COMMITTEE REPORT

January 25, 2012

**H. 4549**

Introduced by Rep. Clemmons

S. Printed 1/25/12--H. [SEC 1/26/12 3:50 PM]

Read the first time January 10, 2012.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 4549) to amend the Code of Laws of South Carolina, 1976, by adding Section 7‑3‑70 so as to require a third‑party voter registration organization operating in this State, 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 all after the enacting words and inserting:

/ SECTION 1. Chapter 3, Title 7 of the 1976 Code is amended by adding:

“Section 7‑3‑70. (A) For purposes of this section, ‘third‑party registration organization’ means a person, entity, or organization collecting voter registration applications. A third‑party voter registration organization does not include:

(1) a person who seeks only to register to vote or collect voter registration applications from that person’s spouse, child, or parent; or

(2) a person engaged in registering to vote or collecting voter registration applications as an employee of the State Election Commission, a county board of registration, or another state or local agency or department authorized by law to collect voter registration applications.

(B) Before engaging in voter registration activities, a third‑party voter registration organization must register and provide to the State Election Commission, in an electronic format, the following information:

(1) the names of the officers of the organization and the name and permanent address of the organization;

(2) the name and address of the organization’s registered agent in the State;

(3) the names, permanent addresses, and temporary addresses, if any, of each registration agent registering persons to vote in this State on behalf of the organization; and

(4) a sworn statement from each registration agent employed by or volunteering for the organization, stating that the agent will obey all state laws and rules regarding the registration of voters. This statement must be on a form containing notice of applicable penalties for false registration.

(C) The State Election Commission shall make voter registration forms available to third‑party voter registration organizations. All of these forms must contain information identifying the organization to which the forms are provided. The commission shall maintain a database of all third‑party voter registration organizations and the voter registration forms assigned to the third‑party voter registration organization. Each county board of registration shall provide to the commission information on voter registration forms assigned to and received from third‑party voter registration organizations. The information must be provided in a format and at times required by the commission. The commission must update information on third‑party voter registrations daily and make the information publicly available.

(D)(1) A third‑party voter registration organization that collects voter registration applications serves as a fiduciary to the applicant, ensuring that a voter registration application entrusted to the organization, irrespective of party affiliation, race, ethnicity, or gender, must be promptly delivered to the appropriate registration office within five days after the applicant completes it or the next business day if the appropriate office is closed for that forty‑eight hour period. If a voter registration application collected by a third‑party voter registration organization is not promptly delivered to the appropriate registration office, the third‑party voter registration organization is liable for the following fines:

(a) a fine in the amount of fifty dollars for each application received by the appropriate registration office more than forty‑eight hours after the applicant delivered the completed voter registration application to the third‑party voter registration organization, or a person, entity, or agent acting on its behalf, or the next business day, if the office is closed. A fine in the amount of two hundred fifty dollars for each application received if the third‑party voter registration organization, or person, entity, or agency acting on its behalf acted wilfully;

(b) a fine in the amount of one hundred dollars for each application collected by a third‑party voter registration organization, or a person, entity, or agent acting on its behalf, before book closing for any given election for federal or state office and received by the appropriate registration office after the book‑closing deadline for that election. A fine in the amount of five hundred dollars for each application received if the third‑party registration organization, or person, entity, or agency acting on its behalf acted wilfully;

(c) a fine in the amount of five hundred dollars for each application collected by a third‑party voter registration organization, or a person, entity, or agent acting on its behalf, which is not submitted to the appropriate registration office. A fine in the amount of one thousand dollars for an application not submitted if the third‑party voter registration organization, or person, entity, or agency acting on its behalf acted wilfully.

(d) All fines assessed by the South Carolina Elections Commission pursuant to this section must be collected by the commission and remitted to the General Fund of the State.

The maximum aggregate fine that may be assessed pursuant to this section against a third‑party voter registration organization, including affiliate organizations, for violations committed in a calendar year is one thousand dollars.

(2) A showing by the third‑party voter registration organization that the failure to deliver the voter registration application within the required time frame is based upon force majeure or impossibility of performance must be an affirmative defense to a violation of this subsection. The Executive Director of the State Election Commission may waive the fines described in this subsection upon a showing that the failure to deliver the voter registration application promptly is based upon force majeure or impossibility of performance.

(E) If the Executive Director of the State Election Commission reasonably believes that a person has committed a violation of this section, the executive director may refer the matter to the Attorney General for enforcement. The Attorney General may institute a civil action for a violation of this section or to prevent a violation of this section. An action for relief may include a permanent or temporary injunction, a restraining order, or another appropriate order.

(F) The State Election Commission shall designate a form to elicit specific information concerning the facts and circumstances from a person who claims to have been registered to vote by a third‑party voter registration organization but who does not appear as an active voter on the voter registration rolls. The commission is authorized to adopt regulations requiring third‑party voter registration organizations to account for all state and federal registration forms used by their registration agents. These regulations may require an organization to provide organization and form specific identification information on each form as determined by the commission as needed to assist in the accounting of state and federal registration forms.

(G) Failure of a third‑party voter registration organization to comply with the requirements of this section within ninety days after the effective date of this act automatically shall result in the cancellation of the third‑party voter registration organization’s registration.”

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

Renumber sections to conform.

Amend title to conform.

