~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

January 9, 2013

**S. 2**

Introduced by Senators Campsen, L. Martin, Cromer and Hayes

S. Printed 1/9/13--S.

Read the first time January 8, 2013.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 2) to establish the “Equal Access to the Ballot Act”, by amending Section 8-13-1356, Code of Laws of South Carolina, 1976, relating to the filing of a statement of economic interests, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting language and inserting:

/ SECTION 1. Section 7‑11‑15 of the 1976 Code is amended to read:

“Section 7‑11‑15.(A) In order to qualify as a candidate to run in the general election, all candidates seeking nomination by political party primary or political party convention must file a statement of intention of candidacy between noon on March ~~sixteenth~~ twenty‑third and noon on March thirtieth as provided in this section. If March thirtieth falls on Saturday, Sunday, or a legal holiday, the filing must be filed by noon the next day that is not a Saturday, Sunday, or legal holiday.

(1) Candidates seeking nomination for a statewide, congressional, or district office that includes more than one county must file their statements of intention of candidacy with the state executive committee of their respective party. The party state executive committee must not accept a statement of intention of candidacy unless the committee verifies that the candidate filed an electronic statement of economic interests pursuant to Section 8‑13‑1356.

(2) Candidates seeking nomination for the State Senate or House of Representatives must file their statements of intention of candidacy with the county executive committee of their respective party at the county election commission headquarters in the county of their residence. The county executive committee must not accept a statement of intention of candidacy unless the committee verifies that the candidate filed an electronic statement of economic interests pursuant to Section 8‑13‑1356. The county committees must, within five days of the receipt of the statements, transmit the statements along with the applicable filing fees to the respective state executive committees. However, the county committees must report all filings to the state committees no later than five p.m. on March thirtieth, or March thirtieth falls on Saturday, Sunday, or a legal holiday, the report must be made filed by five p.m. on the next day that is not a Saturday, Sunday, or legal holiday. The state executive committees must certify candidates pursuant to Section 7‑13‑40.

(3) Candidates seeking nomination for a countywide or less than countywide office shall file their statements of intention of candidacy with the county executive committee of their respective party at the county election commission headquarters. The county executive committee must not accept a statement of intention of candidacy unless the committee verifies that the candidate filed an electronic statement of economic interests pursuant to Section 8‑13‑1356.

(B) Except as provided herein, the county executive committee of any political party with whom statements of intention of candidacy are filed must file, in turn, all statements of intention of candidacy with the county election commission by noon on the ~~tenth~~ third day following the deadline for filing statements by candidates. If the ~~tenth~~ third day falls on Saturday, Sunday, or a legal holiday, the statements must be filed by noon the ~~following day~~ next day that is not a Saturday, Sunday, or legal holiday. The state executive committee of any political party with whom statements of intention of candidacy are filed must file, in turn, all the statements of intention of candidacy with the State Election Commission by noon on the ~~tenth~~ third day following the deadline for filing statements by candidates. If the ~~tenth~~ third day falls on Saturday, Sunday, or a legal holiday, the statements must be filed by noon the ~~following day~~ next day that is not a Saturday, Sunday, or a legal holiday. No candidate’s name may appear on a primary election ballot, convention slate of candidates, general election ballot, or special election ballot, except as otherwise provided by law, if (1) the candidate’s statement of intention of candidacy has not been filed with the county election commission or State Election Commission, as the case may be, by the deadline, and (2) the candidate has not been certified by the appropriate political partyas required by Sections 7‑13‑40 and 7‑13‑350, as applicable. The candidate’s name must appear if the candidate produces the signed and dated copy of his timely filed statement of intention of candidacy and has timely filed a statement of economic interests pursuant to Section 8-13-1356.

(C) The statement of intention of candidacy required in this section and in Section 7‑13‑190(B) must be on a form designed and provided by the State Election Commission. This form, in addition to all other information, must contain an affirmation that the candidate meets, or will meet by the time of the general election, or as otherwise required by law, the qualifications for the office sought. It must be filed in triplicate by the candidate, and the political party committee with whom it is filed must stamp it with the date and time received, sign it, keep one copy, return one copy to the candidate, and send one copy to either the county election commission or the State Election Commission, as the case may be.

