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Indicates New Matter

COMMITTEE REPORT

February 18, 2021

**H. 3444**

Introduced by Reps. Lucas, McGarry, Burns, Haddon, Pope, McCravy, Forrest, Caskey, McGinnis, Hosey, Hixon, Hewitt, Bailey, W. Newton and Herbkersman

S. Printed 2/18/21--H.

Read the first time January 12, 2021.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3444) to amend Section 7‑3‑10, Code of Laws of South Carolina, 1976, relating to the creation, composition, powers, and duties of the State Election Commission, 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, by deleting SECTION 1 and inserting:

/ SECTION 1. Section 7‑3‑10 of the 1976 Code is amended to read:

“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.~~

(A)(1) There is created the State Election Commission composed of nine members who must be appointed in the following manner:

(a) five members must be appointed by the Governor, no more than four of whom are members of the appointing Governor’s political party;

(b) two members must be appointed by the President of the Senate, one upon the recommendation of the members of the majority political party in the Senate and one upon the recommendation of the members of the largest minority political party in the Senate; and

(c) two members must be appointed by the Speaker of the House of Representatives, one upon the recommendation of the members of the majority political party in the House and one upon the recommendation of the members of the largest minority political party in the House.

(2) The terms of the members serving on the State Election Commission as of June 29, 2021, shall end on June 30, 2021. A member who is serving at that time and who has not completed a full four‑year term may be reappointed pursuant to this subsection. The initial appointments for service to begin on July 1, 2021, must be made as follows:

(a) two members appointed by the Governor must be appointed for a two‑year term;

(b) three members appointed by the Governor must be appointed for a four‑year term;

(c) one member appointed by the President of the Senate upon the recommendation of the members of the majority political party in the Senate shall serve a two‑year term;

(d) one member appointed by the President of the Senate upon the recommendation of the members of the largest minority political party of the Senate must be appointed for a four‑year term;

(e) one member appointed by the Speaker of the House of Representatives upon the recommendation of the members of the majority political party of the House of Representatives must be appointed for a two‑year term; and

(f) one member appointed by the Speaker of the House of Representatives upon the recommendation of the members of the largest minority political party of the House of Representatives must be appointed for a four‑year term.

The initial members who have served terms that are less than four years are eligible to be reappointed for one full four‑year term.

(B) The qualifications the appointing authorities shall consider for the appointees include, but are not limited to:

(1) constitutional qualifications;

(2) ethical fitness;

(3) character;

(4) mental stability;

(5) experience; and

(6) judicial temperament.

(C)(1) In addition to other information that may be requested, candidates for appointment must provide the following information to the appointing authority:

(a) the candidate’s membership in any civic, charitable, or social groups within the previous four years;

(b) a contribution made by the candidate to a candidate for Governor, Lieutenant Governor, or a member of the General Assembly within the previous four years; and

(c) a contribution, as defined in Section 8‑13‑1300(7), made by the candidate within the previous four years to a candidate as defined in Section 8‑13‑100(5).

(2) The appointing authorities shall make their appointments based on merit. However, in making appointments to the commission, the appointing authorities shall ensure that race, color, gender, national origin, and other demographic factors are considered to ensure the geographic and political balance of the appointments, and shall strive to assure that the membership of the commission will represent, to the greatest extent possible, all segments of the population of the State.

(3) The following are not eligible to serve on the State Election Commission:

(a) a person who is not registered to vote in the State;

(b) a candidate, as defined by Section 8-13-100(5);

(c) a current member of the General Assembly or former member of the General Assembly within eight years following the termination of his service in the General Assembly;

(d) a family member, as defined by Section 8‑13‑100(15), of a member of the General Assembly or the Governor, Lieutenant Governor, or other statewide elected official, or a candidate, as defined by Section 8‑13‑100(5);

(e) a person who made a campaign contribution, as defined by Section 8‑13‑1300(7), within the previous four years to the Governor or member of the General Assembly who appointed the person to serve on the State Election Commission, as well as that Governor’s Lieutenant Governor; or

(f) a person who registered as a lobbyist within four years of being appointed to the State Election Commission.

(D) No member of the commission may participate in political activities 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 pursuant to subsection (G).

(E) The terms of the members are for four years. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term only. Members of the commission who serve less than a full four‑year term may be reappointed for one full four‑year term. Members of the commission who have completed a full four‑year term are not eligible for reappointment. A member shall not serve on the commission in hold‑over status after the member’s term expires.

