**South Carolina General Assembly**

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**S. 129**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Massey, Kimbrell and Talley

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Summary: State Election Commission

**HISTORY OF LEGISLATIVE ACTIONS**

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**VERSIONS OF THIS BILL**

[12/9/2020](file:///p:\pprever\2021-22\129_20201209.docx)

**A** **BILL**

TO AMEND CHAPTER 3, TITLE 7 OF THE 1976 CODE, RELATING TO THE STATE ELECTION COMMISSION, TO DEVOLVE THE DUTIES OF THE STATE ELECTION COMMISSION AND ITS EXECUTIVE DIRECTOR UPON THE SECRETARY OF STATE, AND TO MAKE CONFORMING CHANGES.

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

SECTION 1. Chapter 3, Title 7 of the 1976 Code is amended to read:

“CHAPTER 3

~~State Election Commission~~ Elections; Central Registration System

~~Section 7‑3‑10.~~ ~~(a)~~ ~~There is hereby created the State Election Commission composed of five members, at least one of whom shall be a member of the majority political party represented in the General Assembly and at least one of whom shall be a member of the largest minority political party represented in the General Assembly, to be appointed by the Governor to serve terms of four years and until their successors have been elected and qualify, except of those first appointed three shall serve for terms of two years. Any vacancy on the Commission shall be filled for the unexpired portion of the term in the same manner as the original appointment.~~

~~(b)~~ ~~The Governor shall appoint one of the members to serve as chairman for a term of two years and until his successor has been appointed and qualifies. The Commission shall select such other officers from among its members as it may deem necessary.~~

~~(c)~~ ~~The commission shall meet at its offices in Columbia at least once each month or at such times as considered necessary by the commission. However, the commission may change the location of the meeting if the change is more convenient for the commission or any parties scheduled to appear before the commission.~~

~~(d)~~ ~~The Commission shall have the powers and duties as enumerated in this title.~~

~~(e)~~ ~~No member of the commission may participate in political management or in a political campaign during the member's term of office. No member of the commission may make a contribution to a candidate or knowingly attend a fundraiser held for the benefit of a candidate. Violation of this subsection subjects the commissioner to removal by the Governor.~~

Section ~~7-3-20~~ 7-3-10. (A) ~~The State Election Commission shall elect an executive director who shall be directly responsible to the commission and who shall serve at the pleasure of the commission. The executive director shall be the chief administrative officer for the State Election Commission.~~

~~(B)~~ ~~The executive director shall receive such compensation and employ such staff, subject to the approval of the State Election Commission, as may be provided by law.~~

~~(C)~~ The ~~executive director~~ Secretary of State shall:

(1) supervise the conduct of county board of elections and voter registration, as established pursuant to Article 1, Chapter 5, which administer elections and voter registration in the State and ensure those boards' compliance with the requirements with applicable state or federal law or ~~State Election Commission~~ policies and procedures with regard to the conduct of elections or the voter registration process by all persons involved in the elections process as established by the Secretary of State;

(2) conduct reviews, audits, or other postelection analysis of county board of elections and voter registration, as established pursuant to Article 1, Chapter 5, to ensure those boards' compliance with the requirements with applicable state or federal law or ~~State Election Commission~~ policies and procedures with regard to the conduct of elections or the voter registration process by all persons involved in the elections process;

(3) maintain a complete master file of all qualified electors by county and by precincts;

(4) delete the name of any elector:

(a) who is deceased;

(b) who is no longer qualified to vote in the precinct where currently registered;

(c) who has been convicted of a disqualifying crime;

(d) who is otherwise no longer qualified to vote as may be provided by law; or

(e) who requests in writing that his name be removed;

(5) enter names on the master file as they are reported by the county boards of voter registration and elections;

(6) furnish each county board of voter registration and elections with a master list of all registered voters in the county, together with a copy of all registered voters in each precinct of the county, at least ten days prior to each election. The precinct copies shall be used as the official list of voters;

(7) maintain all information furnished his office relating to the inclusion or deletion of names from the master file for four years;

(8) purchase, lease, or contract for the use of such equipment as may be necessary to properly execute the duties of his office, subject to the approval of the ~~State Election Commission~~ Secretary of State;

(9) secure from the United States courts and federal and state agencies available information as to persons convicted of disqualifying crimes;

(10) obtain information from any other source which may assist him in carrying out the purposes of this section;

(11) perform such other duties relating to elections as may be necessary ~~assigned him by the State Election Commission~~;

(12) furnish at reasonable price any precinct lists to a qualified elector requesting them;

(13) serve as the chief state election official responsible for implementing and coordinating the state's responsibilities under the National Voter Registration Act of 1993;

(14) serve as the chief state election official responsible for implementing and enforcing the state's responsibilities under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), as set forth in the U.S.C., Title 42, Section 1973ff, et seq.; and

(15) establish and maintain a statewide voter registration database that shall be administered by the commission and made continuously available to each county board of voter registration and elections and to other agencies as authorized by law.

~~(D)~~(B) The ~~State Election Commission~~ Office of the Secretary of State shall publish on the ~~commission's~~ its website each change to voting procedures enacted by state or local governments. State and local governments shall file notice of all changes in voting procedures, including, but not limited to, changes to precincts with the ~~State Election Commission~~ Secretary of State within five days after adoption of the change or thirty‑five days prior to the implementation, whichever is earlier. All voting procedure changes must remain on the ~~commission's~~ Office of the Secretary of State’s website at least through the date of the next general election. However, if changes are made within three months prior to the next general election, then the changes shall remain on the ~~commission's~~ Office of the Secretary of State’s website through the date of the following general election.

