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Summary: Election Reform Act

**HISTORY OF LEGISLATIVE ACTIONS**

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2/2/2009 Senate Referred to Subcommittee: Campsen (ch), Cleary, Scott

**VERSIONS OF THIS BILL**

[1/28/2009](file:///p:\pprever\2009-10\334_20090128.docx)

**A** **BILL**

TO ENACT THE “SOUTH CAROLINA ELECTION REFORM ACT”; TO AMEND SECTION 7‑1‑60 OF 1976 CODE, RELATING TO EACH OFFICE AS A SEPARATE AND DISTINCT OFFICE, TO PROVIDE THAT A CANDIDATE’S NAME MAY ONLY APPEAR ON THE BALLOT ONCE FOR THE SAME OFFICE; TO AMEND SECTION 7‑13‑72, RELATING TO POLL MANAGERS, TO PROVIDE CERTAIN DISQUALIFICATIONS FOR A PERSON TO BE APPOINTED A POLL MANAGER, TO PROVIDE THAT PERSONS APPOINTED AS POLL MANAGERS SHOULD BE FAIRLY REPRESENTATIVE OF THE TWO LARGEST POLITICAL PARTIES IN THE COUNTY TO THE EXTENT POSSIBLE, AND TO ALLOW POLL MANAGERS TO SERVE LESS THAN THE ENTIRE TIME THE POLLS ARE OPEN; TO AMEND SECTION 7‑15‑410, TO REQUIRE AN EARLY VOTING PRECINCT IN EACH COUNTY TO ALLOW ELECTORS TO VOTE DURING THE FOUR WEEKS PRECEDING AN ELECTION; TO AMEND SECTION 7‑13‑710, RELATING TO THE IDENTIFICATION A PERSON MUST PRESENT IN ORDER TO VOTE, TO REQUIRE A PERSON TO PRESENT PHOTO IDENTIFICATION OR EXECUTE AN AFFIDAVIT INDICATING THAT THE PERSON HAS A RELIGIOUS OBJECTION TO BEING PHOTOGRAPHED; TO AMEND SECTIONS 7‑25‑20, 7‑25‑70, AND 7‑25‑120, ALL RELATING TO VIOLATIONS OF THE ELECTION LAWS, TO PROVIDE THAT A FIRST OFFENSE IS A MISDEMEANOR AND ANY SECOND OR SUBSEQUENT OFFENSE IS A FELONY, AND TO IMPOSE UNIFORM PENALTIES; TO AMEND SECTION 7‑25‑110, RELATING TO VOTING TWICE IN ONE ELECTION, TO PROVIDE THAT THE OFFENSE MUST BE DONE KNOWINGLY, AND TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON TO CAST A VOTE FOR ANY OFFICE IN THIS STATE FOR WHICH RESIDENCY IN A PARTICULAR PRECINCT OR DISTRICT IS REQUIRED IF THE PERSON HAS VOTED IN OR INTENDS TO VOTE FOR ANOTHER SUBSTANTIALLY SIMILAR OFFICE; AND TO AMEND SECTION 7‑25‑190, RELATING TO GENERAL OFFENSES AGAINST THE ELECTION LAWS, TO PROVIDE FOR A UNIFORM FINE.

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

SECTION 1. This act may be cited as the “South Carolina Election Reform Act”.

SECTION 2. Section 7‑1‑60 of the 1976 Code is amended to read:

“Section 7‑1‑60. (A) Each multiple office in this State shall constitute a separate and distinct office to which a separate number shall be assigned within each election district for such an office. A candidate for such an office shall be required to qualify for a specific office and shall not be permitted to qualify for more than one such office in any one election.

(B) The election ballots for multiple offices shall reflect the number assigned to each office and the names of the candidates.

(C) A candidate’s name may only appear on the ballot once for a specific office. If a candidate is nominated for a specific office by more than one party, the candidate must decline all but one of the nominations. A candidate’s decline of a nomination pursuant to this subsection has the same effect for purposes of substituting a candidate as if the candidate had resigned for a legitimate nonpolitical reason.”

SECTION 3. Section 7‑13‑72 of the 1976 Code is amended to read:

“Section 7‑13‑72. (A) For the general election held on the first Tuesday following the first Monday in November in each even‑numbered year, the commissioners of election must appoint three managers of election for each polling place in the county for which they must respectively be appointed for each five hundred electors, or portion of each five hundred electors, registered to vote at the polling place.

(B) For primary elections held on the second Tuesday in June of each general election year, the commissioners of election must appoint three managers of election for each polling place in the county for which they must respectively be appointed for the first five hundred electors registered to vote in each precinct in the county, and may appoint three additional managers for each five hundred electors registered to vote in the precinct above the first five hundred electors, or portion thereof. The commissioners must also appoint from among the managers a clerk for each polling place in the county, and none of the officers may be removed from office except for incompetence or misconduct.