(D) Upon the party official accepting a statement of intention of candidacy, the official must complete a verification form that is designed and provided by the State Election Commission. This verification form must contain an affirmation that the candidate filed the statement of economic interests prior to filing the statement of intention of candidacy, the receiving official verified the statement of economic interests was filed prior to accepting the statement of intention of candidacy, and the date and time the official accepted the statement of intention of candidacy. This form, to be filed in triplicate, must be signed by the party official that accepts the statement of intention of candidacy and the candidate. The political party committee must keep one copy, return one copy to the candidate, and send one copy to either the county election commission or the State Election Commission, as the case may be. Receipt of the verification form is a prima facie showing that the candidate complied, in good faith, with the filing deadlines as mandated by law. If any question arises regarding compliance with a filing deadline after a candidate receives the verification form, the candidate shall rectify the question prior to the party certifying candidates pursuant to Section 7-13-40. There shall be imposed a late fee of two hundred fifty dollars for any correction submitted by the candidate after the filing deadline. The party must not certify a candidate who failed to rectify a question pursuant to this subsection.

(E) If, after the closing of the time for filing statements of intention of candidacy, there are not more than two candidates for any one office and one or more of the candidates dies, or withdraws, the state or county committee, as the case may be, if the nomination is by political party primary or political party convention only may, in its discretion, afford opportunity for the entry of other candidates for the office involved; however, for the office of State House of Representatives or State Senator, the discretion must be exercised by the state committee.

(F) The provisions of this section do not apply to nonpartisan school trustee elections in any school district where local law provisions provide for other dates and procedures for filing statements of candidacy or petitions, and to the extent the provisions of this section and the local law provisions conflict, the local law provisions control.”

SECTION 2. Section 7-13-40 of the 1976 Code is amended to read:

“Section 7-13-40. In the event that a party nominates candidates by party primary, a party primary must be held by the party and conducted by the State Election Commission and the respective county election commissions on the second Tuesday in June of each general election year, and a second and third primary each two weeks successively thereafter, if necessary. Written certification of the names of all candidates to be placed on primary ballots must be made by the political party chairman, vice chairman, or secretary to the State Election Commission or the county election commission, whichever is responsible under law for preparing the ballot, not later than twelve o'clock noon on ~~April ninth~~ the third day after filing closes pursuant to Section 7-11-15, or ~~if April ninth~~ the third day falls on a Saturday, ~~or~~ Sunday, or a legal holiday, not later than twelve o'clock noon on the ~~following Monday~~ next day that is not a Saturday, Sunday, or a legal holiday. Political parties nominating candidates by party primary must verify the qualifications of those candidates prior to certification to the appropriate election commission of the names of candidates to be placed on primary ballots. The written verification required by this section must contain a statement that each candidate certified meets, or will meet by the time of the general election, or as otherwise required by law, the qualifications for office for which he has filed. Political parties must not accept the filing of any candidate who does not or will not by the time of the general election, or as otherwise required by law, meet the qualifications for the office for which the candidate desires to file, and such candidate's name shall not be placed on a primary ballot. The filing fees for all candidates filing to run in all primaries, except municipal primaries, must be transmitted by the respective political parties to the State Election Commission and placed by the executive director of the commission in a special account designated for use in conducting primary elections and must be used for that purpose. The filing fee for each office is one percent of the total salary for the term of that office or one hundred dollars, whichever amount is greater.”

SECTION 3. Section 7-13-45 of the 1976 Code is amended to read:

“Section7‑13‑45. In every general election year, the county election commission shall establish designated areas at their headquarters where representatives of party executive committees may accept filings of statements of intentions of candidacy from potential candidates. ~~the~~The county chairman shall~~:~~

~~(1)~~ ~~designate a specified place other than a private residence where persons may file a statement of intention of candidacy;~~

~~(2)~~ ~~designate a specified place other than a private residence where persons may file as candidates;~~

~~(3)~~ establish regular hours of not less than four hours a day during the final seventy‑two hours of the filing period in which he or some person he designates must be present at the ~~designated place~~ county election commission headquarters to accept filings~~;~~, and

~~(4)~~ place an advertisement to appear two weeks before the filing period begins in a newspaper of general circulation in the county at least five by seven inches in size that notifies the public of the dates of the filing periods, the offices which may be filed for, the place and street address where filings may be made, and the hours that an authorized person will be present to receive filings.”

