**South Carolina General Assembly**

123rd Session, 2019-2020

**H. 3408**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Caskey

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Introduced in the House on January 8, 2019

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Miscellaneous matters

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

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12/18/2018 House Referred to Committee on **Labor, Commerce and Industry**

1/8/2019 House Introduced and read first time ([House Journal‑page 227](file:///h:\hj\20190108.docx))

1/8/2019 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 229](file:///h:\hj\20190108.docx))

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**VERSIONS OF THIS BILL**

[12/18/2018](file:///p:\pprever\2019-20\3408_20181218.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTIONS 37‑6‑610 AND 37‑6‑611 SO AS TO REQUIRE THE CONSUMER ADVOCATE TO AVOID CERTAIN CONFLICTS OF INTEREST, TO PROHIBIT THE CONSUMER ADVOCATE FROM SEEKING EMPLOYMENT WITH A PUBLIC UTILITY WHILE SERVING AS THE CONSUMER ADVOCATE AND FROM REPRESENTING A PUBLIC UTILITY IN CERTAIN PROCEEDINGS BEFORE THE PUBLIC SERVICE COMMISSION FOR A PERIOD OF ONE YEAR AFTER THE TERMINATION OF HIS SERVICE AS THE CONSUMER ADVOCATE, TO PROVIDE PENALTIES FOR VIOLATIONS, TO PROHIBIT EMPLOYEES OF THE DEPARTMENT OF CONSUMER AFFAIRS FROM SOLICITING, RECEIVING, OR ACCEPTING ANYTHING OF VALUE FROM AN ENTITY THAT IS REGULATED BY THE DEPARTMENT OR SUBJECT TO THE DEPARTMENT’S JURISDICTION, TO PROHIBIT ENTITIES THAT ARE REGULATED BY THE DEPARTMENT OR SUBJECT TO THE DEPARTMENT’S JURISDICTION FROM OFFERING, FACILITATING, OR PROVIDING ANYTHING OF VALUE TO DEPARTMENT EMPLOYEES, TO PROVIDE THAT A PERSON MAY NOT BE EMPLOYED BY THE DEPARTMENT IF THE DEPARTMENT REGULATES A BUSINESS WITH WHICH THE PERSON IS ASSOCIATED, AND TO PROVIDE PENALTIES FOR VIOLATIONS; BY ADDING SECTION 58‑3‑565 SO AS TO ESTABLISH CERTAIN ETHICAL STANDARDS FOR MEMBERS OF THE PUBLIC UTILITIES REVIEW COMMITTEE AND THE PUBLIC UTILITIES, AFFILIATES OF A PUBLIC UTILITIES, ASSOCIATIONS REPRESENTING PUBLIC UTILITIES, OR OTHER PERSONS OR ENTITIES WHOSE BUSINESSES ARE REGULATED, WHETHER WHOLLY OR IN PART, BY THE OFFICE OF REGULATORY STAFF OR THE PUBLIC SERVICE COMMISSION; TO AMEND SECTION 33‑49‑630, RELATING TO COMPENSATION OR EMPLOYMENT OF A MEMBER OF AN ELECTRIC COOPERATIVE BOARD OF TRUSTEES, SO AS TO PROHIBIT A TRUSTEE FROM SOLICITING, RECEIVING, OR ACCEPTING ANYTHING OF VALUE FROM THE ELECTRIC COOPERATIVE IN ADDITION TO HIS COMPENSATION FOR SERVING ON THE BOARD OF TRUSTEES AND FROM HAVING A BUSINESS RELATIONSHIP WITH THE ELECTRIC COOPERATIVE THAT IS DISTINCT FROM OR IN ADDITION TO THE TRUSTEE’S MANDATORY COOPERATIVE MEMBERSHIP OR HIS SERVICE ON THE BOARD OF TRUSTEES; TO AMEND SECTION 58‑3‑25, RELATING TO CONFLICTS OF INTEREST AND MEMBERS AND EMPLOYEES OF THE PUBLIC SERVICE COMMISSION, SO AS TO PROHIBIT COMMISSION EMPLOYEES FROM HAVING CERTAIN BUSINESS RELATIONSHIPS WITH BUSINESSES REGULATED BY THE COMMISSION AND TO PROHIBIT SOLICITING, RECEIVING, ACCEPTING, OFFERING, OR PROVIDING THINGS OF VALUE BETWEEN COMMISSION EMPLOYEES AND PERSONS OR ENTITIES REGULATED BY THE COMMISSION; TO AMEND SECTION 58‑3‑30, RELATING TO THE COMMISSIONERS OF THE PUBLIC SERVICE COMMISSION, SO AS TO REQUIRE THE COMMISSIONERS AND THEIR EMPLOYEES TO ATTEND AT LEAST SIX HOURS OF CONTINUING EDUCATION CURRICULUM AND TO ESTABLISH OTHER ETHICAL STANDARDS AND PRACTICES; TO AMEND SECTION 58‑4‑40, RELATING TO CONFLICTS OF INTEREST AND THE EXECUTIVE DIRECTOR AND EMPLOYEES OF THE OFFICE OF REGULATOR STAFF, SO AS TO PROHIBIT OFFICE OF REGULATORY STAFF EMPLOYEES FROM HAVING CERTAIN BUSINESS RELATIONSHIPS WITH BUSINESSES REGULATED BY THE OFFICE OF REGULATORY STAFF AND TO PROHIBIT SOLICITING, RECEIVING, ACCEPTING, OFFERING, OR PROVIDING THINGS OF VALUE BETWEEN OFFICE OF REGULATORY STAFF EMPLOYEES AND PERSONS OR ENTITIES REGULATED BY THE OFFICE OF REGULATORY STAFF; AND TO AMEND SECTION 58‑31‑20, RELATING TO THE BOARD OF DIRECTORS OF THE SOUTH CAROLINA PUBLIC SERVICE AUTHORITY, SO AS TO, AMONG OTHER THINGS, REVISE THE QUALIFICATIONS FOR MEMBERSHIP ON THE PUBLIC SERVICE AUTHORITY BOARD OF DIRECTORS.

