~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

January 29, 2020

**S. 867**

Introduced by Senator Campsen

S. Printed 1/29/20--S.

Read the first time January 14, 2020.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 867) to amend Section 7‑13‑35, Code of Laws of South Carolina, 1976, relating to the notice of general, municipal, special, and primary elections, etc., respectfully

**REPORT:**

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

Amend the bill, as and if amended, page 4, by striking SECTION 5 in its entirety and inserting therein:

/ SECTION 5. The amendments contained in SECTIONS 1, 2, and 3 of this act are repealed on December 31, 2021, and the text of these SECTIONS therefore shall revert back to the language as contained in the South Carolina Code of Laws as of January 23, 2020. /

Renumber sections to conform.

Amend title to conform.

LUKE A. RANKIN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on January 14, 2020**

**State Expenditure**

This bill requires the State Election Commission (SEC) to implement a software update to its election voting machines to allow for challenges to absentee This bill takes effect upon signing of the governor. SEC has contracted with a vendor for the implementation and any necessary software updates to the election voting machines. This software update will be handled by the vendor as part of their contract with SEC. Therefore, SEC anticipated no expenditure impact.

**Local Expenditure**

This bill allows county boards of voter registration and elections, municipal election commissions, or executive committees of each municipal party to begin the process of examining the return-address envelopes that have been received for absentee ballots beginning on the calendar day preceding election day. This will take effect upon the signing of the governor and remain in effect until January 1, 2021, at which time the section will revert back to current law. Currently, county boards of voter registration and elections, municipal election commissions, or executive committees of each municipal party may begin the process of examining the return-address envelopes that have been received for absentee ballots beginning on election day. As the allowance for more time to examine the absentee ballots envelopes will only occur until January 1, 2021, and does not change the number of ballots, Revenue and Fiscal Affairs anticipates there will be no local expenditure increase.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 7‑13‑35, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE NOTICE OF GENERAL, MUNICIPAL, SPECIAL, AND PRIMARY ELECTIONS, SO AS TO REQUIRE THE NOTICE TO STATE THAT THE PROCESS OF EXAMINING THE RETURN‑ADDRESSED ENVELOPES CONTAINING THE ABSENTEE BALLOTS MAY BEGIN AT 9:00 A.M. ON THE CALENDAR DAY IMMEDIATELY PRECEDING ELECTION DAY; TO AMEND SECTION 7‑15‑420, RELATING TO THE RECEIPT, TABULATION, AND REPORTING OF ABSENTEE BALLOTS, SO AS TO PROVIDE THAT THE PROCESS OF EXAMINING THE RETURN‑ADDRESSED ENVELOPES THAT HAVE BEEN RECEIVED BY THE COUNTY BOARD OF VOTER REGISTRATION AND ELECTIONS MAY BEGIN AT 9:00 A.M. ON THE CALENDAR DAY IMMEDIATELY PRECEDING ELECTION DAY; TO AMEND SECTION 7‑15‑470, RELATING TO ABSENTEE BALLOTS OTHER THAN PAPER BALLOTS, SO AS TO MODIFY THE REQUIREMENTS NEEDED TO OBTAIN THE STATE ELECTION COMMISSION CERTIFICATION BEFORE USING A NONPAPER‑BASED VOTING MACHINE OR VOTING SYSTEM FOR IN‑PERSON ABSENTEE VOTING; TO REQUIRE THE STATE ELECTION COMMISSION TO IMPLEMENT A SOFTWARE UPDATE TO ITS ELECTRONIC VOTING MACHINES TO ALLOW FOR CHALLENGES TO ABSENTEE VOTES CAST USING THE MACHINES IN AN EQUIVALENT MANNER TO CHALLENGES TO ABSENTEE VOTES CAST ON ELECTRONIC VOTING MACHINES IN THE 2018 GENERAL ELECTION; AND TO PROVIDE THAT SECTIONS 1, 2, AND 3 OF THIS ACT ARE REPEALED ON JANUARY 1, 2021.

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. 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 the calendar day immediately preceding 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.”

SECTION 2. Section 7‑15‑420 of the 1976 Code is amended to read:

“Section 7‑15‑420. The county board of voter registration and elections, municipal election commission, or executive committee of each municipal party in the case of municipal primary elections is responsible for the tabulation and reporting of absentee ballots. At 9:00 a.m. on the calendar day immediately preceding election day, the managers appointed pursuant to Section 7‑5‑10, and in the presence of any watchers who have been appointed pursuant to Section 7‑13‑860, may begin the process of examining the return‑addressed envelopes that have been received by the county board of voter registration and elections making certain that each oath has been properly signed and witnessed and includes the address of the witness. All return‑addressed envelopes received by the county board of voter registration and elections before the time for closing the polls must be examined in this manner. A ballot may not be counted unless the oath is properly signed and witnessed nor may any ballot be counted which is received by the county board of voter registration and elections after time for closing of the polls. The printed instructions required by Section 7‑15‑370(2) to be sent each absentee ballot applicant must notify him that his vote will not be counted in either of these events. If a ballot is not challenged, the sealed return‑addressed envelope must be opened by the managers, and the enclosed envelope marked ‘Ballot Herein’ removed and placed in a locked box or boxes. After all return‑addressed envelopes have been emptied in this manner, the managers shall remove the ballots contained in the envelopes marked ‘Ballot Herein’, placing each one in the ballot box provided for the applicable contest. Beginning at 9:00 a.m. on election day, the absentee ballots may be tabulated, including any absentee ballots received on election day before the polls are closed. If any ballot is challenged, the return‑addressed envelope must not be opened, but must be put aside and the procedure set forth in Section 7‑13‑830 must be utilized; but the absentee voter must be given reasonable notice of the challenged ballot. Results of the tabulation must not be publicly reported until after the polls are closed.”

SECTION 3. Section 7‑15‑470 of the 1976 Code is amended to read:

“Section 7-15-470. (A) Notwithstanding the provisions of this chapter, a county board of voter registration and elections may use other methods of voting by absentee ballot instead of by paper ballot. No voting machine or voting system, other than a paper‑based system, may be used for in‑person absentee voting that has not received written certification from the State Election Commission that:

(1) the voting machine or voting system meets all statutory requirements for use in the State; ~~and certification that~~

(2) the voting machine or voting system can be secured against voting at times other than business hours of the county board of voter registration and elections~~, that~~; and

(3) the results of elections can be held secure from release until the time for counting ballots at any polling place~~, and votes cast using the machine can be challenged and held secure until the hearing on challenged ballots required by Section 7‑13‑830 is held~~.

(B) The State Election Commission must develop standards and guidelines for these purposes.”

SECTION 4. The State Election Commission is directed to implement a software update to its electronic voting machines to allow for challenges to absentee votes cast using the machines in an equivalent manner to challenges to absentee votes cast on electronic voting machines in the 2018 general election.

SECTION 5. SECTIONS 1, 2, and 3 of this act are repealed on January 1, 2021.

SECTION 6. This act takes effect upon approval by the Governor.

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