**South Carolina General Assembly**

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**H. 3641**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Clary, McCoy, W. Newton, Simrill, Pope, Caskey and G.M. Smith

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Summary: Public Service Commission

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

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1/16/2019 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 31](file:///h:\hj\20190116.docx))

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**VERSIONS OF THIS BILL**

[1/16/2019](file:///p:\pprever\2019-20\3641_20190116.docx)

**A** **BILL**

TO AMEND SECTION 58‑3‑20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE COMPOSITION OF THE PUBLIC SERVICE COMMISSION, SO AS TO REVISE THE MEMBERSHIP; 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 SPECIFY CERTAIN REIMBURSEMENT PROVISIONS; TO AMEND SECTION 58‑3‑60, RELATING TO THE PUBLIC SERVICE COMMISSION, SO AS TO DELETE A PROVISION FORBIDDING THE AUDIT OF PUBLIC UTILITIES; TO AMEND SECTION 58‑3‑190, RELATING TO AUDITS BY THE OFFICE OF REGULATORY STAFF, SO AS TO AUTHORIZE THE PUBLIC SERVICE COMMISSION TO DIRECT THE OFFICE OF REGULATORY STAFF TO CONDUCT CERTAIN EXAMINATIONS; TO AMEND SECTION 58‑3‑200, RELATING TO CERTAIN INSPECTIONS, SO AS TO AUTHORIZE THE PUBLIC SERVICE COMMISSION TO TAKE CERTAIN ACTIONS IN THE FURTHERANCE OF ITS DUTIES; TO AMEND SECTION 58‑3‑225, RELATING TO THE CONDUCT OF MEETINGS OF THE PUBLIC SERVICE COMMISSION, SO AS TO REQUIRE THE COMMISSIONERS TO QUESTION THE PARTIES THOROUGHLY DURING HEARINGS OF CONTESTED CASES WHEN APPROPRIATE; TO AMEND SECTION 58‑3‑260, RELATING TO COMMUNICATIONS WITH THE PUBLIC SERVICE COMMISSION, SO AS TO ALLOW THE PUBLIC UTILITIES REVIEW COMMITTEE AND CERTAIN OTHER LEGISLATIVE OVERSIGHT COMMITTEES TO COMMUNICATE WITH THE PUBLIC SERVICE COMMISSION IN CERTAIN CIRCUMSTANCES; TO AMEND SECTION 58‑3‑530, RELATING TO THE PUBLIC UTILITIES REVIEW COMMITTEE, SO AS TO AUTHORIZE THE NOMINATION OF ALL QUALIFIED CANDIDATES TO THE PUBLIC SERVICE COMMISSION; AND TO AMEND SECTION 58‑3‑560, RELATING TO THE ELECTION OF MEMBERS TO THE PUBLIC SERVICE COMMISSION, SO AS TO REQUIRE THE ELECTION TO BE HELD WITHIN A CERTAIN TIME PERIOD AFTER THE SCREENING AND NOMINATION PROCESS, AND TO IMPOSE CERTAIN NOMINATION QUALIFICATIONS.

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

SECTION 1. Section 58‑3‑20 of the 1976 Code is amended to read:

“Section 58‑3‑20. (A) The commission is composed of seven members to be elected by the General Assembly in the manner prescribed by this chapter. Each member must have:

(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) telecommunications issues;

(c) consumer protection and advocacy issues;

(d) water and wastewater issues;

(e) finance, economics, and statistics;

(f) accounting;

(g) engineering; or

(h) law.

(B) ~~The review committee may find a candidate qualified although the candidate does not have a background of substantial duration and expertise in one of the eight enumerated areas contained in subsection (A)(2) of this section if three‑fourths of the review committee vote to qualify the candidate and provide written justification of their decision in the report as to the qualifications of the candidates.~~

~~(C) The qualification provisions of subsection (A) of this section do not apply to the reelection of a commissioner elected by the General Assembly on March 3, 2004, so long as there is no break in service.~~

~~(D)(1) Beginning in 2004, The members of the Public Service Commission must be elected to staggered terms. In 2004, the members representing the Second, Fourth, and Sixth Congressional Districts must be elected for terms ending on June 30, 2006, and until their successors are elected and qualify. Thereafter, members representing the Second, Fourth, and Sixth Congressional Districts must be elected to terms of four years and until their successors are elected and qualify. In 2004, the members representing the First, Third, and Fifth Congressional Districts and the State at large must be elected for terms ending on June 30, 2008, and until their successors are elected and qualify. Thereafter, members representing the First, Third, and Fifth Congressional Districts and the State at large must be elected to terms of four years and until their successors are elected and qualify. Notwithstanding the provisions of this section, members representing the First, Third, and Fifth Congressional Districts shall serve until the expiration of their terms, and in 2013, members representing the First, Third, and Fifth Congressional Districts must be elected for terms ending on June 30, 2016, and until their successors are elected and qualified.~~

~~(2) In the event there are Seven Congressional Districts, the member elected from the State at large shall serve until the expiration of his term, and in 2013, a member representing the Seventh Congressional District must be elected for a term ending on June 30, 2016, and until his successor is elected and qualified. Thereafter, the member representing the Seventh Congressional District must be elected to terms of four years and until his successor is elected and qualified. Upon the election and qualification of the member representing the Seventh Congressional District, the at large member elected to satisfy the requirements of subsection (E) immediately shall cease to be a member of the commission.~~

