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AMENDED

May 7, 2019

**H. 4012**

Introduced by Reps. Hixon, Tallon, Johnson and R. Williams

S. Printed 5/7/19--S. [SEC 5/8/19 8:44 AM]

Read the first time April 10, 2019.

**A** **BILL**

TO AMEND SECTIONS 48‑9‑15 AND 48‑9‑30, CODE OF LAWS OF SOUTH CAROLINA, 1976, BOTH RELATING TO DEFINITIONS APPLICABLE TO CHAPTER 9, TITLE 48, SO AS TO REDEFINE THE TERM “DIVISION”, DEFINE THE TERM “BOARD”, AND EXPAND THE DEFINITION OF “THE UNITED STATES”; TO AMEND SECTION 48‑9‑45, RELATING TO THE LAND, RESOURCES, AND CONSERVATION DISTRICTS DIVISION, SO AS TO UPDATE THE NAME OF THE DIVISION; TO AMEND SECTION 48‑9‑50, RELATING TO AGENCIES OPERATING PUBLIC LANDS, SO AS TO DELETE A REFERENCE TO CERTAIN LAND USE REGULATIONS; TO AMEND SECTION 48‑9‑220, RELATING TO GEOGRAPHIC AREAS FOR THE STATE LAND RESOURCES CONSERVATION COMMISSION, SO AS TO REFORMAT THE STATE LAND RESOURCES CONSERVATION COMMISSION INTO THE LAND, WATER, AND CONSERVATION DIVISION ADVISORY COMMITTEE; TO AMEND SECTION 48‑9‑310, RELATING TO ESTIMATES OF FINANCIAL NEEDS FOR SOIL AND WATER CONSERVATION DISTRICTS, SO AS TO REMOVE UNNECESSARY STATUTORY REQUIREMENTS THAT ARE NOW ACCOMPLISHED THROUGH THE BUDGETING PROCESS; TO AMEND SECTION 48‑9‑1220, RELATING TO THE NOMINATION AND ELECTION OF COMMISSIONERS, SO AS TO UPDATE AN EXISTING REFERENCE TO REFLECT THE ROLE OF THE STATE ELECTION COMMISSION TO DETERMINE ELECTORS; TO AMEND SECTION 48‑9‑1250, RELATING TO THE USE OF COUNTY AGRICULTURAL AGENTS, SO AS TO REMOVE REFERENCES TO DISCONTINUED PRACTICES; TO AMEND SECTION 48‑11‑10, RELATING TO DEFINITIONS APPLICABLE TO WATERSHED CONSERVATION DISTRICTS, SO AS TO ALTER THE DEFINITION OF THE TERM “DIVISION”; TO REPEAL SECTION 48‑9‑40 RELATING TO THE RENAMING OF THE STATE LAND RESOURCES CONSERVATION COMMISSION; TO REPEAL SECTION 48‑9‑230 RELATING TO ADVISORS TO THE LAND RESOURCES AND CONSERVATION DISTRICTS DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES; TO REPEAL ARTICLE 13 OF CHAPTER 9, TITLE 48 RELATING TO LAND USE REGULATIONS; AND TO REPEAL ARTICLE 15 OF CHAPTER 9, TITLE 48 RELATING TO THE BOARD OF ADJUSTMENT FOR A NEWLY ORGANIZED SOIL AND WATER CONSERVATION DISTRICT.

Amend Title To Conform

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

SECTION 1. A. Section 48‑9‑15(2) of the 1976 Code is amended to read:

“(2) ‘Division’ means ~~Land Resources and Conservation Districts~~ the Land, Water, and Conservation Division of the Department of Natural Resources.”

B. Section 48‑9‑30(8) of the 1976 Code is amended to read:

“(8) ‘United States’ or ‘agencies of the United States’ includes the United States of America, ~~the soil and water conservation service~~ the Natural Resources Conservation Service of the United States Department of Agriculture and its successors, and any other agency or instrumentality, corporate or otherwise, of the United States of America;”

C. Section 48‑9‑30 of the 1976 Code is amended by adding an appropriately numbered item at the end to read:

“( ) ‘Board’ means the governing body of the Department of Natural Resources.”

