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Summary: Election Integrity Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

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**VERSIONS OF THIS BILL**

[2/10/2022](file:///p:\pprever\2021-22\4957_20220210.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “ELECTION INTEGRITY ACT” BY ADDING SECTION 7‑5‑171 SO AS TO REQUIRE VOTER REGISTRATION APPLICANTS TO SUBMIT PROOF OF CITIZENSHIP IN ORDER TO BECOME REGISTERED; BY ADDING SECTION 7‑13‑1625 SO AS TO PROVIDE THAT ANY VOTING SYSTEM PURCHASED FOR USE IN SOUTH CAROLINA SHALL UTILIZE HAND‑MARKED PAPER BALLOTS TABULATED BY OPTICAL SCANNERS; BY ADDING SECTION 7‑13‑1635 SO AS TO PROVIDE THAT THE STATE ELECTION COMMISSION AND COUNTY ELECTION BOARDS SHALL CONDUCT POSTELECTION RISK‑LIMITING AUDITS BEGINNING WITH THE 2022 GENERAL ELECTION CYCLE; BY ADDING SECTION 7‑25‑175 SO AS TO MAKE IT UNLAWFUL FOR ANY ELECTION BOARD OR COMMISSION, OR MEMBER OR EMPLOYEE THEREOF, TO MODIFY ANY MANDATORY PROVISION OF THIS TITLE, AND TO PROVIDE PENALTIES; TO AMEND SECTION 7‑3‑40, RELATING TO MONTHLY REPORTS THE BUREAU OF VITAL STATISTICS MUST PROVIDE THE EXECUTIVE DIRECTOR OF THE STATE ELECTION COMMISSION REGARDING PERSONS WHO HAVE DIED IN THIS STATE, SO AS TO REQUIRE THE EXECUTIVE DIRECTOR TO REMOVE THE NAMES OF ANY REGISTERED VOTERS IDENTIFIED AS DECEASED FROM THE OFFICIAL LIST OF ELIGIBLE VOTERS WITHIN THIRTY DAYS RECEIPT OF THE REPORT; TO AMEND SECTION 7‑5‑320, RELATING TO CHANGE OF ADDRESS FORMS SUBMITTED FOR PURPOSES OF A DRIVER’S LICENSE SERVING AS A NOTIFICATION OF CHANGE OF ADDRESS FOR VOTER REGISTRATION PURPOSES, SO AS TO REQUIRE THAT ACCEPTED CHANGE OF ADDRESS SUBMISSIONS BE TIMELY TRANSMITTED TO THE APPROPRIATE ELECTION BOARD; AND TO AMEND SECTION 7‑15‑340, RELATING TO THE FORM OF AN ABSENTEE BALLOT APPLICATION, SO AS TO PROVIDE, AMONG OTHER THINGS, THAT ABSENTEE BALLOT APPLICATIONS ALSO REQUIRE THE VOTER’S DATE OF BIRTH AND THE VOTER’S SOUTH CAROLINA DRIVER’S LICENSE NUMBER OR THE VOTER’S PERSONAL IDENTIFICATION CARD NUMBER OR ANOTHER FORM OF IDENTIFICATION CONTAINING A PHOTOGRAPH ISSUED BY THE SOUTH CAROLINA DEPARTMENT OF MOTOR VEHICLES OR A PHOTOCOPY OF ONE OF THE FORMS OF IDENTIFICATION REQUIRED FOR VOTING PURSUANT TO SECTION 7‑13‑710.

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

SECTION 1. This act may be known and must be cited as the “Election Integrity Act.”

SECTION 2. Article 3, Chapter 5, Title 7 of the 1976 Code is amended by adding:

“Section 7‑5‑171. (A) An applicant may not be registered to vote until the applicant has provided proof of United States citizenship to his county board of voter registration and elections. An applicant satisfies this proof of citizenship requirement by presenting one of the documents referenced herein in person or by mailing a photocopy of one of these documents to his county board of voter registration and elections. Any application received by a county board of voter registration and elections without proof of citizenship may be accepted, but the applicant is not deemed registered until proof of citizenship is provided.

(B) As used in this section, ‘proof of citizenship’ means one of the following, or a legible photocopy of one of the following documents:

(1) birth certificate which establishes United States citizenship;

(2) United States passport, whether valid or expired, or the pertinent pages thereof identifying the applicant and the applicant’s passport number;

(3) certificate of naturalization or citizenship;

(4) such other documentation as the State Election Commission determines sufficient to establish United States citizenship.”