(F) The commission shall elect a chairman, vice chairman, and such other officers as it considers necessary. Five members of the commission shall constitute a quorum. The commission must adopt a policy concerning the attendance of its members at commission meetings. 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. Members of the commission, while serving on business of the commission, receive per diem, mileage, and subsistence as provided by law for members of state boards, committees, and commissions.

(G)(1) A commission member appointed by the Governor may be removed from office by the Governor for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity pursuant to Section 1‑3‑240.

(2) A commission member appointed by the President of the Senate may be removed for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity upon a vote of two‑thirds of the membership of the Senate.

(3) A commission member appointed by the Speaker of the House of Representatives may be removed for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity upon a vote of two‑thirds of the membership of the House of Representatives.

(H) The commission and the executive director shall have the powers and duties as enumerated in this title, including plenary authority to supervise and standardize the performance, conduct, and practices of the county board of elections and voter registration, as established pursuant to Article 1, Chapter 5 to administer elections and voter registration in the State and ensure those boards’ compliance with applicable state or federal law or State Election Commission policies, procedures, and regulations regarding the conduct of elections or the voter registration process by all persons involved in the elections process. The State Election Commission may promulgate regulations necessary to effectuate the provisions of this subsection.” /

Renumber sections to conform.

Amend title to conform.

CHRIS MURPHY for Committee.

**A** **BILL**

TO AMEND SECTION 7‑3‑10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CREATION, COMPOSITION, POWERS, AND DUTIES OF THE STATE ELECTION COMMISSION, SO AS TO RECONSTITUTE THE STATE ELECTION COMMISSION AND REVISE THE COMMISSION’S COMPOSITION, POWERS, AND DUTIES; AND TO AMEND SECTIONS 7‑17‑70 AND 7‑17‑220, BOTH RELATING TO MEETINGS OF THE STATE BOARD, SO AS TO MAKE CONFORMING CHANGES.

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

SECTION 1. Section 7‑3‑10 of the 1976 Code is amended to read:

“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.~~

(A)(1) There is created the State Election Commission composed of eight members who must be appointed in the following manner:

(a) four members must be appointed by the Governor, no more than two of whom are members of the appointing Governor’s political party;

(b) two members must be appointed by the President of the Senate, one upon the recommendation of the members of the majority political party in the Senate and one upon the recommendation of the members of the largest minority political party in the Senate; and

(c) two members must be appointed by the Speaker of the House of Representatives, one upon the recommendation of the members of the majority political party in the House and one upon the recommendation of the members of the largest minority political party in the House.

(2) The terms of the members serving on the State Election Commission as of June 29, 2021, shall end on June 30, 2021. A member who is serving at that time and who has not completed a full four‑year term may be reappointed pursuant to this subsection. The initial appointments for service to begin on July 1, 2021, must be made as follows:

(a) two members appointed by the Governor must be appointed for a two‑year term;

(b) two members appointed by the Governor must be appointed for a four‑year term;

(c) one member appointed by the President of the Senate upon the recommendation of the members of the majority political party in the Senate shall serve a two‑year term;

(d) one member appointed by the President of the Senate upon the recommendation of the members of the largest minority political party of the Senate must be appointed for a four‑year term;

(e) one member appointed by the Speaker of the House of Representatives upon the recommendation of the members of the majority political party of the House of Representatives must be appointed for a two‑year term; and

(f) one member appointed by the Speaker of the House of Representatives upon the recommendation of the members of the largest minority political party of the House of Representatives must be appointed for a four‑year term.

The initial members who have served terms that are less than four years are eligible to be reappointed for one full four‑year term.

(B) The qualifications the appointing authorities shall consider for the appointees include, but are not limited to:

(1) constitutional qualifications;

(2) ethical fitness;

(3) character;

(4) mental stability;

(5) experience; and

(6) judicial temperament.

(C)(1) In addition to other information that may be requested, candidates for appointment must provide the following information to the appointing authority:

(a) the candidate’s membership in any civic, charitable, or social groups within the previous four years;

(b) a contribution made by the candidate to a candidate for Governor, Lieutenant Governor, or a member of the General Assembly within the previous four years; and

(c) a contribution, as defined in Section 8‑13‑1300(7), made by the candidate within the previous four years to a candidate as defined in Section 8‑13‑100(5).