SECTION 2. Section 48‑9‑45 of the 1976 Code is amended to read:

“Section 48‑9‑45. The ~~Land Resources and Conservation Districts~~ Land, Water, and Conservation Division, shall be directly accountable to and subject to the director of the department.”

SECTION 3. Section 48‑9‑50 of the 1976 Code is amended to read:

“Section 48‑9‑50. Agencies of this State which shall have jurisdiction over or be charged with the administration of any State‑owned lands and agencies of any county or other governmental subdivision of the State which shall have jurisdiction over or be charged with the administration of any county owned or other publicly owned lands, lying within the boundaries of any district organized under this chapter, shall cooperate to the fullest extent with the commissioners of such districts in the effectuation of programs and operations undertaken by the commissioners under the provisions of this chapter. The commissioners of such districts shall be given free access to enter and perform work upon such publicly owned lands. ~~The provisions of land‑use regulations adopted pursuant to Article 13 of this chapter shall be in all respects observed by the agencies administering such publicly owned lands.~~”

SECTION 4. A. Section 48‑9‑220 of the 1976 Code is amended to read:

“Section 48‑9‑220. For the purpose of selecting the five soil and water conservation district commissioners to serve as members of the ~~State Land Resources Conservation Commission~~ Land, Water, and Conservation Division Advisory Committee, the State is divided into five areas, to wit:

(1) Area 1, the counties of Abbeville, Anderson, Cherokee, Greenville, Laurens, Oconee, Pickens, Spartanburg and Union;

(2) Area 2, the counties of Aiken, Calhoun, Edgefield, Greenwood, Lexington, McCormick, Newberry, Richland and Saluda;

(3) Area 3, the counties of Chester, Chesterfield, Darlington, Fairfield, Kershaw, Lancaster, Lee, Marlboro and York;

(4) Area 4, the counties of Berkeley, Clarendon, Dillon, Florence, Georgetown, Horry, Marion, Sumter and Williamsburg; and

(5) Area 5, the counties of Allendale, Bamberg, Barnwell, Beaufort, Charleston, Colleton, Dorchester, Hampton, Jasper and Orangeburg.”

B. Article 3, Chapter 9, Title 48 is redesignated as ‘Land, Water, and Conservation Division Advisory Committee’.

SECTION 5. Section 48‑9‑310 of the 1976 Code is amended to read:

“Section 48‑9‑310. ~~On or before the first day of November, annually, the department shall transmit to the Governor, on official blanks to be furnished by him, an estimate, in itemized form, showing the amount of expenditure requirements for the ensuing fiscal year. The estimates submitted shall state, in addition to the requirements of existing law, the following information:~~

~~(1)~~ ~~The number and acreage of districts in existence or in process of organization, together with an estimate of the number and probable acreages of the districts which may be organized during the ensuing fiscal year;~~

~~(2)~~ ~~A statement of the balance of funds, if any, available to the department and to the districts; and~~

~~(3)~~ ~~The estimates of the department as to the sums needed for its administrative and other expenses and for allocation among the several districts during the ensuing fiscal year.~~

The department may require the commissioners of the respective soil and water conservation districts to submit to it such statements, estimates, budgets and other information as it may deem necessary ~~for the purposes of this section~~.”

SECTION 6. Section 48‑9‑1220 of the 1976 Code is amended to read:

“Section 48‑9‑1220. Effective November, 1982, and in November of the appropriate years thereafter, three commissioners from each district must be elected. The election must be nonpartisan and must be conducted by the county election commission at the same time as other county officers are elected in the general election.

To be placed on the ballot for county offices, each candidate shall submit to the county election commission a nominating petition with the signatures of one hundred qualified registered electors or one percent of the qualified registered electors of the district, whichever is lesser.

~~The official number of qualified registered electors of the geographical area of any office is the number of registered electors of the area registered one hundred twenty days before the date of the election for which the nomination petition is being submitted.~~

The nominees in the petition must be placed on the appropriate official ballot for the election if the petition is submitted to the county election commission not later than twelve noon on ~~August first or, if August first falls on Sunday~~ July fifteenth or, if July fifteenth falls on Sunday, ~~not~~ no later than twelve noon on the following Monday. The form of the petition must comply with the requirements in Section 7‑11‑80 pertaining to the conduct of general elections not conflicting with this section. Candidates must be qualified registered electors and residents of the district in which elected.

