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1/21/2015 Scrivener's error corrected

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**VERSIONS OF THIS BILL**

[12/10/2014](file:///p:\pprever\2015-16\248_20141210.docx)

[1/21/2015](file:///p:\pprever\2015-16\248_20150121.docx)

**A** **BILL**

TO AMEND SECTION 57‑1‑310(A) OF THE 1976 CODE, RELATING TO THE COMPOSITION OF THE DEPARTMENT OF TRANSPORTATION COMMISSION, TO PROVIDE THAT THE JUDICIAL CIRCUITS OF THIS STATE ARE CONSTITUTED AND CREATED AS DEPARTMENT OF TRANSPORTATION DISTRICTS, TO PROVIDE THAT THE DEPARTMENT OF TRANSPORTATION COMMISSION WILL BE COMPRISED OF ONE MEMBER ELECTED FROM EACH TRANSPORTATION DISTRICT AND ONE MEMBER FROM THE STATE AT LARGE APPOINTED BY THE GOVERNOR; TO AMEND SECTION 57‑1‑320, TO ELIMINATE REFERENCES TO DIVIDED COUNTIES, TO LIMIT COUNTY RESIDENT REPRESENTATION TO TWO CONSECUTIVE TERMS; TO AMEND SECTION 57‑1‑325, TO PROVIDE THAT ALL MEMBERS OF EACH TRANSPORTATION DISTRICT DELEGATION ARE ELIGIBLE TO VOTE FOR TRANSPORTATION COMMISSION CANDIDATES, TO PROVIDE THAT THE VOTE TAKEN MUST BE A WEIGHTED VOTE; TO AMEND SECTION 57‑1‑330 TO LIMIT DEPARTMENT OF TRANSPORTATION COMMISSIONERS TO TWO CONSECUTIVE TERMS; TO MAKE CONFORMING AMENDMENTS TO SECTION 57‑1‑730(4), SECTION 57‑1‑740(A), SECTION 57‑1‑740(B)(1), SECTION 57‑1‑740(D)(2)(a)(iii), AND SECTION 57‑1‑740(D)(2)(c) TO REFLECT THE NEW COMPOSITION OF THE TRANSPORTATION DISTRICTS; TO AMEND 57-1-740(D)(2)(a)(iii), (b), AND (c) TO PROVIDE FOR THE REPORTING OF THE REVIEW COMMITTEE’S FINDINGS; AND TO PROVIDE FOR THE TRANSITION TO THE NEW COMMISSION COMPOSITION.

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

SECTION 1. Section 57‑1‑310(A) of the 1976 Code is amended to read:

“Section 57‑1‑310. (A) The ~~congressional districts~~ judicial circuits of this State are, for the purposes of this chapter, constituted and created as Department of Transportation Districts ~~of the State~~, designated by numbers corresponding to the numbers of the respective ~~congressional districts~~ judicial circuits. The Commission of the Department of Transportation shall be composed of one member from each transportation district elected by the ~~delegations of the congressional district~~ Department of Transportation District delegation and one member appointed by the Governor from the State at large. Such elections or appointment, as the case may be, shall take into account race and gender so as to represent, to the greatest extent possible, all segments of the population of the State; however, consideration of these factors in making an appointment or in an election in no way creates a cause of action or basis for an employee grievance for a person appointed or elected or for a person who fails to be appointed or elected.”

SECTION 2. Sections 57‑1‑320, 57‑1‑325, and 57‑1‑330 of the 1976 Code are amended to read:

“Section 57‑5‑320. (A) ~~A county that is divided among two or more Department of Transportation districts, for purposes of electing a commission member, is deemed to be considered in the district which contains the largest number of residents from that county.~~

~~(B)~~ No county within a Department of Transportation district shall have a resident commission member for more than ~~one~~ two consecutive ~~term~~ terms ~~and in no event shall any two persons from the same county serve as a commission member simultaneously except as provided hereinafter~~.

Section 57‑1‑325. (A) ~~Legislators residing in the congressional district~~ To elect a commissioner to represent a transportation district, the transportation district delegation shall meet upon written call of a majority of the members of the delegation ~~of each district~~ at a time and place to be designated in the call ~~for the purpose of electing a commissioner to represent the district~~. A majority present, either in person or by written proxy, of the delegation from a given ~~congressional~~ transportation district constitutes a quorum for the purpose of electing a district commissioner. No person may be elected commissioner who fails to receive a weighted majority vote of the members of the delegation.

(B) The delegation must be organized by the election of a chairman and a secretary, and the delegations of each ~~congressional~~ transportation district shall adopt such rules as they consider proper to govern the election. Any absentee may vote by written proxy. When the election is completed, the chairman and the secretary of the delegation shall immediately transmit the name of the person elected to the Secretary of State who shall issue to the person, after he has taken the usual oath of office, a certificate of election as commissioner. The Governor shall then issue a commission to the person, and pending the issuance of the commission, the certificate of election is sufficient warrant to the person to perform all of the duties and functions of his office as commissioner. Each commissioner shall serve until his successor is elected and qualified.

