**South Carolina General Assembly**

120th Session, 2013-2014

**S. 505**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Hayes, L. Martin, Rankin and Thurmond

Document Path: l:\council\bills\dka\3101sd13.docx

Introduced in the Senate on March 7, 2013

Currently residing in the Senate Committee on **Judiciary**

Summary: Public Integrity Unit established

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/7/2013 Senate Introduced and read first time ([Senate Journal‑page 9](file:///h:\SJ%20Archive\2013\03-07-13.docx))

3/7/2013 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 9](file:///h:\SJ%20Archive\2013\03-07-13.docx))

4/5/2013 Senate Referred to Subcommittee: Rankin (ch), Hutto, Malloy, Campsen, Massey

**VERSIONS OF THIS BILL**

[3/7/2013](file:///p:\pprever\2013-14\505_20130307.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 2 TO TITLE 23 SO AS TO ESTABLISH THE SOUTH CAROLINA PUBLIC INTEGRITY UNIT AND PROVIDE FOR ITS MEMBERSHIP, POWERS, DUTIES, AND FUNCTIONS, TO ESTABLISH A PROTOCOL FOR INFORMATION SHARING AMONG THE PARTNER ENTITIES, AND TO PROVIDE THAT THE UNIT SHALL COORDINATE INVESTIGATIONS OF SPECIFIED ACTIVITIES AFFECTING ETHICS AND PUBLIC INTEGRITY; TO AMEND SECTION 8‑13‑540, AS AMENDED, RELATING TO THE MANNER IN WHICH ETHICS COMMITTEES OF THE GENERAL ASSEMBLY INVESTIGATE ALLEGATIONS, SO AS TO AUTHORIZE FURTHER INVESTIGATION BY THE PUBLIC INTEGRITY UNIT WHEN THE COMMITTEE DEEMS IT APPROPRIATE; AND TO AMEND SECTION 12‑54‑240, AS AMENDED, RELATING TO THE DISCLOSURE OF RECORDS AND REPORTS BY THE DEPARTMENT OF REVENUE, SO AS TO PERMIT THE DEPARTMENT TO DISCLOSE INFORMATION FOR PURPOSES OF PUBLIC INTEGRITY UNIT INVESTIGATIONS.

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

SECTION 1. Title 23 of the 1976 Code is amended by adding:

“CHAPTER 2

Public Integrity Unit

Section 23‑2‑10. (A) In order to insure ethical conduct in public service of this State and to promote integrity in government institutions, a partnership of agencies and other persons employed in investigating, auditing, and inspecting serious misconduct by government officials in this State is hereby established to be known as the “South Carolina Public Integrity Unit’ and this chapter must be interpreted to achieve the purposes of the Public Integrity Unit.

(B) Nothing in this chapter may be construed to preclude agencies or other entities within this State from performing existing functions, investigation authority, or adjudication as otherwise prescribed by law.

(C) It is the intent of the General Assembly in creating this partnership to maximize existing resources, expertise, and available information to coordinate investigations of alleged government corruption, unethical conduct, and violations of the public trust, all of which are imperative to preserving the faith of the public in its institutions. Each partner agency or entity may release information for investigative purposes to the other named partners as provided in this chapter, but the agency that originates that document remains responsible for release authority.

(D) As contained in this chapter:

(1) ‘Appropriate supervisory office’ means:

(a) the State Ethics Commission for all persons required to file reports under Chapter 13, Title 8, except for those members of or candidates for the office of State Senator or State Representative;

(b) the Senate Ethics Committee for members or staff, including staff elected to serve as officers of or candidates for the office of State Senator; and

(c) the House of Representatives Ethics Committee for members or staff, including staff elected to serve as officers of or candidates for the office of State Representative.

(2) ‘Partner’ means each of the five named members of the Public Integrity Unit, and their respective agencies, namely the Attorney General, Chief of the State Law Enforcement Division, Director of the Department of Revenue, the Executive Director of the State Ethics Commission and the Inspector General.

(3) ‘Unit’ means the Public Integrity Unit as described in this chapter.

Section 23‑2‑20. (A) There is hereby created a ‘South Carolina Public Integrity Unit’ consisting of the following five partner members:

(1) the Attorney General;

(2) the Chief of the State Law Enforcement Division;

(3) the Director of the Department of Revenue;

(4) the Executive Director of the State Ethics Commission; and

(5) the Inspector General.

(B)(1) The members provided for in subsection (A) are ex officio members with full voting rights.

(2) The members may provide employees or staff from their respective agencies for the unit as necessary. Employees of other government agencies may be included in particular investigations by a majority vote of the unit and the head of that agency also shall serve on the unit in an ex officio capacity for that matter. However, any such appointment is as needed and does not include voting rights.

(3) The members provided for in subsection (A) may designate a member of that agency or staff to serve in unit functions except for voting; however, a majority of the unit can provide for voting by electronic or other means.

(C) Members of the unit shall serve without compensation. A unit member who terminates his office or employment which qualified him as a member of the unit immediately shall cease to be a member of the unit.

Section 23‑2‑30. The Attorney General shall provide administrative support for the unit. The unit shall not have employees, but the partnering entities shall assign members, investigators, auditors, or support staff from within their respective agencies or staff.

Section 23‑2‑40. Nothing in this chapter establishes the unit as a separate entity to receive complaints from the general public. The unit shall receive complaints from partner entities, an appropriate supervisory office, or any other state agency authorized to receive such complaints against public employees, officers, or officials.