(2) The appointing authorities shall make their appointments based on merit. However, in making appointments to the commission, the appointing authorities shall ensure that race, color, gender, national origin, and other demographic factors are considered to ensure the geographic and political balance of the appointments, and shall strive to assure that the membership of the commission will represent, to the greatest extent possible, all segments of the population of the State.

(3) The following are not eligible to serve on the State Election Commission:

(a) a person who is a candidate, as defined by Section 8‑13‑100(5);

(b) a member of the General Assembly;

(c) a former member of the General Assembly within eight years following the termination of his service in the General Assembly;

(d) a family member, as defined by Section 8‑13‑100(15), of a member of the General Assembly or the Governor, Lieutenant Governor, or other statewide elected official, or a candidate, as defined by Section 8‑13‑100(5);

(e) a person who made a campaign contribution, as defined by Section 8‑13‑1300(7), within the previous four years to the Governor who appointed the person to serve on the State Ethics Commission, as well as that Governor’s Lieutenant Governor; or

(f) a person who registered as a lobbyist within four years of being appointed to the State Election Commission.

(D) 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 pursuant to subsection (G).

(E) The terms of the members are for four years. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term only. Members of the commission who serve less than a full four‑year term may be reappointed for one full four‑year term. Members of the commission who have completed a full four‑year term are not eligible for reappointment. A member shall not serve on the commission in hold‑over status after the member’s term expires.

(F) The commission shall elect a chairman, vice chairman, and such other officers as it considers necessary. Five members of the commission shall constitute a quorum. The commission must adopt a policy concerning the attendance of its members at commission meetings. 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. Members of the commission, while serving on business of the commission, receive per diem, mileage, and subsistence as provided by law for members of state boards, committees, and commissions.

(G)(1) A commission member appointed by the Governor may be removed from office by the Governor for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity pursuant to Section 1‑3‑240.

(2) A commission member appointed by the President of the Senate may be removed for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity upon a vote of two‑thirds of the membership of the Senate.

(3) A commission member appointed by the Speaker of the House of Representatives may be removed for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity upon a vote of two‑thirds of the membership of the House of Representatives.

(H) The commission and the executive director shall have the powers and duties as enumerated in this title, including plenary authority to supervise and standardize the performance, conduct, and practices of the county board of elections and voter registration, as established pursuant to Article 1, Chapter 5 to administer elections and voter registration in the State and ensure those boards’ compliance with applicable state or federal law or State Election Commission policies, procedures, and regulations regarding the conduct of elections or the voter registration process by all persons involved in the elections process. The State Election Commission may promulgate regulations necessary to effectuate the provisions of this subsection.”

SECTION 2. Section 7‑17‑70 of the 1976 Code is amended to read:

“Section 7‑17‑70. Unless otherwise provided in Section 7‑3‑10~~(c)~~(F), the state board must meet in Columbia not later than noon on Monday fourteen days following the filing of any notice perfected under Section 7‑17‑60 for the purpose of hearing appeals. The appellant and each other candidate in the protested race have the right to be present at the hearing, to be represented by counsel, and to be heard on the merits of the appeal. The state board is bound by the facts as determined by the county board. However, if in the opinion of at least two members of the state board the facts should be reviewed, then a hearing de novo must be held by the state board. In the event of a review of the facts, the state board may receive any new evidence or exhibits as it in its discretion considers necessary to determine the appeal. The state board must remain in session until all appeals have been disposed of.”

SECTION 3. Section 7‑17‑220 of the 1976 Code is amended to read:

“Section 7‑17‑220. Unless otherwise provided in Section 7‑3‑10~~(c)~~(F), the Board of State Canvassers shall convene a meeting scheduled through the office of the Election Commission within ten days after any general election for the purpose of canvassing the vote for all officers voted for at such election, including the vote for the electors for President and Vice President, and for the purpose of canvassing the vote on all Constitutional Amendments and questions and other issues. Nothing in this section prohibits the meeting from being conducted by using telephone conference or other means of telecommunication or electronic communication. Any meeting of the Board of Canvassers as provided in this section must be accessible and without cost to the public and must comply with the notice requirements of Chapter 4, Title 30, the Freedom of Information Act.”

SECTION 4. This act takes effect upon approval by the Governor.

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