(C) Legislators who represent any portion of a county located within a transportation district constitute the transportation district delegation. All members of the delegation are eligible to vote on candidates to represent the district on the commission. Voting shall be conducted based upon weighted voting that is proportional to the transportation district’s total population in relation to the population of the district represented by each member.

Section 57‑1‑330. (A) ~~For the purposes of electing a commission member, a legislator shall vote only in the congressional district in which he resides.~~ All commission members elected by a transportation district delegation are elected to a term of office of four years which expires on February fifteenth of the appropriate year. No person may be elected by a transportation district delegation for more than two consecutive terms. Commissioners shall continue to serve until their successors are elected and qualify, provided that a commissioner may only serve in a hold‑over capacity for a period not to exceed six months. Any vacancy occurring in the office of commissioner shall be filled by election or appointment in the manner provided in this article for the unexpired term only. No person is eligible to serve as a commission member who is not a resident of that transportation district at the time of his appointment. Failure by an elected commission member to maintain residency in the district for which he is elected shall result in the forfeiture of his office.

(B) The at‑large commission member shall serve at the pleasure of the Governor. The at‑large commission member may be appointed from any county in the State ~~unless another commission member is serving from that county~~. Failure by the at‑large commission member to maintain residence in the State shall result in a forfeiture of his office.

(C) All elected commission members may be removed from office as provided in Section 1‑3‑240(C)(1).”

SECTION 3. A. Section 57‑1‑730(4) of the 1976 Code is amended to read:

“(4) to submit the names of all qualified candidates to the ~~congressional~~ transportation district delegation for election.”

B. Section 57‑1‑740(A) of the 1976 Code is amended to read:

“Section 57‑1‑740. (A) For purposes of this section, a vacancy is created on the commission when a term expires, a new ~~congressional~~ transportation district is created, or a commission member resigns, dies, or is removed from office as provided in Section 57‑1‑330(C). If known in advance, the review committee may provide notice of a vacancy and begin screening prior to the actual date of the vacancy.”

C. Section 57‑1‑740(B)(1) of the 1976 Code is amended to read:

“(B) Whenever a commission member must be elected to fill a vacancy:

(1) The review committee must forward a notice of the transportation ~~commission~~ district member vacancy to:

(a) a newspaper of general circulation within the ~~congressional~~ transportation district from which a commission member must be elected with a request that it be published at least once a week for four consecutive weeks;

(b) any person who has informed the committee that he desires to be notified of the vacancy; and

(c) ~~to~~ each member of the ~~congressional~~ transportation district delegation.

The committee may provide such additional notice that it deems appropriate.”

D. Section 57‑1‑740(D)(2)(a)(iii), (b), and (c) of the 1976 Code is amended to read:

“(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~~ transportation 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~~ transportation district delegation, and it shall not elect a person not nominated by the review committee. Nothing shall prevent the ~~congressional~~ transportation 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.

(b) As soon as possible after the completion of the hearing, ~~a verbatim copy of the testimony, documents submitted at the hearing, and~~ the review committee’s findings related to a candidate’s qualifications ~~of fact~~ shall be transcribed and published in the journals of both houses or otherwise made available in a reasonable number of copies to the members of both houses and a copy must be furnished to each candidate upon request.

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

(ii) No member of the ~~congressional~~ transportation district delegation may pledge his vote to elect a candidate until the review committee has released its written report concerning the qualifications of the candidate to the members of the appropriate ~~congressional~~ transportation district delegation. The release of the written report of qualifications shall occur no earlier than forty‑eight hours after the names of the qualified candidates have been initially released to members of the appropriate ~~congressional~~ transportation district delegation.

(iii) No candidate may directly or indirectly seek the pledge of a vote from a member of the candidate’s ~~congressional~~ transportation 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~~ transportation 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 4. Members of the Department of Transportation Commission holding office as the date that the Governor approves this act shall represent the transportation district that corresponds with the judicial circuit in which the member resides. The members shall continue to hold office for the balance of the term to which they were elected. The members may be elected to serve an additional term at the expiration of the term that they are currently serving as provided by law.

SECTION 5. (A) Transportation districts that are not represented on the Department of Transportation Commission as a result of the provisions contained in this act are declared vacant and must be filled in the manner provided for in this act except as provided in subsection (B) and (C).

(B) To expedite the filling of vacancies created by this act, the Joint Transportation Review Committee may waive the publication notice of vacancy requirements contained in Section 57‑1‑740(B) and shorten the notice of intention filing period contained in Section 57‑1‑740(C).

(C) The Joint Transportation Review Committee shall establish new time periods related to the publication of notice of vacancy and notice of intention filing period. The new time periods must be posted on the General Assembly website as soon a practicable after adoption.

(D) The provisions contained in this SECTION 5 only apply to filling vacancies created by this act. Subsequent elections for those Department of Transportation districts must be held as provided by law.

SECTION 6. This act takes effect July 1, 2015.

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