Section ~~7‑3‑25~~ 7-3-20. (A) In the event that the ~~State Election Commission, acting through its executive director,~~ Secretary of State determines that a county board of elections and voter registration has failed to comply with applicable state or federal law or ~~State Election Commission~~ policies and procedures with regard to the conduct of the election or voter registration process, the ~~State Election Commission, acting through its executive director or other designee,~~ Secretary of State must supervise, pursuant to Section 7‑3‑20(C)(1), the county board to the extent necessary to:

(1) identify the failure to comply with state or federal law or ~~State Election Commission~~ election policies and procedures;

(2) establish a plan to correct the failure; and

(3) implement the plan to correct the failure. The ~~officials and employees of the State Election Commission~~ Secretary of State and the county board must work together, in good faith, to remedy the failure of the county board to adhere to state or federal law. In the event of a difference of policy or opinion between a county election official or employee and the ~~State Election Commission or its designee~~ Secretary of State, pertaining to the manner in which particular functions must be performed, the policy or opinion of the ~~State Election Commission~~ Secretary of State shall control.

(B) If a county board of voter registration and elections does not or cannot determine and certify the results of an election or referendum for which it is responsible by the time set for certification by applicable law, the responsibility to determine and certify the results is devolved upon the ~~State Election Commission~~ Secretary of State.

(C) If the ~~State Election Commission~~ Secretary of State determines that an official or an employee of a county board of voter registration and elections has negligently failed to comply with applicable state or federal law or ~~State Election Commission~~ policies and procedures with regard to the election or voter registration process or fails to comply with or cooperate with the corrective plan established by the ~~State Election Commission or its designee~~ Secretary of State under the provisions of subsection (A), the ~~commission~~ Secretary of State may order the decertification of that official or employee and if decertified the ~~commission~~ Secretary of State shall require that official to participate in a retraining program approved by the ~~commission~~ Secretary of State prior to recertification. If the ~~commission~~ Secretary of State finds that the failure to comply with state or federal law or ~~State Election Commission~~ election policies and procedures by an official is wilful, it shall recommend the termination of that official to the Governor or it shall recommend termination of a staff member to the director of the appropriate county board of voter registration and elections.

Section 7‑3‑30. ~~(a)~~(A) The ~~executive director~~ Secretary of State shall notify by mail each elector at the address last filed in the office, whose name has been deleted for the reasons of conviction or a change in the residence of a qualified voter. The notice shall state the reason for the deletion and inform the elector of his right to appeal to the county board of voter registration and elections and the time in which to perfect his appeal. A copy of the notice must be forwarded to the appropriate county board of voter registration and elections.

~~(b)~~(B) Each elector whose name has been deleted has twenty days from the date the notice is mailed to appeal. The appeal must be to the county board of voter registration and elections from whose master file the deletion has been made. If the board determines that the elector's name should not have been deleted, it shall instruct the executive director to restore his name to the registration books; however, if the deletion is for conviction, the appeal must be to the ~~Executive Director of the State Election Commission~~ Secretary of State.

Section 7‑3‑40. The Bureau of Vital Statistics must furnish the ~~executive directo~~r Secretary of State a monthly report of all persons eighteen years of age or older who have died in the State since making the previous report. All reports must contain the name of the deceased, county of residence, his social security or other identification number, and his date and place of birth. The bureau must provide this information at no charge.

Section 7‑3‑50. Each county board of voter registration and elections must furnish the ~~executive director~~ Secretary of State information as may be requested by him concerning each registered elector by the fifteenth day of each month and within five days after closing of the books prior to an election.

Section 7‑3‑60. The clerks of the courts of common pleas and general sessions and every magistrate in the State must, annually on or before June first, make out under their respective hands and seals and report to the ~~executive director~~ Secretary of State a complete list as shown by the records of their respective offices for the preceding calendar year of all persons convicted in that year of felonies or crimes against the election laws, together with the social security or identification numbers of these persons and the month of conviction. Where there is no person to be reported, the report shall so state. Any clerk of the court or magistrate who fails or neglects to make any report required by this section must forfeit and pay to the county in which he holds office the sum of fifty dollars for each failure or neglect to make the report.

Section 7‑3‑70. ~~(a)~~(A) The Department of Motor Vehicles must furnish the ~~executive director~~ Secretary of State a monthly report of all persons eighteen years of age or older who have surrendered their driver's license or identification card and obtained a driver's license or identification card in another state. All reports must contain the name of the driver or identification cardholder, social security number, date of birth, South Carolina county where previously a resident, and the state in which the license or identification card was surrendered. The department must provide this information at no charge.

~~(b)~~(B) The Department of Motor Vehicles must furnish the ~~executive director~~ Secretary of State a monthly report of all persons eighteen years of age or older who were reported as deceased by Social Security Administration. All reports must contain the name, social security number, date of birth, and date of death. The department must provide this information at no charge.”

SECTION 2. The Code Commissioner is directed to make conforming changes and correct all references to the State Election Commission or the executive director of the State Election Commission to reflect the transfer of functions, powers, duties, responsibilities, authority, employees, and authorized appropriations, among other things, to the Secretary of State.

SECTION 3. This act takes effect upon approval by the Governor.

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