~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 22, 2012

**S. 1088**

Introduced by Senators McConnell and Ford

S. Printed 2/22/12--S.

Read the first time January 11, 2012.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 1088) to amend statutes creating certain boards and commissions whose members are appointed or elected by congressional district, which are under the jurisdiction of the South Carolina Senate, 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 striking it in its entirety and inserting the following:

/ A BILL

TO AMEND STATUTES CREATING CERTAIN BOARDS AND COMMISSIONS WHOSE MEMBERS ARE APPOINTED OR ELECTED BY CONGRESSIONAL DISTRICT, WHICH ARE UNDER THE JURISDICTION OF THE SOUTH CAROLINA SENATE JUDICIARY COMMITTEE PURSUANT TO SOUTH CAROLINA SENATE RULE 19, RELATING TO THE STATE HUMAN AFFAIRS COMMISSION, THE STATE COMMISSION ON MINORITY AFFAIRS, THE STATE ETHICS COMMISSION, THE PUBLIC SERVICE COMMISSION, THE PUBLIC SERVICE AUTHORITY, THE DIVISION FOR THE REVIEW OF THE FOSTER CARE OF CHILDREN, THE CHILDREN’S TRUST FUND OF SOUTH CAROLINA, AND THE BOARD OF JUVENILE PAROLE, NAMELY, SECTION 1‑13‑40, SECTION 1‑31‑10, SECTION 8‑13‑310, SECTION 58‑3‑20, SECTION 58‑31‑20, SECTION 63‑11‑700, SECTION 63‑11‑920, AND SECTION 63‑19‑610 OF THE SOUTH CAROLINA CODE OF LAWS, 1976, SO AS TO PROVIDE FOR THE ADDITIONAL CONGRESSIONAL DISTRICT ASSIGNED TO SOUTH CAROLINA PURSUANT TO THE 2010 CENSUS.

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

SECTION 1. Section 1‑13‑40(b) of the 1976 Code is amended to read as follows:

“(b) The Commission shall consist of ~~fifteen members, with two members~~ a member from each congressional district appointed by the Governor, with the advice and consent of the Senate, and ~~three~~ two members at large appointed by the Governor. ~~The first appointed members from the first and second congressional districts and one at large member shall serve until June, 1984. The first appointed members from the third and fourth congressional districts and one at large member shall serve until June, 1985.~~ ~~Thereafter all~~ Each member~~s~~ shall serve for a term of three years and until their successors are appointed and qualify. Vacancies shall be filled in the manner of the original appointment for the unexpired term.”

SECTION 2. Section 1‑31‑10 of the 1976 Code is amended to read as follows:

“Section 1‑31‑10 There is created a State Commission for Minority Affairs consisting of nine members and the Governor ex officio. The Governor must appoint one person from each of the ~~six~~ congressional districts of the State and ~~three~~ two persons from the State at large upon the advice and consent of the Senate. The Governor shall designate the chairman. The members serve for a term of four years and until their successors are appointed and qualify. A vacancy must be filled in the same manner as original appointment for the remainder of the unexpired term. A majority of the members of the commission must be African American.”

SECTION 3. Section 8‑13‑310(B) of the 1976 Code is amended to read as follows:

“(B) There is created the State Ethics Commission composed of nine members appointed by the Governor, upon the advice and consent of the General Assembly. One member shall represent each of the ~~six~~ seven congressional districts, and ~~three~~ two members must be appointed from the State at large. No member of the General Assembly or other public official shall be eligible to serve on the State Ethics Commission. The Governor shall make the appointments based on merit regardless of race, color, creed, or gender and shall strive to assure that the membership of the commission is representative of all citizens of the State of South Carolina.”

SECTION 4. Section 58‑3‑20(D) and (E) of the 1976 Code are amended to read as follows:

“(D)(1) Beginning in 2004, the members of the Public Service Commission must be elected to staggered terms. In 2004, the members representing the second, fourth, and sixth congressional districts must be elected for terms ending on June 30, 2006, and until their successors are elected and qualify. Thereafter, members representing the second, fourth, and sixth congressional districts must be elected to terms of four years and until their successors are elected and qualify. In 2004, the members representing the first, third, and fifth congressional districts and the State at‑large must be elected for terms ending on June 30, 2008, and until their successors are elected and qualify. Thereafter, members representing the first, third, and fifth congressional districts and the State at‑large must be elected to terms of four years and until their successors are elected and qualify.

(2) In the event there are seven congressional districts, the member elected from the State at‑large shall serve until the expiration of his term, and thereafter a member representing the seventh congressional district must be elected in the same manner and for the same term duration as the State at‑large member described in (D)(1). Upon the election and qualification of the inaugural member representing the seventh congressional district, the position representing the State at‑large shall be abolished.

(E) The General Assembly must provide for the election of the seven‑member commission and elect its members based upon the congressional districts established by the General Assembly pursuant to the latest official United States Decennial Census. ~~If the number of congressional districts is less than seven, additional members must be elected at large to provide for a seven‑member commission.~~ In the event the congressional districts established by the General Assembly are under review by a court for compliance with statutory or constitutional requirements, an election scheduled pursuant to subsection (D) shall not be held until a final determination is made by the courts regarding the congressional districts. The inability to hold an election due to judicial review of the congressional districts does not constitute a vacancy on the commission and the commissioners will serve until their successors are elected and qualify.”