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

SECTION 1. Part 6, Chapter 6, Title 37 of the 1976 Code is amended by adding:

“Section 37‑6‑610. (A) Unless otherwise provided by law, no person may serve as the Consumer Advocate if the Public Service Commission regulates a utility with which that person is associated. If the commission regulates a business with which the Consumer Advocate is associated, he shall file an annual statement of economic interests notwithstanding the provisions of Section 8‑13‑1110.

(B) No person may serve as the Consumer Advocate if the Public Service Commission regulates a business with which he is associated and this relationship creates a continuing or frequent conflict with the performance of his official responsibilities.

(C)(1) The Consumer Advocate may not interview or seek employment with a public utility while serving as the Consumer Advocate. The Consumer Advocate may not represent a public utility or appear on behalf of a public utility in a proceeding before the Public Service Commission in a matter within the commission’s jurisdiction for a period of one year after the termination of his service as the Consumer Advocate.

(2) A person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or be imprisoned for not more than one year, or both.

Section 37‑6‑611. (A) An employee of the Department of Consumer Affairs may not solicit, receive, or accept anything of value from a person or entity that is regulated by the department or subject to the department’s jurisdiction.

(B) A person or entity that is regulated by the department or subject to the department’s jurisdiction may not offer, facilitate, or provide anything of value to a department employee.

(C) A person may not be an employee of the department if the department regulates a business with which that person is associated.

(D) For purposes of this section, ‘anything of value’ shall have the same meaning as provided in Section 8‑13‑100(1).

(E) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or be imprisoned for not more than one year, or both.”