(C) For all other primary, special, or municipal elections, the authority charged by law with conducting the primary, special, or municipal elections must appoint three managers of election for the first five hundred electors registered to vote in each precinct in the county, municipality, or other election district and one additional manager for each five hundred electors registered to vote in the precinct above the first five hundred electors. The authority responsible by law for conducting the election must also appoint from among the managers a clerk for each polling place in a primary, special, or municipal election.

(D) No person may be appointed as a poll manager who has been convicted of a violation of the election laws, removed for incompetence or misconduct while previously serving as a poll manager, or if the election commission determines that the person negligently or intentionally failed to enforce the election laws during any prior election that the person served as a poll manager. Any registered voter in the precinct for which the person is appointed to serve as a poll manager may contest the appointment for any of the disqualifying reasons provided in this subsection. As soon as practicable after the filing of a contest, the county election commission will hold a hearing to determine if good cause exists to disqualify the person from serving as a poll manager and the decision of the county election commission shall be final.

(E) Forty‑five days prior to any primary, except municipal primaries, each political party holding a primary may submit to the county election commission a list of prospective managers for each precinct. The county election commission must appoint at least one manager for each precinct from the list of names submitted by each political party holding a primary. However, the county election commission may refuse to appoint any prospective manager for good cause.

(F) Forty‑five days prior to all other elections, the largest political party and the second largest political party in the county as determined by the composition of that county’s delegation in the General Assembly or the makeup of the General Assembly as a whole if the county’s delegation is composed of only one party’s members, may also submit a list of managers for each precinct in the manner provided by subsection (E) and the county election commission shall ensure that the political affiliation of the poll managers appointed for each precinct are fairly representative of the two largest political parties to the extent possible. This provision does not prohibit the county election commission from appointing persons affiliated with other political parties or persons with no party affiliation.

(G) No person may be appointed as a manager in a primary, general, or special election who has not completed a training program approved by the State Election Commission concerning his duties and responsibilities as a poll manager and who has not received certification of having completed the training program. The training program and the issuance of certification must be carried out by the county election commission. After their appointment, the managers and clerks must take and subscribe, before any officer authorized to administer oaths, the following oath of office prescribed by Section 26 of Article III of the Constitution: ‘I do solemnly swear (or affirm) that I am duly qualified, according to the Constitution of this State, to exercise the duties of the office to which I have been appointed, and that I will, to the best of my ability, discharge the duties thereof, and preserve, protect and defend the Constitution of this State and of the United States. So help me God’.

(H) The oath must be immediately filed in the office of the clerk of court of common pleas of the county in which the managers and clerks are appointed, or if there is no clerk of court, in the office of the Secretary of State. Before opening the polls, the managers of election must take and subscribe the oath provided for in Section 7‑13‑100. Upon the completion of the canvassing of votes, this oath must be filed with the commissioners of election along with the ballots from that election precinct.

(I) The county election commission may adopt a procedure that allows poll managers to serve less than the entire time the polls are open pursuant to Section 7‑13‑60, so long as the procedure includes measures to ensure that the transfer of authority between managers is conducted in a secure manner and is clearly documented so it can be readily determined who was serving as manager at any particular time.”

SECTION 4. Section 7‑15‑410 of the 1976 Code is amended to read:

“Section 7‑15‑410. (A) In each county there must be established an ~~absentee~~ early voting precinct located in the office of the county board of registration. The county election commission, municipal election commission, county committee for each political party, or executive committee of each municipal party in the case of primary elections is responsible for the tabulation and reporting of ballots at the ~~absentee~~ early voting precinct. The ~~absentee~~ ballots must remain in the custody of the county board of registration until transferred to the county election commission, municipal election commission, county committee for each political party or executive committee of each municipal party for the purpose of tabulation and reporting as provided in Section 7‑15‑420.

(B) The early voting precinct in each county must allow qualified electors to vote for the same offices the voter would otherwise be eligible to vote for at his precinct on the day of election. The early voting precinct must be open Monday through Friday during regular business hours for four weeks preceding the election.”

SECTION 5. Section 7‑13‑710 of the 1976 Code is amended to read:

“Section 7‑13‑710. (A) When any person presents himself to vote, he shall produce ~~his valid South Carolina driver’s license or other form of identification containing a photograph issued by the Department of Motor Vehicles, if he is not licensed to drive, or the written notification of registration provided for by Sections 7‑5‑125 and 7‑5‑180 if the notification has been signed by the elector~~ either a valid South Carolina driver’s license or a valid photo identification card issued by the Department of Motor Vehicles if he is not licensed to drive.

(B) A person is not required to present photo identification pursuant to subsection (A) if the voter executes an affidavit, on a form prescribed by the State Election Commission that includes the person’s address, affirming under the penalty of perjury that the voter has a religious objection to being photographed. In addition to the affidavit required by this subsection, the person must also present his written notification of registration provided for by Sections 7‑5‑125 and 7‑5‑180. If the elector loses or defaces his registration notification, he may obtain a duplicate notification from his county board of registration upon request in person, or by telephone or mail.