SECTION 5. Section 58‑31‑20(A) of the 1976 Code is amended to read as follows:

“(A) The Public Service Authority consists of a board of eleven directors who reside in South Carolina and who shall have the qualifications stated in this section, as determined by the State Regulation of Public Utilities Review Committee pursuant to Section 58‑3‑530(14), before being appointed by the Governor with the advice and consent of the Senate as follows: one from each congressional district of the State; one from each of the counties of Horry, Berkeley, and Georgetown who reside in authority territory and are customers of the authority; and ~~two~~ one from the State at large, ~~one of whom~~ who shall be chairman. Two of the directors shall have substantial work experience within the operations of electric cooperatives or substantial experience on an electric cooperative board~~,~~. ~~but must not~~ No director may serve as an employee or board member of an electric cooperative during ~~their~~ his term as director. Each director shall serve for a term of seven years, except as provided in this section. At the expiration of the term of each director and of each succeeding director, the Governor must appoint with the advice and consent of the Senate a successor, who shall hold office for a term of seven years or until his successor has been appointed and qualified. In the event of a director vacancy due to death, resignation, or otherwise, the Governor must appoint the director’s successor, with the advice and consent of the Senate, and the successor‑director shall hold office for the unexpired term. No director shall receive a salary for services as director until the authority is in funds, but each director must be paid his actual expense in the performance of his duties hereunder, the actual expense to be advanced from the contingent fund of the Governor until such time as the Public Service Authority is in funds, at which time the contingent fund shall be reimbursed. After the Public Service Authority is in funds, the compensation and expenses of each member of the board shall be paid from such funds, and the compensation and expenses must be fixed by the advisory board hereinafter established. Members of the board of directors may be removed for cause, as established in Section 1‑3‑240(C), by the Governor of the State, the advisory board, or a majority thereof. No member of the General Assembly of the State of South Carolina shall be eligible for appointment as director of the Public Service Authority during the term of his office. No more than two members from the same county shall serve as directors at any time.”

SECTION 6. Section 63‑11‑700(A) of the 1976 Code is amended to read as follows:

“(A) There is created, as part of the Office of the Governor, the Division for Review of the Foster Care of Children. The division must be supported by a board consisting of seven members, all of whom must be past or present members of local review boards. There must be one member from each congressional district ~~and one member from the State at large~~, all appointed by the Governor with the advice and consent of the Senate.”

SECTION 7. Section 63‑11‑920 of the 1976 Code is amended to read as follows:

“Section 63‑11‑920. There is created the Board of Directors for the Children’s Trust Fund of South Carolina composed of seventeen members appointed by the Governor, ~~eleven~~ ten at large from the State from nominees of the Board of Directors of the Children’s Trust Fund, plus one from each of the state’s congressional districts. Members shall serve for terms of four years and until successors are appointed and qualify. Vacancies for any reason must be filled in the manner of the original appointment for the unexpired term.

Members may be paid per diem, mileage, and subsistence as established by the board not to exceed the amounts provided by law for state boards, committees, and commissions. A complete report of the activities of the trust fund must be made annually to the General Assembly.”

SECTION 8. Section 63‑19‑610(A) of the 1976 Code is amended to read as follows:

“(A)(1) There is created ~~under the~~ ~~Department of Juvenile Justice~~ the Board of Juvenile Parole. The parole board is composed of ~~ten~~ seven members appointed by the Governor with the advice and consent of the Senate. ~~Of these members, one must be appointed from each of the six congressional districts and four members must be appointed from the State at large.~~ In making these appointments, the Governor shall select members who are representative of the racial, gender, and geographical diversity of the State. If a vacancy occurs on the parole board when the Senate is not in session, the Governor may appoint a member to fill the vacancy and the appointee is a de facto member until the Senate acts upon the appointment.

(2) The Department of Juvenile Justice shall continue to provide to the Board of Juvenile Parole the budgetary, fiscal, personnel, and training information resources and other support considered necessary by the parole board to perform its mandated functions.”

SECTION 9. The General Assembly finds that the sections presented in this act constitute one subject as required by Article III, Section 17 of the South Carolina Constitution, in particular finding that each change and each topic relates directly to or in conjunction with other sections on the subject of agencies, boards, commissions or committees that fall under the jurisdiction of the South Carolina Senate Judiciary Committee pursuant to Senate Rule 19, and whose membership is determined by congressional district.

SECTION 10. Due to the Congressional redistricting, any person elected or appointed to serve, or serving, as a member of any board, commission, or committee to represent a Congressional district, whose residency is transferred to another district by a change in the composition of the district, may serve, or continue to serve, the term of office for which he was elected or appointed; however, the appointing or electing authority shall appoint or elect an additional member on that board, commission, or committee from the district which loses a resident member on it as a result of the transfer to serve until the term of the transferred member expires. When a vacancy occurs in the district to which a member has been transferred, the vacancy must not be filled until the full term of the transferred member expires. Further, the inability to hold an election or to make an appointment due to judicial review of the congressional districts does not constitute a vacancy.

SECTION 11. This act shall become effective upon approval of the Governor. /

Renumber sections to conform.

Amend title to conform.

LUKE A. RANKIN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The Senate, House of Representatives and the Department of Juvenile Justice all report that there will be no fiscal impact on the General Fund of the State or on federal and/or other funds.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

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

SECTION 1. The 1976 Code is amended as follows:

SECTION 2. This act takes effect upon approval by the Governor.

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