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COMMITTEE REPORT

April 22, 2015

**S. 215**

Introduced by Senator Campsen

S. Printed 4/22/15--S. [SEC 4/23/15 7:38 PM]

Read the first time January 13, 2015.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 215) to amend the Code of Laws of South Carolina, 1976, relating to the conduct of elections, by amending Sections 7‑13‑35 and 7‑13‑190, to provide, etc., respectfully

**REPORT:**

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

GEORGE E. CAMPSEN III for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

This bill will have no expenditure impact on the general fund, federal funds, or other funds.

**Explanation of Fiscal Impact**

**State Expenditure**

This bill amends several sections related to the conduct of state and local elections to include the timing of elections, postponement of elections, certifying election results, post-election audits, statements of candidacy intentions, and alternate paper size for nominating petitions.

The State Election Commission indicates there will be no expenditure impact on the general fund, federal funds, or other funds.

**Local Expenditure and Revenue**

The Revenue and Fiscal Affairs Office contacted the Municipal Association of South Carolina and all forty-six counties regarding the expenditure impact of this bill. We received responses from nine county governments. Beaufort, Cherokee, Fairfield, Florence, McCormick, Richland, Saluda, and Williamsburg Counties report this bill will have no impact on their county governments. Clarendon County reports this bill will have little to no impact on the county. Therefore, we estimate this bill would have little to no expenditure impact on county governments. Our office received no response from the Municipal Association. Therefore, we cannot determine the expenditure impact on municipal governments.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CONDUCT OF ELECTIONS, BY AMENDING SECTIONS 7‑13‑35 AND 7‑13‑190, TO PROVIDE THAT AN ELECTION SHALL BE POSTPONED IF THE GOVERNOR DECLARES A STATE OF EMERGENCY FOR AN ENTIRE JURISDICTION HOLDING AN ELECTION, THAT THE POSTPONED ELECTION SHALL BE HELD ON THE FIRST TUESDAY FOLLOWING THE ORIGINAL ELECTION DATE, AND THAT THIS PROVISION DOES NOT APPLY TO STATEWIDE PRIMARIES OR GENERAL ELECTIONS UNLESS THE DECLARATION COVERS THE ENTIRE STATE; TO AMEND SECTION 7‑13‑350 TO CHANGE THE DATE THAT CANDIDATES FOR PRESIDENT AND VICE‑PRESIDENT MUST BE CERTIFIED TO THE FIRST TUESDAY FOLLOWING THE FIRST MONDAY IN SEPTEMBER; TO AMEND SECTION 5‑15‑100 RELATING TO MUNICIPAL ELECTIONS, TO PROVIDE THAT MANAGERS OF AN ELECTION SHALL CERTIFY THE RESULTS WITHIN TWO DAYS OF THE ELECTION; TO AMEND SECTIONS 7‑17‑10 AND 7‑17‑20, TO PROVIDE THAT THE COMMISSIONERS OF ELECTION FOR STATEWIDE OFFICERS, SOLICITORS, MEMBERS OF THE GENERAL ASSEMBLY, AND COUNTY OFFICERS MUST MEET ON THE MONDAY FOLLOWING AN ELECTION TO ORGANIZE AS THE COUNTY BOARD OF CANVASSERS AND TO REQUIRE THAT THEY SUBMIT THEIR RESULTS TO THE STATE BOARD OF CANVASSERS BY NOON ON THE TUESDAY FOLLOWING THE ELECTION; TO AMEND ARTICLE 1, CHAPTER 17, TITLE 7 BY ADDING SECTION 7-17-25 TO PROVIDE THAT POST ELECTION AUDITS ARE TO BE COMPLETED BY COUNTY BOARDS OF REGISTRATION AND ELECTION PRIOR TO CERTIFICATION AND TO REQUIRE THAT ENABLING REGULATIONS ARE TO PROVIDE THAT THE AUDIT DATA AND RESULTS ARE TO BE OPEN TO THE PUBLIC; TO AMEND SECTION 7‑11‑15 RELATING TO THE FILING OF THE STATEMENT OF INTENTION OF CANDIDACY AND PARTY PLEDGE, TO REDUCE THE NUMBER OF SIGNED COPIES THAT MUST BE FILED WITH THE ELECTION COMMISSION FROM THREE TO ONE; AND TO AMEND SECTION 7-11-80 TO PROVIDE FOR AN ALTERNATE PAPER SIZE FOR NOMINATING PETITIONS FOR CANDIDACY OR POLITICAL PARTY CERTIFICATION.

