**South Carolina General Assembly**

125th Session, 2023-2024

**H. 3734**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. B. Newton, Cobb-Hunter and Felder

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Introduced in the House on January 18, 2023

Introduced in the Senate on April 27, 2023

Last Amended on April 26, 2023

Currently residing in the House

Summary: Municipal elections

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/18/2023 House Introduced and read first time ([House Journal‑page 15](h:\hj\20230118.docx))

1/18/2023 House Referred to Committee on **Judiciary** ([House Journal‑page 15](h:\hj\20230118.docx))

1/26/2023 House Member(s) request name added as sponsor: Cobb-Hunter

4/19/2023 House Member(s) request name added as sponsor: Felder

4/19/2023 House Committee report: Favorable with amendment **Judiciary** ([House Journal‑page 24](h:\hj\20230419.docx))

4/21/2023 Scrivener's error corrected

4/26/2023 House Amended ([House Journal‑page 31](h:\hj\20230426.docx))

4/26/2023 House Read second time ([House Journal‑page 31](h:\hj\20230426.docx))

4/26/2023 House Roll call Yeas-111 Nays-0 ([House Journal‑page 32](h:\hj\20230426.docx))

4/27/2023 House Read third time and sent to Senate ([House Journal‑page 7](h:\hj\20230427.docx))

4/27/2023 Senate Introduced and read first time ([Senate Journal‑page 6](h:\sj\20230427.docx))

4/27/2023 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 6](h:\sj\20230427.docx))

10/12/2023 Senate Referred to Subcommittee: Campsen (ch), Hutto,
Malloy, Garrett, Kimbrell

5/1/2024 Senate Committee report: Favorable with amendment **Judiciary** ([Senate Journal‑page 6](h:\sj\20240501.docx))

View the latest  [legislative information](https://www.scstatehouse.gov/billsearch.php?billnumbers=3734&session=125&summary=B)  at the website

**VERSIONS OF THIS BILL**

[01/18/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3734_20230118.docx)

[04/19/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3734_20230419.docx)

[04/21/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3734_20230421.docx)

[04/26/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3734_20230426.docx)

[05/01/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/3734_20240501.docx)

Indicates Matter Stricken

Indicates New Matter

Committee Report

May 01, 2024

H. 3734

Introduced by Reps. B. Newton, Cobb-Hunter and Felder

S. Printed 05/01/24--S.

Read the first time April 27, 2023

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The committee on Senate Judiciary

To whom was referred a Bill (H. 3734) to amend the South Carolina Code of Laws by amending Section 5‑15‑10, relating to the conduct of municipal primary, general, and special elections, so as to require, 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 SECTION 1 and inserting:

SECTION X. Chapter 15, Title 5 of the S.C. Code is amended by adding:

Section 5-15-45. (A) Notwithstanding Section 5-15-40, if the unexpired four-year term of a mayor or member of council began following a general election held:

(1) in 2020, then the term expires on the date terms begin for newly elected officers in the municipality following the general election to be held on April 8, 2025, or November 4, 2025, as applicable;

(2) in 2021, or February 2022 due to a delayed October 2021 general election, then the term expires on the date terms begin for newly elected officers in the municipality following the general election to be held on April 8, 2025, or November 4, 2025, as applicable;

(3) in 2022, other than a general election delayed from October 2021 until February 2022, then the term expires on the date terms begin for newly elected officers in the municipality following the general election to be held on April 6, 2027, or November 2, 2027, as applicable;

(4) in 2023, then the term expires on the date terms begin for newly elected officers in the municipality following the general election to be held on April 6, 2027, or November 2, 2027, as applicable; or

(5) in 2024, then the term expires on the date terms begin for newly elected officers in the municipality following the general election to be held on April 3, 2029, or November 6, 2029, as applicable.

(B) Notwithstanding Section 5-15-40, if the current unexpired two-year term of a mayor or member of council began following a general election held:

(1) in 2022 or 2023, then the term expires on the date terms begin for newly elected officers in the municipality following the general election to be held on April 8, 2025, or November 4, 2025, as applicable; or

(2) in 2024, then the term expires on the date terms begin for newly elected officers in the municipality following the general election to be held on April 6, 2027, or November 2, 2027, as applicable.

Amend the bill further, SECTION 2.A., by deleting A. and renaming SECTION 2 and striking Section 5-15-50(B), (C), and (D) and inserting:

(B) The time for general elections within a municipality must be established in odd‑numbered years as follows:

(1) on the first Tuesday after the first Monday in April; or

(2)on the first Tuesday after the first Monday in November.

(C) If the first Tuesday after the first Monday in November of odd-numbered years is the time for general elections in a municipality on or after the effective date of this section, then the municipal governing body must not establish a different time for its general elections.

(D) If within ninety days of the effective date of this section, a municipal governing body fails to establish by ordinance a time for its general elections as provided in subsection (B), then the time for the general elections within that municipality is the first Tuesday after the first Monday in November in odd-numbered years.