~~(B)~~(C) After presentation of the required identification, his name must be checked by one of the managers on the margin of the page opposite his name upon the registration books, or copy of the books, furnished by the board of registration. The managers shall keep a poll list which must contain one column headed ‘Names of Voters’. Before any ballot is delivered to a voter, the manager must confirm with the voter that the address on his photo identification card or the affidavit and the voter registration card the voter presents is his current address and that the address matches the address listed on the registration books and the voter shall sign his name on the poll list, which must be furnished to the appropriate election officials by the State Election Commission. At the top of each page the voter’s oath appropriate to the election must be printed. The signing of the poll list or the marking of the poll list is considered to be an affirmation of the oath by the voter. One of the managers shall compare the signature on the poll list with the signature on the voter’s driver’s license, registration notification, or other identification and may require further identification of the voter and proof of his right to vote under this title as he considers necessary. If the voter is unable to write or if the voter is prevented from signing by physical handicap, he may sign his name to the poll list by mark with the assistance of one of the managers.”

SECTION 6. Section 7‑25‑20 of the 1976 Code is amended to read:

“Section 7‑25‑20. It is unlawful for a person to fraudulently:

(1) procure the registration of a name on the books of registration;

(2) offer or attempt to vote that name;

(3) offer or attempt to vote in violation of this title or under any false pretense as to circumstances affecting his qualifications to vote; or

(4) aid, counsel, or abet another in fraudulent registration or fraudulent offer or attempt to vote.

A person who violates the provisions of this section for a first offense is guilty of a misdemeanor and, upon conviction, must be fined not less than ~~one~~ five hundred dollars nor more than ~~five hundred~~ three thousand dollars or imprisoned not more than ~~one year~~ three years, or both. A person who violates this section for any second or subsequent offense is guilty of a felony and must be fined not less than two thousand nor more than five thousand dollars, or imprisoned for not more than five years, or both.”

SECTION 7. Section 7‑25‑70 of the 1976 Code is amended to read:

“Section 7‑25‑70. It is unlawful for a person, by threats or any other form of intimidation, to procure, offer, or promise to endeavor to procure another to vote for or against any particular candidate in any election. A person who violates the provisions of this section for a first offense is guilty of a misdemeanor and, upon conviction, must be fined not less than ~~one~~ five hundred dollars nor more than ~~five hundred~~ three thousand dollars or imprisoned not more than three years, or both. A person who violates this section for any second or subsequent offense is guilty of a felony and must be fined not less than two thousand nor more than five thousand dollars, or imprisoned for not more than five years, or both.”

SECTION 8. Section 7‑25‑110 of the 1976 Code is amended to read:

“Section 7‑25‑110. (A) It is unlawful for a person qualified to vote at any general, special, or primary election for an office whether local, state, or federal to knowingly vote more than once at such election, for the same office.

(B) It is unlawful for a person to knowingly cast a vote for any office in this State for which residency in a particular precinct or district is required if the person has voted in or intends to vote for a substantially similar office for which residency in a different precinct, district, or state is required during the same election or an election held at a substantially similar time. Notwithstanding any other provision of law, evidence that a person or persons has violated the provisions of this subsection is grounds to challenge the results of an election. This provision does not relieve the challenger of any time limit, burden of proof, or requirement to show that a vote cast in violation of this subsection would have affected the outcome of the election.”

SECTION 9. Section 7‑25‑120 of the 1976 Code is amended to read:

“Section 7‑25‑120. It is unlawful for a person to impersonate or attempt to impersonate another person for the purpose of voting in a general, special, or primary election, whether ~~municipal or State~~ local, state, or federal. A person who violates the provisions of this section for a first offense is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years or fined not less than ~~three~~ five hundred dollars nor more than ~~twelve hundred~~ three thousand dollars, or both. ~~When a person who violates the provisions of this section is placed under bond, the bond may not be less than six hundred dollars nor more than twelve hundred dollars.~~ A person who violates this section for any second or subsequent offense is guilty of a felony and must be fined not less than two thousand nor more than five thousand dollars, or imprisoned for not more than five years, or both.”

SECTION 10. Section 7‑25‑190 of the 1976 Code is amended to read:

“Section 7‑25‑190. A person who votes at any general, special, or primary election who is not entitled to vote, or who by force, intimidation, deception, fraud, bribery, or undue influence obtains, procures, or controls the vote of any voter to be cast for any candidate or measure other than as intended or desired by such voter, or who violates any of the provisions of this title in regard to general, special, or primary elections is guilty of a felony. Upon conviction, the person must be fined not less than ~~one~~ five hundred nor more than ~~one~~ five thousand dollars or imprisoned not more than five years, or both.”

SECTION 11. If any section, subsection, item, subitem, 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, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, items, subitems, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

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

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