SECTION 2. Article 5, Chapter 3, Title 58 of the 1976 Code is amended by adding:

“Section 58‑3‑565. (A) A member of the review committee may not knowingly, directly or indirectly, while serving in the position:

(1) have a business relationship with or receive any form of income or compensation from a public utility, an affiliate of a public utility, an association representing a public utility, or other person or entity whose business is regulated, whether wholly or in part, by the Office of Regulatory Staff or the Public Service Commission; or

(2) ask, demand, solicit, seek, accept, receive, or agree to receive a campaign contribution, lodging, transportation, entertainment, food, meals, beverages, money, or anything of value from a public utility, an affiliate of a public utility, an association representing a public utility, or other person or entity whose business is regulated, whether wholly or in part, by the Office of Regulatory Staff or the Public Service Commission.

(B) A public utility, an affiliate of a public utility, an association representing a public utility, or other person or entity whose business is regulated, whether wholly or in part, by the Office of Regulatory Staff or the Public Service Commission may not:

(1) enter into a business relationship with or provide any form of income or compensation to a member of the review committee; or

(2) offer, solicit, facilitate, or provide a campaign contribution, lodging, transportation, entertainment, food, meals, beverages, money, or anything of value to a member of the review committee.

(C) For purposes of this section:

(1) ‘person’ shall have the same meaning as provided in Section 8‑13‑100(24); and

(2) ‘public utility’ shall have the same meaning as provided in Section 58‑3‑5(6).

(D) A violation of this section subjects the violator, upon conviction, to the penalties provided in Article 15, Chapter 13, Title 8.”

SECTION 3. Section 33‑49‑630 of the 1976 Code is amended to read:

“Section 33‑49‑630. (A) The bylaws may make provision for the compensation of trustees; provided, however, that compensation shall not be paid except for actual attendance upon activities authorized by the board. The bylaws may also provide for the travel, expenses and other benefits of trustees, as set by the board. A trustee~~, except in emergencies, shall~~ must not be employed by the cooperative in any other capacity involving compensation.

(B) A member of an electric cooperative’s board of trustees may not:

(1) solicit, request, receive, or accept anything of value from the electric cooperative in addition to the trustee’s compensation, if any, for serving as a member of the board of trustees; or

(2) have a business relationship with the electric cooperative that is distinct from or in addition to the trustee’s mandatory cooperative membership pursuant to Section 33‑49‑610(A) or his service on the board of trustees.

(C) For purposes of this section, ‘anything of value’ shall have the same meaning as provided in Section 8‑13‑100(1).”

SECTION 4. Section 58‑3‑25 of the 1976 Code is amended to read:

“Section 58‑3‑25. (A) Unless otherwise provided by law, no person may serve as a member of the commission if the commission regulates any business with which that person is associated.

(B) If the commission regulates a business with which an employee of the commission is associated, the employee must annually file a statement of economic interests notwithstanding the provisions of Section 8‑13‑1110.

(C) No person may be an employee of the commission if the commission regulates a business with which the employee is associated~~, and this relationship creates a continuing or frequent conflict with the performance of his official responsibilities~~.

(D)(1) A commission employee may not solicit, receive, or accept anything of value from a person or entity that is regulated by the commission.

(2) A person or entity that is regulated by the commission may not offer, facilitate, or provide anything of value to a department employee.

(E) For purposes of this section, ‘anything of value’ shall have the same meaning as provided in Section 8‑13‑100(1).”

SECTION 5. Section 58‑3‑30(C) of the 1976 Code is amended to read:

“(C)(1) Each year, the commissioners and their employees must attend a workshop of at least six contact hours concerning ethics and the Administrative Procedures Act. This workshop must be developed with input from the review committee. Also, each year, the commissioners and their employees must attend at least six hours of continuing education curriculum which directly relates to the subject matter for which the commission is responsible. The continuing education curriculum must be approved by the Public Utilities Review Committee.

(2) In meeting the requirements of this subsection:

(a) Commissioners and commission employees may receive reimbursement of expenses for the extra‑judicial activities permitted by the Code of Judicial Conduct, if the source of such payments does not give the appearance of influencing the commissioners and commission employees’ performance of duties or otherwise give the appearance of impropriety.