The three candidates who receive the largest number of votes cast in the election are elected and shall assume office the following February first.

This election must be conducted pursuant to Title 7, mutatis mutandi, except as otherwise provided for in this section.

Effective with the 1990 election, the two candidates who receive the highest number of votes shall serve for terms of four years each and the other candidate who receives the next highest number of votes shall serve for a term of two years. Thereafter, their successors must be elected in a nonpartisan election to be held at the same time as the general election for terms of four years each.”

SECTION 7. Section 48‑9‑1250 of the 1976 Code is amended to read:

“Section 48‑9‑1250. ~~Each county agricultural agent may be the secretary to the board of commissioners of each district within his county.~~ The commissioners may ~~also utilize in other respects the services of the agricultural agents and the facilities of the county agricultural agent’s officers insofar as practicable and feasible and may~~ employ such additional employees and agents, permanent and temporary, as they may require and shall determine their qualifications, duties and compensation. The commissioners may delegate to their chairman or to one or more agents, or employees such powers and duties as they may deem proper. The commissioners may call upon the Attorney General of the State for such legal services as they may require or may employ their own counsel and legal staff.”

SECTION 8. Section 48‑11‑10(13) of the 1976 Code is amended to read:

“(13) ‘Division’ means ~~Land Resources and Conservation Districts~~ Land, Water, and Conservation Division.”

SECTION 9. Sections 48‑9‑40 and 48‑9‑230 of the 1976 Code are repealed. Articles 13 and 15 of Chapter 9, Title 48 of the 1976 Code are repealed.

SECTION 10. Section 1-3-210 of the 1976 Code is amended to read:

“Section 1-3-210. (A)(1) ~~During the recess of the Senate, vacancy which occurs in an~~ If an office filled by an appointment of the Governor with the advice and consent of the Senate becomes vacant during the interim period between regular legislative sessions, then the office may be filled by an interim appointment of the Governor only if the Governor acts to fill the office during the same interim period during which the office became vacant. The Governor must report the interim appointment to the Senate and must forward a formal appointment at its next ensuing regular session. If the Senate votes to reject an interim appointee’s formal appointment during the next ensuing regular session then the office is immediately vacant and may not be filled by another interim appointment.

(2) If the Senate does not advise and consent ~~thereto~~ to the formal appointment prior to ~~sine die adjournment~~ the second Thursday in May following the interim period during which the interim appointment was made ~~of the next ensuing regular session~~, the office shall be vacant and the interim appointment shall not serve in hold over status notwithstanding any other provision of law to the contrary. The Governor may not make a subsequent interim appointment for the same vacancy. ~~A subsequent interim appointment of a different person to a vacancy created by a failure of the Senate to grant confirmation to the original interim appointment shall expire on the second Tuesday in January following the date of such subsequent interim appointment and the office shall be vacant.~~

(B) The Governor’s authority to make an interim appointment pursuant to subsection (A) terminates when the General Assembly convenes the regular legislative session following the interim period between regular legislative sessions during which the office became vacant.”

SECTION 11. Article 5, Chapter 3 of Title 1 of the 1976 Code is amended by adding:

“Section 1-3-211. (A) If a vacancy exists in the head of an agency that requires appointment by the Governor with the advice and consent of the Senate, the Governor may designate an employee of the agency as the acting head of the agency if the person designated was employed by the agency for at least twelve consecutive months prior to the date upon which the vacancy occurred. A person designated as an acting agency head pursuant to this subsection may serve as the acting agency head no longer than the second Thursday in May following date upon which the vacancy occurred.

(B)(1) A person nominated by the Governor to head an agency that requires the advice and consent of the Senate who did not receive the advice and consent of the Senate, or whose nomination was withdrawn, may not be designated by the Governor as the acting head of the agency to which the person was nominated.

(2) A person nominated by the Governor to head an agency that requires the advice and consent of the Senate who also had been previously designated as the acting head of the agency who did not receive the advice and consent of the Senate, or whose nomination was withdrawn, may no longer exercise any authority or duties of that agency.”

SECTION 12. This act takes effect upon approval by the Governor.

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