~~(E) The General Assembly must provide for the election of the seven‑member commission and elect its members based upon the congressional districts established by the General Assembly pursuant to the latest official United States Decennial Census. If the number of congressional districts is less than seven, additional members must be elected at large to provide for a seven‑member commission. In the event the congressional districts established by the General Assembly are under review by a court for compliance with statutory or constitutional requirements, an election scheduled pursuant to this section shall not be held until a final determination is made by the courts regarding the congressional districts. The inability to hold an election due to judicial review of the congressional districts does not constitute a vacancy on the commission and the commissioners serve until their successors are elected and qualify.~~ Terms of members of the Public Service Commission in Seats 2, 4, and 6 shall expire on June 30, 2019. Terms of members of the Public Service Commission in Seats 1, 3, 5, and 7 shall expire on June 30, 2020. The successors for the expiring terms must be elected pursuant to subsection (C).

(C) The Public Service Commission must be composed of one member elected from each congressional district. The members of the commission must be elected to terms of four years and until their successors are elected and qualify. Beginning with the 2019 election, elections must be held as follows:

(1) Seats 2, 4, and 6 must be elected in 2019 and then in every other odd‑numbered year thereafter; and

(2) Seats 1, 3, 5, and 7 must be elected in 2020 and then in every other even‑numbered year thereafter.

~~(F)~~(D) The Governor may fill vacancies in the office of commissioner until the successor in the office for a full term or an unexpired term, as applicable, has been elected by the General Assembly. In cases where a vacancy occurs on the commission when the General Assembly is not in session, the Governor may fill the vacancy by an interim appointment. The Governor must report the interim appointment to the General Assembly and must forward a formal appointment at its next ensuing regular session.”

SECTION 2. 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 3. A. Section 58‑3‑60(D) of the 1976 Code is amended to read:

“~~(D)~~ ~~The commission shall not inspect, audit, or examine public utilities. The inspection, auditing, and examination of public utilities is solely the responsibility of the Office of Regulatory Staff.~~”

B. Section 58‑3‑190(C) of the 1976 Code is amended to read:

“(C) The commission may ~~request~~ direct the Office of Regulatory Staff to make, pursuant to Section 58‑4‑50(A)(2), an inspection, audit, or examination of the persons or entities referred to in subsection (A) regarding matters the commission requires to be addressed in the reports referred to in subsection (A).”

C. Section 58‑3‑200 of the 1976 Code is amended to read:

“Section 58‑3‑200. In addition to any authority granted to the Office of Regulatory Staff, the commission has the authority to initiate inspections~~, audits,~~ and examinations of all persons and entities subject to its jurisdiction, including a physical inspection of facilities. Such inspections~~, audits,~~ and examinations must relate to matters within the commission’s jurisdiction. ~~Notwithstanding any other provision of law, the commission must not conduct such inspections, audits, and examinations itself, but must request that they be conducted by the Office of Regulatory Staff pursuant to Section 58‑4‑50(A)(2).~~ Also, the commission may take any other lawful action the commission deems necessary in the furtherance of its duties set forth in this chapter.”

SECTION 4. Section 58‑3‑225 of the 1976 Code is amended by adding an appropriately lettered subsection to read:

“( ) Before making a determination, the commissioners shall question the parties thoroughly during hearings of contested cases when appropriate.”

SECTION 5. A. Section 58‑3‑260(A)(2) of the 1976 Code is amended to read:

“(2) ‘Person’ means a party to a proceeding pending before the commission, a member of the Office of Regulatory Staff, a representative of a party to a proceeding pending before the commission, individuals, corporations, partnerships, limited liability companies, elected officials of state government, and other public and elected officials. Except that ‘person’ does not mean any member or staff of the Public Utilities Review Committee or any other legislative committee charged with review of the commission.”

B. Section 58‑3‑260(C) of the 1976 Code is amended by adding an appropriately numbered item at the end to read:

“( ) a communication made by or to a member or staff of the Public Utilities Review Committee, or any other legislative committee charged with review of the commission, in the furtherance of the duties of the committees. The exemption contained in this item does not extend to any communication made regarding a pending matter.”

SECTION 6. Section 58‑3‑530(1)(a) of the 1976 Code is amended to read:

“(a) ~~no more than three~~ all candidates found qualified for each seat on the Public Service Commission to be elected by the General Assembly. In order to be nominated, a candidate must be found qualified by meeting the requirements as provided in Sections 58‑3‑20 and 58‑3‑560;”

SECTION 7. Section 58‑3‑560 of the 1976 Code is amended to read:

“Section 58‑3‑560. (A) Whenever an election is to be held by the General Assembly in joint session to elect a person to serve on the commission, the review committee must conduct its screening pursuant to the provisions of Section 2‑20‑10, et seq.; however, Section 2‑20‑40 is not applicable to a screening by the review committee. Beginning with the 2020 election for persons to serve on the commission, the election must be held at least forty‑five days after the screening and nomination process is complete.

(B) In order to be nominated for a seat on the commission, candidates must meet the requirements of Section 58‑3‑20 and this section, and must not be prohibited from election pursuant to Section 58‑3‑24. In screening candidates for the commission and making its findings, the review committee must seek to find the best qualified people by giving due consideration to:

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

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

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

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