(b) Reimbursement shall not exceed a reasonable amount nor shall it exceed what a person who is not a commissioner or commission employee would receive for the same activity.

(c) Expense reimbursements are limited to the actual cost of travel, food, and lodging reasonably incurred, pursuant to Canon 4 contained in Rule 501 of the South Carolina Appellate Court Rules, regardless of the source of the reimbursement.

(d) Notwithstanding any other provision of law or the Code of Judicial Conduct, commissioners and commission employees may only receive reimbursements reasonably related to obtaining the continuing education required by this subsection.

(e) Commissioners and commission employees shall report the date, place, and nature of any activity for which the commissioners or commission employees received reimbursement. The commissioners and commission employees further shall report the name of the payor and the amount of reimbursement received. The report must be made at least annually and must be filed as a public document with the State Ethics Commission.”

SECTION 6. Section 58‑4‑40 of the 1976 Code is amended to read:

“Section 58‑4‑40. (A) Unless otherwise provided by law, no person may serve as the Executive Director of the Office of Regulatory Staff if the commission regulates any business with which that person is associated.

(B) ~~If the commission regulates a business with which an employee of the Office of Regulatory Staff is associated, the employee must annually file a statement of economic interests notwithstanding the provisions of Section 8‑13‑1110.~~

~~(C)~~ No person may be an employee of the Office of Regulatory Staff if the Public Service Commission regulates a business with which he is associated ~~and this relationship creates a continuing or frequent conflict with the performance of his official responsibilities~~.

(C)(1) An employee of the Office of Regulatory Staff may not solicit, receive, or accept anything of value from a person or entity that is regulated by the Office of Regulatory Staff or the Public Service Commission.

(2) A person or entity that is regulated by the Office of Regulatory Staff or the Public Service Commission may not offer, facilitate, or provide anything of value to a department employee.

(D) For purposes of this section, ‘anything of value’ shall have the same meaning as provided in Section 8‑13‑100(1).”

SECTION 7. Section 58‑31‑20 of the 1976 Code is amended to read:

“Section 58‑31‑20. (A) The Public Service Authority consists of a board of twelve directors who reside in South Carolina and who have the qualifications stated in this section, as determined by the State Regulation of Public Utilities Review Committee pursuant to Section 58‑3‑530(14), before being appointed by the Governor with the advice and consent of the Senate as follows: one from each congressional district of the State; one from each of the counties of Horry, Berkeley, and Georgetown who reside in authority territory and are customers of the authority; and two from the State at large, one of whom must be chairman. ~~Two of the directors must have substantial work experience within the operations of electric cooperatives or substantial experience on an electric cooperative board, including one of the two who must have substantial experience within the operations or board of a transmission or generation cooperative~~ All members shall meet the qualifications delineated in subsection (C). A director shall not serve as an employee or board member of an electric cooperative during his term as a director. Each director shall serve for a term of seven years, except as provided in this section. At the expiration of the term of each director and of each succeeding director, the Governor, with the advice and consent of the Senate, must appoint a successor, who shall hold office for a term of seven years or until his successor has been appointed and qualified. In the event of a director vacancy due to death, resignation, or otherwise, the Governor must appoint the director’s successor, with the advice and consent of the Senate, and the successor‑director shall hold office for the unexpired term. ~~A director may not receive a salary for services as director until the authority is in funds, but~~ Each director must be paid his actual expense in the performance of his duties~~, the actual expense to be advanced from the contingent fund of the Governor until the time the Public Service Authority is in funds, at which time the contingent fund must be reimbursed. After the Public Service Authority is in funds,~~. Directors shall serve until their successors are appointed and qualify. The compensation and expenses of each member of the board must be paid from ~~these~~ authority funds, and the compensation and expenses must be fixed by the advisory board established in this section. Members of the board of directors may be removed for cause, pursuant to Section 1‑3‑240(C), by the Governor of the State, the advisory board, or a majority thereof. A member of the General Assembly of the State of South Carolina is not eligible for appointment as Director of the Public Service Authority during the term of his office. No more than two members from the same county may serve as directors at any time.