Amend the bill further, by deleting SECTION 2.B.

Amend the bill further, SECTION 4, by striking Section 5-15-100(A) and inserting:

(A) The municipal election commission shall be vested with the functions, powers and duties of Municipal Supervisors of Registration if no such supervisors have been appointed pursuant to § 7‑5‑640, and shall also have the functions, powers and duties of commissioners of election, as set forth in §Section 7‑5‑10 and other provisions of Title 7. The municipal election commission shall insureensure proper books of registration are provided for each ward or precinct, shall prepare and distribute ballots and election materials, appoint managers of election for each polling place and otherwise supervise and conduct all municipal, special and general elections. The managers shall certify provide the unofficial results of the election to the commission within one day. and The commission shall declare certify the results not later than three days following the election.

Amend the bill further, SECTION 5, by striking Section 5-15-120(B) and (C) and inserting:

(B)Newly elected officers shall not be qualified until at least forty‑eight hours after the closing of the polls and In the case a contest is finally filed the incumbents shall hold over until the contest is finally determined. A municipal governing body may by ordinance determine when the terms of its newly elected officers begin, provided the terms must begin no earlier than forty-eight hours after the certification of the election results and no later than eighty days after the day of the election. If a municipality does not have an ordinance determining when the terms of its newly elected officers begin, then the terms of the newly elected officers in the municipality begin at the first regular meeting of its council in the month following the election.

(C) A candidate who is declared elected by certification of the election results has the right to take the oath of office and to perform the duties of the office pending the outcome of an appeal unless a court of competent jurisdiction directs otherwise.

Amend the bill further, by adding appropriately numbered SECTIONS to read:

SECTION X. Section 5-15-130 of the S.C. Code is amended to read:

Section 5-15-130. (A)Within forty-eight hours after the closing of the polls, any A candidate may contest the result of the election as reported by the managers by filing a written notice of such contest together with a concise statement of the grounds therefor with the Municipal Election Commission not later than noon on the Monday following the certification of the results. If the deadline falls on a legal holiday, then the time for filing a written notice extends to noon on the next day that is not a legal holiday. Within forty-eight hours after the filing of such notice, the The Municipal Election Commission shall, after due notice to the parties concerned, conduct a hearing on the contest on the Thursday following the deadline for filing the contest,. The commission must decide the issues raised, file its report together with all recorded testimony and exhibits with the clerk of court of the county in which the municipality is situated, notify the parties concerned of the decisions made, and when the decision invalidates the election the council shall order a new election as to the parties concerned.

(B) Neither the mayor nor any member of council shall be eligible to pass on the issues arising in any contest in which he is a party.

SECTION X. Section 5-15-140 of the S.C. Code is amended to read:

Section 5-15-140. Within ten days after notice of the decision of the municipal election commission, any party aggrieved thereby may appeal from such decision to the court of common pleas. Notice of appeal shall be served on the opposing parties or their attorneys and filed in the office of the clerk of court within ten days. The notice of appeal shall act as a stay of further proceedings pending the appeal.Appeals shall be granted first priority of consideration by the court.

Amend the bill further, by striking SECTION 6 and SECTION 7 and inserting:

SECTION X. Section 5-15-145 of the S.C. Code is amended to read:

Section 5-15-145. (A) Municipalities areA municipality is authorized to transfer authority for conducting municipal elections to the county board of voter registration and elections commission. County boards of voter registration and elections commissions are authorized toshall conduct municipal elections for municipalities that elect to transfer authority for conducting municipal elections pursuant to the provisions of this section.

(B) As a condition of the transfer of authority to conduct elections pursuant to this section, the governing bodies of the municipality and the county must agree to the terms of the transfer and enact ordinances embodying the terms of that agreement. The municipal ordinance must state what authority is being transferred and the county ordinance must accept the authority being transferred.

(C) When the total responsibility for the conduct of a municipal election is transferred to a county election commissionboard of voter registration and elections, pursuant to the provisions of this section, the municipal election commission is abolished.

(D) If the municipality, by ordinance transfers a portion of the responsibilities for the conduct of a municipal election to a county election commissionboard of voter registration and elections, the municipality shall not abolish the municipal election commission.

(E) A municipality which by ordinance transfers authority for conducting municipal elections to the county election commissionboard of voter registration and elections under this section may by ordinance set the filing dates for municipal offices, and the date by which candidates must be certified to the appropriate authority to be placed on the ballot, to run concurrently with the filing dates set by law for countywide and less than countywide offices or other filing dates as may be mutually agreed upon between the municipality and the county election commissionboard of voter registration and elections.