SECTION 4. Section 8‑13‑365 of the 1976 Code is amended to read:

“Section 8-13-365. ~~(A)~~ The commission shall establish a system of electronic filing for all disclosures and reports required pursuant to Chapter 13, Title 8, except for forms and reports required pursuant to Article 9, Chapter 13, Title 8, and Chapter 17, Title 2 ~~from all persons and entities subject to its jurisdiction~~. These disclosures and reports must be filed using an Internet‑based filing system as prescribed by the commission. ~~Reports and disclosures filed with the Ethics Committees of the Senate and House of Representatives for legislative offices must be in a format such that these filings can be forwarded to the State Ethics Commission using an Internet‑based system~~. The information contained in the reports and disclosure forms, with the exception of social security numbers, campaign bank account numbers, and tax ID numbers, must be publicly accessible, searchable, and transferable. A report or disclosure required to be filed electronically pursuant to Chapter 13, Title 8 and Chapter 17, Title 2 is deemed to be filed upon the electronic submission of the disclosure or report and is immediately available in public reporting.

~~(B)~~ ~~The Ethics Commission must submit to the General Assembly a report no later than one year after implementation of subsection (A), concerning the effectiveness of mandatory electronic filing, and must make recommendations as to the implementation of mandatory filing for all other candidates and entities.~~”

SECTION 5. Section 8‑13‑1140 of the 1976 Code is amended to read:

“Section 8‑13‑1140. A person required to file a statement of economic interests under this chapter shall annually file, pursuant to Section 8‑13‑365, an updated statement for the previous calendar year ~~with the appropriate supervisory office~~ ~~annually~~, no later than April fifteenth of each calendar year~~, listing any addition, deletion, or change in his economic status with respect to which information is required to be supplied under this article~~. If the person has filed the description by name, amount, and schedule of payments of a continuing arrangement relating to an item required to be reported under this article, an updating statement need not be filed for each payment under the continuing arrangement, but only if the arrangement is terminated or altered.”

SECTION 6. Section 8‑13‑1356 of the 1976 Code is amended to read:

“Section 8‑13‑1356. (A) ~~This section does not apply to a public official who has a current disclosure statement on file with the appropriate supervisory office pursuant to Sections 8‑13‑1110 or 8‑13‑1140.~~

~~(B)~~ A candidate must electronically file a statement of economic interests for the preceding calendar year ~~at the same time and with the same official with whom the candidate files~~ pursuant to Section 8‑13‑365 prior to filing a ~~declaration~~ statement of intention of candidacy or petition for nomination. A candidate who is a public official may electronically file one statement of economic interests for the preceding calendar year to meet the requirements of this subsection and Section 8-13-1140, provided that the filing is made prior to filing a statement of intention of candidacy or petition for nomination.

~~(C)~~ ~~The official with whom the candidate files a declaration of candidacy or petition for nomination, no later than five business days after candidacy books close, must file a copy of the statement with the appropriate supervisory office.~~

~~(D)~~(B) An individual who becomes a candidate other than by filing must, no later than fifteen business days after becoming a candidate, electronically file a statement of economic interests for the preceding calendar year ~~with the appropriate supervisory office~~ pursuant to Section 8‑13‑365.

~~(E~~)(C) An officer authorized to receive ~~declarations~~ a statement of intention of candidacy and petitions for nominations under the provisions of Chapter 11 of Title 7 ~~may~~ must not accept a ~~declaration~~ statement of intention of candidacy or petition for nomination unless the ~~declaration or petition is accompanied by a statement of economic interests~~ officer verifies that the candidate has complied with subsection (A). If the candidate’s name inadvertently appears on the ballot, the officer authorized to receive ~~declarations~~ statements of intention of candidacy or petitions for nomination must not certify the candidate subsequent to the election.

~~(F) If the candidate files for office before January first of the year in which the election is held, he must file a supplementary statement covering the preceding calendar year no later than April first of the year in which the election is held.~~

(~~G)~~(D) A candidate who is not a public official otherwise filing a statement has the same disclosure requirements as a public official with the exception of reporting gifts.