(B) Candidates for appointment to the board must be screened by the State Regulation of Public Utilities Review Committee and, prior to confirmation by the Senate, must be found qualified by meeting the minimum requirements contained in subsection (C). The review committee must submit a written report to the Clerk of the Senate setting forth its findings as to the qualifications of each candidate. A candidate must not serve on the board, even in an interim capacity, until he is screened and found qualified by the State Regulation of Public Utilities Review Committee.

(C) ~~Each member must possess abilities and experience that are generally found among directors of energy utilities serving this State and that allow him to make valuable contributions to the conduct of the authority’s business. These abilities include substantial business skills and experience, but are not limited to:~~

~~(1) general knowledge of the history, purpose, and operations of the Public Service Authority and the responsibilities of being a director of the authority;~~

~~(2) the ability to interpret legal and financial documents and information so as to further the activities and affairs of the Public Service Authority;~~

~~(3) with the assistance of counsel, the ability to understand and apply federal and state laws, rules, and regulations including, but not limited to, Chapter 4 of Title 30 as they relate to the activities and affairs of the Public Service Authority; and~~

~~(4) with the assistance of counsel, the ability to understand and apply judicial decisions as they relate to the activities and affairs of the Public Service Authority.~~ Each member of the board of directors of the Public Service Authority must have the following qualifications:

(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 substantial duration and an expertise in at least one of the following:

(a) energy issues;

(b) water and wastewater issues;

(c) finance, economics, and statistics;

(d) accounting;

(e) engineering; or

(f) law.

In addition to the above qualifications, two of the directors must have substantial work experience within the operations of electric cooperatives or substantial experience on an electric cooperative board with one of these two directors also having substantial experience within the operations or board of a transmission or generation cooperative.

(D) For the assistance of the board of directors of the Public Service Authority, there is hereby established an advisory board to be known as the advisory board of the South Carolina Public Service Authority, to be composed of the Governor of the State, the Attorney General, the State Treasurer, the Comptroller General, and the Secretary of State, as ex officio members, who must serve without compensation other than necessary traveling expenses. The advisory board must perform any duties imposed on it pursuant to this chapter, and must consult and advise with the board of directors on any and all matters which by the board of directors may be referred to the advisory board. The board of directors must make annual reports to the advisory board, which reports must be submitted to the General Assembly by the Governor, in which full information as to all of the acts of ~~said~~ the board of directors shall be given, together with financial statement and full information as to the work of the authority. On July first of each year, the advisory board must designate a certified public accountant or accountants, resident in the State, for the purpose of making a complete audit of the affairs of the authority, which must be filed with the annual report of the board of directors. The Public Service Authority must submit the audit to the General Assembly.

(E) Members of the board, notwithstanding their terms of office or any other provision of law, may be removed or replaced by the Governor at any time at the Governor’s sole discretion.

(F) A member of the General Assembly or a member of his immediate family may not be appointed to the Public Service Authority while the member is serving in the General Assembly; nor shall a member of the General Assembly or a member of his immediate family be appointed to the authority for a period of four years after the member either:

(1) ceases to be a member of the General Assembly; or

(2) fails to file for election to the General Assembly in accordance with Section 7‑11‑15.

(G) In making appointments to the authority, the Governor shall ensure that race, color, gender, national origin, and other demographic factors are considered to ensure the geographical and political balance of the appointments, and shall strive to ensure that the membership of the authority will represent, to the greatest extent possible, all segments of the population of the State.

(H) A member of the Public Service Authority board of directors may not:

(1) solicit, request, receive, or accept anything of value from the Public Service Authority in addition to the member’s compensation for serving as a member of the board of directors;

(2) have a business relationship with the Public Service Authority that is distinct from or in addition to the member’s service on the board of directors.

(I) For purposes of this section, ‘anything of value’ shall have the same meaning as provided in Section 8‑13‑100(1).”

SECTION 8. This act takes effect upon approval by the Governor.

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