AMENDED

June 1, 2010

**H. 3814**

Introduced by Reps. Allison, Cole, Forrester, Kelly and Parker

6/01/10--S.

Read the first time May 5, 2009.

**A BILL**

TO AMEND SECTION 57-1-740(D)(1) AND (2)(A) OF THE 1976 CODE, RELATING TO VACANCIES ON THE DEPARTMENT OF TRANSPORTATION COMMISSION, TO PROVIDE THAT THE JOINT TRANSPORTATION REVIEW COMMITTEE MUST REOPEN THE NOTICE OF INTENTION FILING PERIOD IF ONLY ONE PERSON FILES A NOTICE OF INTENTION DURING THE INITIAL FILING PERIOD AND THAT THE REVIEW COMMITTEE MUST REOPEN THE SCREENING PROCESS IF THE COMMITTEE’S TENTATIVE FINDINGS RESULT IN THE DETERMINATION THAT ONLY ONE CANDIDATE OR NONE OF THE CANDIDATES ARE QUALIFIED AND MEET THE REQUIREMENTS PROVIDED BY LAW TO SERVE ON THE COMMISSION; AND TO AMEND 57-1-740(D)(2)(C), RELATED TO CANDIDATE SCREENING, TO PROVIDE THAT NO CANDIDATE MAY DIRECTLY OR INDIRECTLY SEEK THE PLEDGE OF A VOTE FROM A MEMBER OF THE CANDIDATE’S CONGRESSIONAL DELEGATION OR, DIRECTLY OR INDIRECTLY, CONTACT A STATEWIDE CONSTITUTIONAL OFFICER, A MEMBER OF THE GENERAL ASSEMBLY, OR THE JOINT TRANSPORTATION REVIEW COMMITTEE REGARDING SCREENING FOR THE COMMISSION UNTIL THE REVIEW COMMITTEE HAS FORMALLY RELEASED ITS REPORT AS TO THE QUALIFICATIONS OF ALL CANDIDATES IN A PARTICULAR CONGRESSIONAL DISTRICT.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 57-1-740(D)(1) and (2)(a) of the 1976 Code is amended to read:

“(D)(1) When the notice of intention filing period closes, the review committee shall begin to conduct an investigation of candidates, as it considers appropriate, and may utilize the services of any agency of state government to assist in the investigation. Upon request of the review committee for assistance, an agency shall cooperate fully.

(2)(a)(i) Upon completion of the candidate investigations, the chairman of the review committee shall schedule a public hearing concerning the qualifications of the candidates. Any person who desires to testify at the hearing, including the candidates, must furnish a written statement of his proposed testimony to the chairman of the review committee. This statement shall be furnished no later than forty‑eight hours prior to the date and time set for the hearing. The review committee shall determine the persons who shall testify at the hearing. All testimony, including documents furnished to the review committee, shall be submitted under oath and persons knowingly furnishing false information either orally or in writing shall be subject to the penalties provided by law for perjury and false swearing.

(ii) During the course of the investigation, the review committee may schedule an executive session at which the candidates, and other persons who the review committee wishes to interview, may be interviewed on matters pertinent to the candidate’s qualification for the office to be filled.

(iii) The review committee shall render its tentative findings as to whether the candidates are qualified to serve on the commission as a district member and its reasons for making the findings within a reasonable time after the hearing. If only one person applies to fill a vacancy or if the review committee concludes there are fewer candidates qualified for a vacancy than those who initially filed, it shall submit to the congressional district delegation for election only the names and qualifications of those who are considered to be qualified. The nominations of the review committee for any candidate for the election to the commission are binding on the congressional district delegation, and it shall not elect a person not nominated by the review committee. Nothing shall prevent the congressional district delegation from rejecting all persons nominated. In this event, the review committee shall submit another group of names and qualifications for that position. Further nominations in the manner required by this chapter must be made until the office is filled.”

SECTION 2. Section 57-1-740(D)(2)(c) of the 1976 Code is amended to read:

“(c)(i) The review committee must transmit to the congressional district delegation the names of all qualified candidates.

(ii) No member of the congressional district delegation may pledge his vote to elect a ~~nominee~~ candidate ~~until the qualifications of the candidates to fill the vacancy have been determined by the review committee and~~ until the review committee has ~~formally~~ released its written report ~~as to~~ concerning the qualifications of the ~~nominee~~ candidate to the members of the appropriate congressional district delegation. The ~~formal~~ release of the written report of qualifications shall occur no earlier than forty‑eight hours after the ~~name~~ names of the ~~nominee has~~ qualified candidates have been initially released to members of the appropriate congressional district delegation. ~~For purposes of this section, “indirectly seeking a pledge” means the candidate, or someone acting on behalf of and at the request of the candidate, requests another person to contact a member of the General Assembly on behalf of the candidate before the nomination for that office is formally made by the review committee.~~

(iii) No candidate may directly or indirectly seek the pledge of a vote from a member of the candidate’s congressional delegation or, directly or indirectly, contact a statewide constitutional officer, a member of the General Assembly, or the Joint Transportation Review Committee regarding screening for the commission until the review committee has released its written report as to the qualifications of all candidates in a particular congressional district. For purposes of this section, ‘indirectly seek the pledge’ means the candidate, or someone acting on behalf of and at the request of the candidate, requests another person to contact a member of the General Assembly, a statewide constitutional officer, or a member of the review committee on behalf of the candidate before the review committee’s release of the written report of qualifications.

(iv) The prohibitions of this section do not extend to an announcement of candidacy by the candidate and statements by the candidate detailing the candidate’s qualifications.”

SECTION 3. This act takes effect upon approval of the Governor.

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