~~(H) The State Ethics Commission must furnish to each clerk of court in the State forms on which the statement of economic interests shall be filed.~~”

SECTION 7. In order to educate various parties regarding the provisions contained in this act, the following notifications must be made:

(1) The State Election Commission must notify each county election commission of the provisions of this act.

(2) The State Election Commission must post the provisions of this act on its website.

(3) The State Election Commission must include a statement on the statement of intention of candidacy, in bold and conspicuous font, that the Statement of Economic Interests must be filed prior to a political party official accepting the statement of intention of candidacy.

(4) Each state party executive committee must notify their respective county executive parties of the provisions of this act.

SECTION 8. The provisions of this act are severable. If any section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of the act, the General Assembly hereby declaring that it would have passed each and every section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, items, subitems, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 9. The General Assembly finds that all the provisions contained in this act relate to one subject as required by Section 17, Article III of the South Carolina Constitution in that each provision relates directly to or in conjunction with other sections to the subject of election reform as stated in the title. The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in this act.

SECTION 10. 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. /

Renumber sections to conform.

Amend title to conform.

GEORGE E. CAMPSEN III for Committee.

**A** **BILL**

TO ESTABLISH THE “EQUAL ACCESS TO THE BALLOT ACT”, BY AMENDING SECTION 8‑13‑1356, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE FILING OF A STATEMENT OF ECONOMIC INTERESTS BY A CANDIDATE, TO PROVIDE THAT A CANDIDATE WHO IS NOT A PUBLIC OFFICIAL AND A CANDIDATE WHO IS A PUBLIC OFFICIAL SHALL ELECTRONICALLY FILE OR UPDATE A STATEMENT OF ECONOMIC INTERESTS, AS APPLICABLE, PRIOR TO FILING A STATEMENT OF INTENTION OF CANDIDACY OR NOMINATION FOR PETITION; TO AMEND SECTION 7‑11‑15, TO PROVIDE THAT THE FILING PERIOD RUNS FROM MARCH TWENTY‑THIRD TO MARCH THIRTIETH, TO REQUIRE THAT THE PARTY EXECUTIVE COMMITTEE NOT ACCEPT A STATEMENT OF INTENTION OF CANDIDACY UNLESS THE COMMITTEE VERIFIES THAT THE CANDIDATE FILED AN ELECTRONIC STATEMENT OF ECONOMIC INTEREST, AND TO PROVIDE THAT INTENTIONS OF CANDIDACY ARE TO SUBMITTED TO THE APPROPRIATE ELECTION COMMISSION BY NOON ON THE FIFTH DAY AFTER THE FILING DEADLINE.

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

SECTION 1. Section 8‑13‑1356 of the 1976 Code is amended to read:

“Section 8‑13‑1356. (A) ~~This section does not apply to a public official who has a current disclosure statement on file with the appropriate supervisory office pursuant to Sections 8‑13‑1110 or 8‑13‑1140.~~

~~(B)~~ A candidate must electronically file a statement of economic interests for the preceding calendar year ~~at the same time and with the same official with whom the candidate files~~ pursuant to Section 8‑13‑365 prior to filing a declaration of candidacy or petition for nomination. Notwithstanding the deadline for filing an updated statement of economic interests pursuant to Section 8‑13‑1140, a candidate who is a public official must electronically file an updated statement of economic interests for the preceding calendar year prior to filing a declaration of candidacy or petition for nomination.

~~(C)~~ ~~The official with whom the candidate files a declaration of candidacy or petition for nomination, no later than five business days after candidacy books close, must file a copy of the statement with the appropriate supervisory office.~~

~~(D)~~(B) An individual who becomes a candidate other than by filing must, no later than fifteen business days after becoming a candidate, electronically file a statement of economic interests for the preceding calendar year ~~with the appropriate supervisory office~~ pursuant to Section 8‑13‑365.

~~(E~~)(C) An officer authorized to receive declarations of candidacy and petitions for nominations under the provisions of Chapter 11 of Title 7 may not accept a declaration of candidacy or petition for nomination unless the ~~declaration or petition is accompanied by a statement of economic interests~~ officer verifies that the candidate has complied with subsection (A). If the candidate’s name inadvertently appears on the ballot, the officer authorized to receive declarations of candidacy or petitions for nomination must not certify the candidate subsequent to the election.