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

SECTION 1. Section 7‑13‑35 of the 1976 Code is amended to read:

“Section 7‑13‑35. (A) The authority charged by law with conducting an election must publish two notices of general, municipal, special, and primary elections held in the county in a newspaper of general circulation in the county or municipality, as appropriate. Included in each notice must be a reminder of the last day persons may register to be eligible to vote in the election for which notice is given, notification of the date, time, and location of the hearing on ballots challenged in the election, a list of the precincts involved in the election, the location of the polling places in each of the precincts, and notification that the process of examining the return‑addressed envelopes containing absentee ballots may begin at ~~2:00 p.m.~~ 9:00 a.m. on election day at a place designated in the notice by the authority charged with conducting the election. The first notice must appear not later than sixty days before the election and the second notice must appear not later than two weeks after the first notice.

(B) In the event the election is postponed, the election shall be held on the first Tuesday after the originally scheduled election day.”

SECTION 2. Section 7‑13‑190 of the 1976 Code is amended by adding:

“(F) In the event the Governor declares a state of emergency covering an entire jurisdiction holding an election, the election shall be postponed and held on the following Tuesday. This subsection does not apply to statewide primaries and general elections, unless the state of emergency declaration covers the entire State.”

SECTION 3. Section 7‑13‑350(B) of the 1976 Code is amended to read:

“(B) Candidates for President and Vice President must be certified not later than twelve o’clock noon on ~~September tenth~~ the first Tuesday following the first Monday in September to the State Election Commission~~, or if September tenth falls on Sunday, not later than twelve o’clock noon on the following Monday~~.”

SECTION 4. Section 5‑15‑100 of the 1976 Code is amended to read:

“Section 5‑15‑100. The municipal election commission shall be vested with the functions, powers, and duties of Municipal Supervisors of Registration if no such supervisors have been appointed pursuant to Section 7‑5‑640, and shall also have the functions, powers, and duties of commissioners of election, as set forth in Section 7‑13‑70 and other provisions of Title 7. The municipal election commission shall insure proper books of registration are provided for each ward or precinct, shall prepare and distribute ballots and election materials, appoint managers of election for each polling place and otherwise supervise and conduct all municipal, special, and general elections. The managers shall certify the results of the election to the commission within ~~one day~~ two days and the commission shall declare the results not later than three days following the election.

Nominees in a party primary or party convention and nominees by petition shall be certified to the municipal election commission within the time specified herein and when so certified, the commission shall place the names of such nominees upon the ballots.”

SECTION 5. Section 7‑17‑10 of the 1976 Code is amended to read:

“Section 7‑17‑10. The commissioners of election for Governor, Lieutenant Governor, state officers, circuit solicitors, members of the General Assembly, and county officers or any of these officers shall meet in some convenient place at the county seat on the ~~Friday~~ Monday next following the election, before one o’clock in the afternoon of that day, and shall proceed to organize as the county board of canvassers. They may appoint some competent person as secretary. The chairman shall then proceed to administer the constitutional oath to each member of the board, as canvassers, and shall administer the constitutional oath to the secretary, and the secretary shall administer to the chairman the same oath that he has administered to the other members of the board. The commissioners of election for members of Congress and presidential electors or any of these officers shall likewise meet at the same time at the county seat and shall in the same manner proceed to organize as the county board of canvassers for the election of the federal officers.”

SECTION 6. Section 7‑17‑20 of the 1976 Code is amended to read:

“Section 7‑17‑20. The county board of canvassers, respectively, shall then proceed to canvass the votes of the county and make such statements of such votes as the nature of the election shall require no later than noon on the ~~Saturday~~ Tuesday next following the election and at such time shall transmit to the State Board of Canvassers the results of their findings.”