Section 23‑2‑50. Upon receipt of an allegation from a partner, the members shall determine whether it is appropriate for investigation by the unit or if the matter should be returned to the forwarding authority for action, except that cases forwarded by an appropriate supervisory office that is forwarded due to conflicts of interest must be investigated by the unit. The unit is an investigative partnership and not an adjudicating entity. Completed investigations that substantiate serious criminal conduct may be provided directly to the Attorney General or a solicitor. Substantiated investigations of a civil nature or deemed to be procedural error must be sent to the appropriate supervisory office. Unsubstantiated investigations must be returned to the entity that forwarded the investigation to the unit.

Section 23‑2‑60. The unit may accept investigations by referral. The referring entity shall identify the scope of the investigation. Completed investigations that substantiate serious criminal conduct may be provided directly to the Attorney General or a solicitor. Substantiated investigations not undertaken by the Attorney General or a solicitor, substantiated investigations deemed procedural errors, or unsubstantiated investigations must be returned to the appropriate referring entity. Referral to the unit may be made by:

(1) the Senate Ethics Committee as provided for within their rules or by law;

(2) the House of Representative Ethics Committee as provided for within their rules or by law;

(3) the Supreme Court as allowed within their rules or by law; or

(4) any of the five partners identified in Section 23‑2‑20.

Section 23‑2‑70. The unit is a collaborative investigating entity that may include privileged communications, protected information, and protected identities under law. Freedom of Information Act requests must be made directly to the partner agency that generates such documents. Partnering entities that use information from another partner within the unit shall follow the release protocol of the originating partner.

Section 23‑2‑80. The unit may make recommendations to the General Assembly or to the Governor regarding the carrying out of the purposes, objectives, and intentions of this chapter or other acts relating to enforcement of ethics or public integrity issues. The partners shall report to the General Assembly each year of trends of cases, recommendations of reforms, and fiscal issues of the unit each year through the administrative support of the Attorney General.

Section 23‑2‑90. Partner members of the Public Integrity Unit, to the extent that they are authorized in their respective agencies, are authorized to:

(1) accept contributions, funds, or grants from foundations, state agencies, or the federal government, for the purpose of carrying out the programs and objectives of this chapter, provided such funds are not related to any particular case and are part of an established program for the improvement of investigation capability, and not from a public official or an entity within the control or influence of that public official;

(2) consult and cooperate with counties, municipalities, agencies, or official bodies of this State or of other states, other governmental agencies, and with colleges and universities, including technical colleges, and other institutions, concerning investigations of violations of the laws of this State;

(3) publish or cause to be published manuals, information bulletins, newsletters, and other materials to achieve the objectives of this chapter; and

(4) promulgate regulations as necessary for the administration of this chapter, including the issuance of administrative procedures for coordination among the partner entities.

Section 23‑2‑100. An oral or written report, document, statement, or other communication that is written, made, or delivered concerning the requirements or administration of this chapter or regulations promulgated under it must not be the subject of or basis for an action at law or in equity for slander or libel in any court of the State if the communication is between:

(1) a law enforcement agency, its agents, employees, or representatives; and

(2) the unit, its agents, employees, or representatives.

Section 23‑2‑110. To conduct its investigations, inquiries, and hearings in a matter:

(1) The unit may order testimony to be taken in any investigation or hearing by deposition before a person who is designated by the unit and has the power to administer oaths and, in these instances, to compel testimony. The unit may administer oaths and affirmations for the testimony of witnesses and issue subpoenas by approval of at least three unit partners, subject to judicial enforcement, and issue subpoenas for the procurement of witnesses and materials including books, papers, records, documents, or other tangible objects relevant to the agency’s investigation by approval of the chairman, subject to judicial enforcement. A person to whom a subpoena has been issued may move before the circuit court for an order quashing a subpoena issued under this section.

(2) If the unit determines that assistance is needed in conducting an investigation, the unit shall request the assistance of appropriate agencies.”

SECTION 2. Section 8‑13‑540(1) of the 1976 Code, as last amended by Act 184 of 1993, is further amended to read:

“(1) When a complaint is filed with or by the ethics committee, a copy must promptly be sent to the person alleged to have committed the violation. If the ethics committee determines the complaint does not allege facts sufficient to constitute a violation, the complaint must be dismissed and the complainant and respondent notified. If the ethics committee finds that the complaining party wilfully filed a groundless complaint, the finding must be reported to appropriate law enforcement authorities. The wilful filing of a groundless complaint is a misdemeanor and, upon conviction, a person must be fined not more than one thousand dollars or imprisoned not more than one year. In lieu of the criminal penalty provided by this subsection, a civil penalty of not more than one thousand dollars may be assessed against the complainant upon proof, by a preponderance of the evidence, that the filing of the complaint was wilful and without just cause or with malice. If the ethics committee determines the complaint alleges facts sufficient to constitute a violation, it shall promptly investigate the alleged violation and may compel by subpoena the attendance and testimony of witnesses and the production of pertinent books and papers.

If after such preliminary investigation, the ethics committee finds that probable cause exists to support an alleged violation, it shall, as appropriate:

(a) render an advisory opinion to the respondent and require the respondent’s compliance within a reasonable time; ~~or~~

(b) request and allow further investigation by the Public Integrity Unit as provided for in Section 23‑2‑60, and for this purpose may disclose committee information as necessary for the investigation; or

(c) convene a formal hearing on the matter within thirty days of the respondent’s failure to comply with the advisory opinion. All ethics committee investigations and records relating to the preliminary investigation are confidential. No complaint ~~shall~~ must be accepted which is filed later than four years after the alleged violation occurred.”

SECTION 3. Section 12‑54‑240 of the 1976 Code, as last amended by Act 116 of 2007, is further amended by adding a new subsection at the end to be appropriately lettered to read:

“( ) The Department of Revenue also is authorized to disclose information for purposes of a Public Integrity Unit investigation pursuant to Chapter 2, Title 23.”

SECTION 4. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 5. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