JAMES H. HARRISON for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 7‑3‑70 SO AS TO REQUIRE A THIRD‑PARTY VOTER REGISTRATION ORGANIZATION OPERATING IN THIS STATE TO REGISTER AND FILE CERTAIN INFORMATION WITH THE STATE ELECTION COMMISSION; TO PROVIDE THAT A THIRD‑PARTY VOTER REGISTRATION ORGANIZATION MUST PROMPTLY DELIVER ALL COLLECTED REGISTRATION APPLICATIONS TO THE APPROPRIATE REGISTRATION OFFICE, AND TO PROVIDE PENALTIES.

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 by adding:

“Section 7‑3‑70. (A) For purposes of this section, ‘third‑party registration organization’ means a person, entity, or organization soliciting or collecting voter registration applications. A third‑party voter registration organization does not include:

(1) a person who seeks only to register to vote or collect voter registration applications from that person’s spouse, child, or parent; or

(2) a person engaged in registering to vote or collecting voter registration applications as an employee of the State Election Commission, a county board of registration, or another state or local agency or department authorized by law to collect voter registration applications.

(B) Before engaging in voter registration activities, a third‑party voter registration organization must register and provide to the State Election Commission, in an electronic format, the following information:

(1) the names of the officers of the organization and the name and permanent address of the organization;

(2) the name and address of the organization’s registered agent in the State;

(3) the names, permanent addresses, and temporary addresses, if any, of each registration agent registering persons to vote in this State on behalf of the organization; and

(4) a sworn statement from each registration agent employed by or volunteering for the organization, stating that the agent will obey all state laws and rules regarding the registration of voters. This statement must be on a form containing notice of applicable penalties for false registration.

(C) The State Election Commission shall make voter registration forms available to third‑party voter registration organizations. All of these forms must contain information identifying the organization to which the forms are provided. The commission shall maintain a database of all third‑party voter registration organizations and the voter registration forms assigned to the third‑party voter registration organization. Each county board of registration shall provide to the commission information on voter registration forms assigned to and received from third‑party voter registration organizations. The information must be provided in a format and at times required by the commission. The commission must update information on third‑party voter registrations daily and make the information publicly available.

(D)(1) A third‑party voter registration organization that collects voter registration applications serves as a fiduciary to the applicant, ensuring that a voter registration application entrusted to the organization, irrespective of party affiliation, race, ethnicity, or gender, must be promptly delivered to the appropriate registration office within forty‑eight hours after the applicant completes it or the next business day if the appropriate office is closed for that forty‑eight hour period. If a voter registration application collected by a third‑party voter registration organization is not promptly delivered to the appropriate registration office, the third‑party voter registration organization is liable for the following fines:

(a) a fine in the amount of fifty dollars for each application received by the appropriate registration office more than forty‑eight hours after the applicant delivered the completed voter registration application to the third‑party voter registration organization, or a person, entity, or agent acting on its behalf, or the next business day, if the office is closed. A fine in the amount of two hundred fifty dollars for each application received if the third‑party voter registration organization, or person, entity, or agency acting on its behalf acted wilfully;

(b) a fine in the amount of one hundred dollars for each application collected by a third‑party voter registration organization, or a person, entity, or agent acting on its behalf, before book closing for any given election for federal or state office and received by the appropriate registration office after the book‑closing deadline for that election. A fine in the amount of five hundred dollars for each application received if the third‑party registration organization, or person, entity, or agency acting on its behalf acted wilfully;

(c) a fine in the amount of five hundred dollars for each application collected by a third‑party voter registration organization, or a person, entity, or agent acting on its behalf, which is not submitted to the appropriate registration office. A fine in the amount of one thousand dollars for an application not submitted if the third‑party voter registration organization, or person, entity, or agency acting on its behalf acted wilfully.

The maximum aggregate fine that may be assessed pursuant to this section against a third‑party voter registration organization, including affiliate organizations, for violations committed in a calendar year is one thousand dollars.

(2) A showing by the third‑party voter registration organization that the failure to deliver the voter registration application within the required time frame is based upon force majeure or impossibility of performance must be an affirmative defense to a violation of this subsection. The Executive Director of the State Election Commission may waive the fines described in this subsection upon a showing that the failure to deliver the voter registration application promptly is based upon force majeure or impossibility of performance.

(E) If the Executive Director of the State Election Commission reasonably believes that a person has committed a violation of this section, the executive director may refer the matter to the Attorney General for enforcement. The Attorney General may institute a civil action for a violation of this section or to prevent a violation of this section. An action for relief may include a permanent or temporary injunction, a restraining order, or another appropriate order.

(F) The State Election Commission shall designate a form to elicit specific information concerning the facts and circumstances from a person who claims to have been registered to vote by a third‑party voter registration organization but who does not appear as an active voter on the voter registration rolls. The commission is authorized to adopt regulations requiring third‑party voter registration organizations to account for all state and federal registration forms used by their registration agents. These regulations may require an organization to provide organization and form specific identification information on each form as determined by the commission as needed to assist in the accounting of state and federal registration forms.

(G) The date on which an applicant signs a voter registration application is presumed to be the date on which the third‑party voter registration organization received or collected the voter registration application.

(H) The requirements of this section are retroactive for a third‑party voter registration organization operating in this State on the effective date of this act. Failure of a third‑party voter registration organization to comply with the requirements of this section within ninety days after the effective date of this act automatically shall result in the cancellation of the third‑party voter registration organization’s registration.”

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

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