SECTION 3. Article 15, Chapter 13, Title 7 of the 1976 Code is amended by adding:

“Section 7‑13‑1625. (A) Any voting system purchased by the State of South Carolina or any state agency, board, commission, or council must meet the following requirements:

(1) a voter must be able to mark by hand a paper ballot, which must be tabulated using an optical scanner; and

(2) a voter must be able to insert the marked paper ballot into the optical scanner.

(B) Nothing in this section may be construed as precluding the purchase of a voting system with features or components necessary to ensure compliance with other federal and state law requirements including, without limitation, at least one accessible voting system per polling place equipped for individuals with disabilities in accordance with 52 U.S.C. Section 21081 of the ‘Help America Vote Act of 2002’.”

SECTION 4. Article 15, Chapter 13, Title 7 of the 1976 Code is amended by adding:

“Section 7‑13‑1635. (A) The General Assembly finds the auditing of election results is necessary to ensure effective election administration and public confidence in the election results. Further, risk‑limiting audits provide a more effective manner of conducting audits than traditional audit methods in that risk‑limiting audit methods typically require only limited resources for election contests with wide margins of victory while investing greater resources in close contests.

(B) For purposes of this section:

(1) ‘Audit unit’ means a precinct, a set of ballots, such as all the ballots tabulated on one vote tabulating device or a batch of ballots, or a single ballot. A precinct, a set of ballots, or a single ballot may be used as an audit unit for purposes of this section only if both of the following conditions are satisfied:

(a) the relevant vote tabulating device is able to produce a report of the votes cast in the precinct, set of ballots, or single ballot; and

(b) each ballot is assigned to not more than one audit unit.

(2) ‘Contest’ means a primary or runoff primary, an election or runoff election for an office or for a measure.

(3) ‘Commission’ means the State Election Commission.

(4) ‘Risk‑limiting audit’ means a manual tally employing a statistical method that ensures a large, predetermined minimum chance of requiring a full manual tally whenever a full manual tally would show an electoral outcome that differs from the outcome reported by the vote tabulating system for the audited contest. A risk‑limiting audit shall begin with a manual tally of the votes in one or more audit units and shall continue to manually tally votes in additional audit units until there is strong statistical evidence that the electoral outcome is correct. In the event that counting additional audit units does not provide strong statistical evidence that the electoral outcome is correct, the audit shall continue until there has been a full manual tally to determine the correct electoral outcome of the audited contest.

(5) ‘Tabulation audits’ means verifying that the votes on voter‑verified paper ballots made available for the audit are counted and tabulated accurately enough to determine the correct outcome.

(6) ‘Unofficial final results’ means election results tabulated.

(C) Beginning with the 2022 General Election cycle, the commissionin conjunction with the county boards of voter registration and elections, as necessary, shall conduct postelection risk‑limiting audits pursuant to the provisions of this section and commission regulations for all statewide primary, general, and special elections, including statewide runoff elections.

(D) The commission shall promulgate regulations regarding the procedures, mandatory timelines, and use of risk‑limiting audits. The number of voter‑verifiable audit records selected for audits must be determined pursuant to these regulations and shall utilize statistical methods designed to limit the risk of certifying an incorrect outcome.

(E) The risk‑limiting audit must be conducted as follows:

(1) For each contest election being audited, the commissionin conjunction with the county boards of voter registration and elections, as necessary, shall establish both the appropriate risk limit as well as the projected minimum chance of detecting and correcting a result where the outcome of the original tabulation is inconsistent with the election outcome obtained by conducting a full recount. Additionally, the commission shall:

(a) provide notice of the time and place of the random selection of the audit units to be manually tallied and of the times and places of the audits;

(b) make available to the public a report of the unofficial final tabulated vote results for the contest, including the results for each audit unit in the contest, prior to the random selection of audit units to be manually tallied and prior to the commencement of the audit;

(c) make available to the public the statistical basis for the size of the random samples so that the public can review the process;

(d) conduct the audit upon tabulation of the unofficial final results in conjunction with the county boards of voter registration and elections;

(e) conduct the audit in public view by manually interpreting the actual ballots that the voters themselves verified, not an image or a duplicated ballot or a barcode associated with the ballot in conjunction with the county boards of voter registration and elections; and

(f) ensure that all ballots, whether cast in person, by absentee ballot, early voting, provisional ballot, or otherwise, are subject to audit.

(2) The audit must be completed prior to the final certification of the results of the contest.

(3) If a risk‑limiting audit of a contest leads to a full manual tally of the ballots cast using the voting system, the vote counts according to that manual tally shall replace the vote counts reported for the purpose of determining the official contest results.