~~(F) If the candidate files for office before January first of the year in which the election is held, he must file a supplementary statement covering the preceding calendar year no later than April first of the year in which the election is held.~~

(~~G)~~(D) A candidate who is not a public official otherwise filing a statement has the same disclosure requirements as a public official with the exception of reporting gifts.”

SECTION 2. Section 7‑11‑15 of the 1976 Code is amended to read:

“Section 7‑11‑15. In order to qualify as a candidate to run in the general election, all candidates seeking nomination by political party primary or political party convention must file a statement of intention of candidacy between noon on March ~~sixteenth~~ twenty‑third and noon on March thirtieth as provided in this section.

(1) Candidates seeking nomination for a statewide, congressional, ~~or~~ district office that includes more than one county must file their statements of intention of candidacy with the state executive committee of their respective party. The party state executive committee must not accept a statement of intention of candidacy unless the committee verifies that the candidate filed an electronic statement of economic interests pursuant to Section 8‑13‑1356.

(2) Candidates seeking nomination for the State Senate or House of Representatives must file their statements of intention of candidacy with the county executive committee of their respective party in the county of their residence. The county executive committee must not accept a statement of intention of candidacy unless the committee verifies that the candidate filed an electronic statement of economic interests pursuant to Section 8‑13‑1356. The county committees must, within five days of the receipt of the statements, transmit the statements along with the applicable filing fees to the respective state executive committees. However, the county committees must report all filings to the state committees no later than five p.m. on March thirtieth. The state executive committees must certify candidates pursuant to Section 7‑13‑40.

(3) Candidates seeking nomination for a countywide or less than countywide office shall file their statements of intention of candidacy with the county executive committee of their respective party. The county executive committee must not accept a statement of intention of candidacy unless the committee verifies that the candidate filed an electronic statement of economic interests pursuant to Section 8‑13‑1356.

Except as provided herein, the county executive committee of any political party with whom statements of intention of candidacy are filed must file, in turn, all statements of intention of candidacy with the county election commission by noon on the ~~tenth~~ fifth day following the deadline for filing statements by candidates. If the ~~tenth~~ fifth day falls on Saturday, Sunday, or a legal holiday, the statements must be filed by noon the following day. The state executive committee of any political party with whom statements of intention of candidacy are filed must file, in turn, all the statements of intention of candidacy with the State Election Commission by noon on the ~~tenth~~ fifth day following the deadline for filing statements by candidates. If the ~~tenth~~ fifth day falls on Saturday, Sunday, or a legal holiday, the statements must be filed by noon the following day. No candidate’s name may appear on a primary election ballot, convention slate of candidates, general election ballot, or special election ballot, except as otherwise provided by law, if (1) the candidate’s statement of intention of candidacy has not been filed with the county election commission or State Election Commission, as the case may be, by the deadline, and (2) the candidate has not been certified by the appropriate political partyas required by Sections 7‑13‑40 and 7‑13‑350, as applicable. The candidate’s name must appear if the candidate produces the signed and dated copy of his timely filed statement of intention of candidacy.

The statement of intention of candidacy required in this section and in Section 7‑13‑190(B) must be on a form designed and provided by the State Election Commission. This form, in addition to all other information, must contain an affirmation that the candidate meets, or will meet by the time of the general election, or as otherwise required by law, the qualifications for the office sought. It must be filed in triplicate by the candidate, and the political party committee with whom it is filed must stamp it with the date and time received, sign it, keep one copy, return one copy to the candidate, and send one copy to either the county election commission or the State Election Commission, as the case may be.

If, after the closing of the time for filing statements of intention of candidacy, there are not more than two candidates for any one office and one or more of the candidates dies, or withdraws, the state or county committee, as the case may be, if the nomination is by political party primary or political party convention only may, in its discretion, afford opportunity for the entry of other candidates for the office involved; however, for the office of State House of Representatives or State Senator, the discretion must be exercised by the state committee.

The provisions of this section do not apply to nonpartisan school trustee elections in any school district where local law provisions provide for other dates and procedures for filing statements of candidacy or petitions, and to the extent the provisions of this section and the local law provisions conflict, the local law provisions control.”

SECTION 3. The provisions of this act are severable. If any section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of the act, the General Assembly hereby declaring that it would have passed each and every section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, items, subitems, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. 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.

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