor. A draft of the executive director's performance review must be submitted to him, and the executive director must be allowed an opportunity to be heard before the committee before the final draft of the performance review is submitted to the General Assembly and the Governor;

(4) submit to the General Assembly and the Governor, on an annual basis, the committee's evaluation of the performance of the Department of Employment and Workforce. A proposed draft of the evaluation must be submitted to the Executive Director of the Department of Employment and Workforce before submission to the General Assembly and the Governor, and the Executive Director of the Department of Employment and Workforce must be given an opportunity to be heard before the committee before the completion of the evaluation and its submission to the General Assembly and the Governor;

(5) assist in developing an annual workshop of at least six contact hours concerning ethics and the Administrative Procedures Act for the executive director and employees of the Department of Employment and Workforce as the committee considers appropriate;

(6) make reports and recommendations to the General Assembly and the Governor on matters relating to the powers and duties set forth in this section;

(7) submit a letter to the General Assembly with the annual budget proposals of the Department of Employment and Workforce, indicating the committee has reviewed the proposals; and

(8) undertake additional studies or evaluations as the committee considers necessary.

The Candidates for the South Carolina Department of Employment and Workforce qualifications, in pertinent part:

SECTION 41-29-25. Executive Director; discharge of duties.

(A) The executive director shall discharge his duties:

(1) in good faith;

(2) with the care and ordinarily prudent person in a like position would exercise under similar circumstances; and

(3) in a manner he reasonably believes to be in the best interests of the department. As used in this chapter, best interests means a balancing of the following:

(a) achieving the purposes of the department;

(b) preservation of the financial integrity of the department and its ongoing operations; and

(c) exercise of the powers of the department in accordance with good business practices and the requirements of applicable laws and regulations.

(B) In discharging his duties, the executive director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(1) one or more officers or employees of the State whom the executive director reasonably believes to be reliable and competent in the matters presented; or

(2) legal counsel, public accountants, or other persons as to matters the executive director reasonably believes are within the person's professional or expert competence.

(C) The executive director is not acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (B) unwarranted.

(D) Nothing in this section gives rise to a cause of action against the executive director or any decision made by the executive director concerning departmental operations or development.

SECTION 41-29-35. Executive Director; appointment.

(A) The Executive Director of the Department of Employment and Workforce must be appointed pursuant to the procedure set forth in Section 41-27-720.

(B) The committee must nominate three applicants found qualified to serve as executive director for the Governor's consideration. In making nominations to the Governor, the committee should consider race, gender, national origin, and other demographic factors to ensure nondiscrimination to the greatest extent possible as to all segments of the population of the State. The committee must also give due consideration to a person's ability, area of expertise, dedication, compassion, common sense, and integrity. If fewer than three applicants are found qualified to serve as executive director, the committee must resolicit for applicants and continue the screening process until three applicants are found qualified and nominated.

(1) A person may not be appointed to serve as permanent executive director unless the committee finds the person qualified.

(2) The Governor must transmit the name of his appointee to the Senate for advice and consent.

(3) If the Governor rejects all of the nominees, the committee must reopen the nominating process.

(C) For the committee to find a person qualified, he 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 expertise in business, labor and employment, employment benefits, human resource management, or five years' experience as a practicing attorney.

(D) The committee may find a person qualified although he does not have a background of substantial duration and expertise in one of the five enumerated areas contained in subsection (C)(2) of this section if two-thirds of the committee vote to qualify this candidate and provide written justification of their decision in the report as to the qualifications of the candidates.