SECTION 7. Article 1, Chapter 17, Title 7 of the 1976 Code is amended by adding:

“Section 7‑17‑25. Post‑election audits to correct or verify the outcome of all elections must be completed by the county boards of voter registration and election prior to certification of the election pursuant to regulations promulgated by the State Election Commission. These regulations must include a provision that audit data and reports must be available to the public.”

SECTION 8. Section 7‑11‑15 of the 1976 Code, last amended by Act 61 of 2013, 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 and party pledge and submit any filing fees between noon on March sixteenth and noon on March thirtieth as provided in this section.

(1) Except as otherwise provided in this section, candidates seeking nomination for a statewide, congressional, or district office that includes more than one county must file their statements of intention of candidacy, and party pledge and submit any filing fees with the State Election Commission.

(2) Candidates seeking nomination for the State Senate or House of Representatives must file their statements of intention of candidacy and party pledge and submit any filing fees with the county board of voter registration and elections in the county of their residence. 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 and party pledge and submit any filing fees with the county ~~election commission~~ board of voter registration and elections in the county of their residence.

(B) Except as provided herein, the ~~election commission~~ board of voter registration and elections with whom the documents in subsection (A) are filed must provide a copy of all statements of intention of candidacy, the party pledge, receipt and filing fees, to the appropriate political party executive committee within two days following the deadline for filing. If the second day falls on Saturday, Sunday, or a legal holiday, the statement of intention of candidacy, party pledge, and filing fee must be filed by noon the following day that is not a Saturday, Sunday, or 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 and party pledge has not been filed with the county ~~election commission~~ board of voter registration and elections or State Election Commission, as the case may be, as well as any filing fee, by the deadline and (2) the candidate has not been certified by the appropriate political party as 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. An error or omission by a person seeking to qualify as a candidate pursuant to this section that is not directly related to a constitutional or statutory qualification for that office must be construed in a manner that favors the person’s access to the ballot.

(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. The candidate must file ~~three~~ a signed ~~copies~~ statement of intention of candidacy and the election commission with whom it is filed must stamp ~~each copy~~ the statement with the date and time received, keep ~~one copy~~ the original statement, ~~return one~~ provide a copy to the candidate, and ~~send one~~ provide a copy to the appropriate political party executive committee.

(D) The candidate must file ~~three~~ a signed ~~copies of the~~ party pledge, as required pursuant to Section 7‑11‑210, and the election commission with whom it is filed must stamp ~~each copy~~ the party pledge with the date and time received, ~~return one~~ provide a copy to the candidate, and ~~send one~~ provide a copy to the appropriate political party executive committee.

(E) The ~~candidate must sign a receipt for the filing fee, and the~~ election commission with whom ~~it~~ the filing fee is filed must issue a receipt for the filing fee, stamp the receipt with the date and time the filing fee was received, provide ~~one~~ a copy to the candidate, and provide ~~one~~ a copy to the appropriate political executive party. The filing fee must be made payable to the appropriate political party.

(F) If, after the closing of the time for filing the documents required pursuant to this section, 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.

(G) The county chairman of a political party and the chairman of the state executive committee of a political party may designate a person to observe the filings made at the election commission pursuant to this section.

(H) 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 9. Section 7‑11‑80 of the 1976 Code is amended to read:

“Section 7‑11‑80. All nominating petitions for any political office or petition of any political party seeking certification as such in the State of South Carolina shall be standardized as follows:

(1) Shall be on good quality original bond paper sized 8 1/2 ′′ X 14′′ or 8 1/2′′ X 11′′.

(2) Shall contain a concise statement of purpose; in the case of nomination of candidates, the name of the candidate, the office for which he offers and the date of the election for such office shall be contained in such petition.

(3) Shall contain in separate columns from left to right the following:

(a) signature of voter and printed name of voter;

(b) address of residence where registered; and

(c) precinct of voter.

(4) No single petition page shall contain the signatures of registered voters from different counties.

(5) All signatures of registered voters shall be numbered consecutively.

(6) Petitions with more than one page must have the pages consecutively numbered upon filing with the appropriate authority.

The State Election Commission may furnish petition forms to the county election officials and to interested persons.”

SECTION 10. This act takes effect upon approval by the Governor.

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