(4) The results of audits conducted pursuant to this section must be published on the commission’s website within twenty‑four hours of the completion of the audit. If the audit involved a manual tally of one or more entire precincts, then the names and numbers of all precincts audited and a comparison of the vote‑tabulator results with the manual tally for each precinct must be published with the audit results on the website. Similarly, if the audit units are sets of ballots or single ballots, a comparison of the unofficial final results and the audit results must be published on the website.

(5) An audit required pursuant to this section may not commence for an election subject to a recount until the recount has been completed.

(6) In connection with the promulgation of these rules, regulations, and procedures, the commission shall consult with recognized statistical experts, including statistical experts with experience in election auditing, equipment vendors, and local election administrators, and shall consider the best practices for conducting these risk‑limiting audits.”

SECTION 5. Chapter 25, Title 7 of the 1976 Code is amended by adding:

“Section 7‑25‑175. It is unlawful for any election board or commission in this State, or any member, official, employee, or agent thereof, to modify or agree to modify any mandatory provision of this title. Any person who violates this provision is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than three years.”

SECTION 6. Section 7‑3‑40 the 1976 Code is amended to read:

“Section 7‑3‑40. (A) The Bureau of Vital Statistics must furnish the executive director 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.

(B) The executive director shall ensure that information received in these monthly reports is compared against voter registration records for the purpose of identifying and removing deceased voters from the official list of eligible voters. The name of any registered voter who can be identified as deceased based on the information reported monthly by the bureau must be removed from the official list of eligible voters within thirty days receipt of such report.”

SECTION 7. Section 7‑5‑320(D) of the 1976 Code is amended to read:

“(D) A change of address form submitted in accordance with state law for purposes of a state motor vehicle driver’s license serves as notification of change of address for voter registration unless the qualified elector states on the form that the change of address is not for voter registration purposes. Any such change of address submission accepted by a state motor vehicle authority must be transmitted to the appropriate election board within the time frames provided in subsection (E) for transmitting accepted voter registration applications.”

SECTION 8. Section 7‑15‑340 of the 1976 Code is amended to read:

“Section 7‑15‑340. (A) The application required in Section 7‑15‑330 to be submitted to these election officials must be in a form prescribed and distributed by the State Election Commission; except that persons listed in Section 7‑15‑320(2), (3), (6), and (10) may use Standard Form 76, or any subsequent form replacing it, provided by the federal government as a simultaneous request for registration and an absentee ballot or a request for an absentee ballot if already registered.

(B)(1) The application must contain the following information: name, registration certificate number, address, absentee address, election of ballot request, election date, runoff preference, party preference, reason for request, oath of voter, and voter’s signature.

(2)(a) The absentee ballot application also shall require:

(i) the voter’s South Carolina driver’s license number or the voter’s personal identification card number or another form of identification containing a photograph issued by the South Carolina Department of Motor Vehicles; or

(ii) a photocopy of one of the forms of identification specified in Section 7‑13‑710(A).

(b) If the voter fails to comply with the requirements of this item, the county board of voter registration and elections shall inform the voter promptly, and the voter must be allowed to correct the problem.

(c) Voter identification information, or photocopies of a voter’s identification, submitted in conjunction with an application for an absentee ballot application is not subject to public inspection.

(3)(a) In order to be found eligible to vote an absentee ballot by mail, the appropriate elections official or employee shall compare the identifying information on the absentee ballot application with the information on file in the office of the county board of voter registration and elections and verify the voter’s identity based upon the identification provided by the voter pursuant to this subsection.

(b) In order to be found eligible to cast an in‑person absentee ballot at a duly designated location for in‑person absentee voting, the voter shall produce one of the forms of identification specified in Section 7‑13‑710(A) to the appropriate elections official or employee at the in‑person absentee voting location.

(C) For both mail‑in and in‑person absentee voting, if the voter registered to vote by mail but failed to attach one of the registration application’s required forms of identification and the voter is voting for the first time in this State, the absentee ballot application shall contain a photocopy of one of the forms of identification specified in Section 7‑13‑710(A). If the voter fails to include a photocopy of one of the forms of identification required in this subsection or if the photocopy is not legible, the county board of voter registration and elections shall inform the voter promptly, and the voter must be allowed to correct the problem.

(D) The oath must be as follows: ‘I do swear or affirm that I am a qualified elector, that I am entitled to vote in this election, and that I will not vote again during this election. The information above is true in all respects, and I hereby apply for an absentee ballot for the reason indicated above.’ Any person who fraudulently applies for an absentee ballot in violation of this section, upon conviction, must be punished in accordance with Section 7‑25‑20.”

SECTION 9. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 10. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Severability clause.

SECTION 11. This act takes effect upon approval by the Governor.

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