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COMMITTEE REPORT

April 10, 2013

**S. 350**

Introduced by Senators Rankin, Setzler, Malloy and Sheheen

S. Printed 4/10/13--S. [SEC 4/11/13 3:12 PM]

Read the first time February 6, 2013.

**THE COMMITTEE ON BANKING AND INSURANCE**

To whom was referred a Bill (S. 350) to amend Section 38-3-10 of the 1976 Code, relating to the Department of Insurance, to provide that the Director of the Department of Insurance must be screened, 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, Section 38‑3‑530, as contained in SECTION 1, page 3, line 25, by deleting / 38‑3‑510 / and inserting / 38‑3‑540 /.

Renumber sections to conform.

Amend title to conform.

ROBERT W. HAYES, JR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

A Cost to the General Fund (See Below)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The House of Representatives and the Senate indicate that the cost of a one day meeting for their members and appointees on this Joint Committee would total approximately $1,275.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO AMEND SECTION 38-3-10 OF THE 1976 CODE, RELATING TO THE DEPARTMENT OF INSURANCE, TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF INSURANCE MUST BE SCREENED BY THE DEPARTMENT OF INSURANCE DIRECTOR JOINT SCREENING COMMITTEE BEFORE BEING CONFIRMED BY THE SENATE; AND TO AMEND CHAPTER 3, TITLE 38, BY ADDING ARTICLE 5, TO ESTABLISH THE DEPARTMENT OF INSURANCE DIRECTOR JOINT SCREENING COMMITTEE, TO PROVIDE FOR THE SCREENING COMMITTEE’S MEMBERSHIP, POWERS, DUTIES, AND AUTHORITY, AND TO DEFINE NECESSARY TERMS.

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

SECTION 1. Section 38-3-10 of the 1976 Code is amended to read:

“Section 38-3-10. There is established a separate and distinct department of this State, known as the Department of Insurance. The department must be managed and operated by a director appointed by the Governor subject to screening for qualifications by the Department of Insurance Director Joint Screening Committee and upon the advice and consent of the Senate. The director is subject to removal by the Governor as provided in Section 1-3-240(B). The director shall be selected with special reference to his training, experience, technical knowledge of the insurance industry, and demonstrated administrative ability. The director may appoint or designate the person or persons who shall serve at the pleasure of the director to carry out the objectives or duties of the department as provided by law. Furthermore, the director may bestow upon his designee or deputy director any duty or function required of him by law in managing or supervising the Department of Insurance.”

SECTION 2. Chapter 3, Title 38 of the 1976 Code is amended by adding:

“Article 5

The Department of Insurance Director

Joint Screening Committee

Section 38-3-500. For the purposes of this article, ‘consumer advocate means’ a person who through work, education, or experience has developed expertise or demonstrated the ability to advance the best interests of insurance consumers.

Section 38-3-510. There is hereby established a committee to be known as the Department of Insurance Director Joint Screening Committee, hereinafter called the screening committee, which must exercise the powers and fulfill the duties described in this article.

Section 38-3-520. (A) The screening committee shall be composed of eleven members as follows:

(1) three members of the House of Representatives:

(a) one member shall be the Chairman of the Labor, Commerce and Industry Committee, or his designee; and

(b) the other two members shall be appointed by the Speaker of the House of Representatives;

(2) three members of the Senate:

(a) one member shall be the Chairman of the Banking and Insurance Committee, or his designee; and

(b) the other two members shall be appointed by the President Pro Tempore;

(3) two members from the general public at large appointed by the Speaker of the House of Representatives;

(4) two members from the general public at large appointed by the President Pro Tempore of the Senate; and

(5) the Consumer Advocate as established in Section 37-6-602, or his designee.

(B)(1) In making appointments to the screening committee from the general public, the Speaker of the House of Representatives and the President Pro Tempore of the Senate must each make at least one appointment of a consumer advocate.

(2) In making appointments to the joint committee, race, gender, and other demographic factors should be considered to assure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of the State.

(3) The members of the general public appointed by the Speaker and the President Pro Tempore must be representative of all citizens of this State and must not be members of the General Assembly.

(C) The screening committee must meet as soon as practicable after the Governor appoints someone to serve as the Director of the Department of Insurance. The screening committee shall organize itself by electing one of its members as chairman and such other officers as the screening committee may consider necessary. A quorum consists of six members.

(D) Unless the screening committee finds a candidate qualified to serve as the Director of the Department of Insurance, the candidate may not be confirmed by the Senate.

Section 38-3-530. The screening committee shall review each gubernatorial appointment to serve as Director of the Department of Insurance to determine whether the candidate meets the qualifications set forth in Section 38-3-510. Upon completion of the screening, the screening committee shall prepare a report of its findings concerning the appointment’s qualifications and submit the report to the Clerk of the Senate and the Clerk of the House of Representatives to be published in their respective journals published on the next statewide session day.

Section 38-3-540. (A) When the Governor makes an appointment to the Office of Director of the Department of Insurance, the Chairman of the Senate Banking and Insurance Committee shall notify the screening committee and a meeting of the screening committee shall be convened to screen the appointee to determine whether the appointee meets the qualifications for office.

(B) The qualifications the appointee must possess include, but are not limited to:

(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 at least ten years in an insurance-related field with a demonstrated:

(a) knowledge of a broad range of substantive insurance issues and their application;

(b) ability to perceive relevant emerging issues;

(c) absence of influence by political considerations;

(d) absence of influence from the private insurance industry;

(e) concern for recognizing and balancing industry consumer interests; and

(f) general temperament and demeanor, preparation, and attentiveness required to operate the department.

(B) In screening appointees and making its findings, the screening must give due consideration to the appointee’s:

(1) ability, dedication, compassion, common sense, and integrity; and

(2) race, gender, and other demographic factors to assure nondiscrimination to the greatest extent possible of all segments of the population of the State.

Section 38-3-550. The screening committee members are entitled to such mileage, subsistence, and per diem as authorized by law for members of boards, committees, and commissions while in the performance of the duties for which they are appointed. These expenses shall be paid from the general fund of the State on warrants duly signed by the chairman of the screening committee and payable by the authorities from which they are appointed.”

SECTION 2. This act takes effect upon approval by the Governor.

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