SECTION X. Section 7-3-20(D)(19) of the S.C. Code is amended to read:

(19) establish methods of auditing election results, which may include risk-limiting audits, hand-count audits, results verification through independent third-party vendors that specialize in election auditing, ballot reconciliation, or any other method deemed appropriate by the executive director. Election result audits must be conducted in all statewide elections after the election concludes, but prior to certification by the State Board of Canvassers, and may be performed following any other election held in the State at the discretion of the executive director. A hand‑count audit must be conducted publicly. Once completed, audit reports must be published on the commission's website.

SECTION X. Section 7-13-1160 of the S.C. Code is amended to read:

Section 7-13-1160. Within twenty-four hours of the completion of the canvassing and counting of ballots, the persons in charge of each such election in each county shall notify the State Election Commission of the unofficial results of such election in each such county; provided, however, that failure to comply with the provisions of this section shall not invalidate the votes cast therein The unofficial election results returned by the managers to the county boards of voter registration and elections must be reported continuously and without undue delay in the manner prescribed by the State Election Commission.

SECTION X. Section 7-15-420(D) and (E) of the S.C. Code is amended to read:

(D) Beginning no earlier than 7:00 a.m. on election day, the absentee ballots may be tabulated, including any absentee ballots received on election day before the polls are closed and the tabulated data collected from those ballots and from the ballots cast during the early voting period may be loaded into the election management system. If any absentee ballot is challenged, the return-addressed envelope must not be opened, but must be put aside and the procedure set forth in Section 7-13-830 must be utilized; but the absentee voter must be given reasonable notice of the challenged ballot.

(E) Results of the early voting period and absentee ballot tabulation must not be publicly reported until after the polls are closed. An election official, election worker, candidate, or watcher who intentionally violates the prohibition contained in this subsection is guilty of a felony and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than five years.

SECTION 7. This act takes effect upon approval by the Governor except that the revisions to Sections 5-15-45 and 5-15-50 take effect July 1, 2024.

Renumber sections to conform.

Amend title to conform.

LUKE RANKIN for Committee.

statement of estimated fiscal impact

Explanation of Fiscal Impact

State Expenditure

This bill specifies that all municipal primary, general, and special elections must be conducted using a voting system approved and adopted by SEC. Currently, there is no requirement for municipal elections to be conducted using a voting system approved and adopted by SEC. SEC anticipates it will be able to manage any additional responsibilities of this bill within existing appropriations.

Local Expenditure

This bill specifies that all municipal primary, general, and special elections must be conducted using a voting system approved and adopted by SEC. This bill also specifies the allowable times when a general election must be set. Further, this bill allows municipalities to transfer the authority for conducting elections to the county board of voter registration and elections. Currently, some municipalities are using voting systems that are not approved and adopted by SEC, and municipalities may transfer the authority for conducting elections to the county elections commissions.

RFA contacted MASC to determine the local expenditure impact for municipalities. MASC anticipates this bill may increase expenses for some of the smaller towns in the state that do not currently use voting systems approved and adopted by SEC. The cost would depend upon the contracted price for rental/use agreements with the municipality’s county elections official to use the approved voting systems. These costs will vary depending on the number of voting machines needed, training costs, and other such variables. Additionally, MASC noted that there are only a few municipalities that currently conduct their own elections. If these municipalities decide to allow their local county board of voter registration and elections to conduct the municipal elections, there could be an increase in local expenditures for these municipalities. Therefore, the local expenditure impact for municipalities is undetermined, and will depend upon the number of municipalities that will need to begin using SEC approved voting systems and the number of municipalities who decide to allow their local county board of voter registration and elections to conduct the election on behalf of the municipality.

RFA also previously contacted all counties to determine the local expenditure impact for counties. The counties of Dorchester and Aiken provided a response. Aiken anticipates this bill will have no expenditure impact for the county. Aiken County’s Board of Voter Registration and Elections Commission currently allows municipalities to use their voting equipment for elections, and the commission currently manages the elections for smaller municipalities. Dorchester County also anticipates this bill will have no expenditure impact as it already uses SEC approved voting equipment. Based on these responses, and the response provided by MASC, RFA anticipates this bill may have an expenditure impact for counties that do not currently allow their municipalities to use their voting systems and for counties in which a municipality asks the county to manage its election on behalf of the municipality. Therefore, the local expenditure impact on counties is undetermined.

State Expenditure

This bill specifies that all municipal primary, general, and special elections must be conducted using a voting system approved and adopted by SEC. Currently, there is no requirement for municipal elections to be conducted using a voting system approved and adopted by SEC.

RFA anticipates that SEC will be able to manage any additional responsibilities of this bill within existing appropriations. We will update this fiscal impact statement if SEC provides a different response.

Local Expenditure

This bill specifies that all municipal primary, general, and special elections must be conducted using a voting system approved and adopted by SEC. This bill also specifies the allowable times when a general election must be set for municipalities and when the term for the mayor and councilmen will commence after the certification of the election results. Further, this bill allows municipalities to transfer the authority for conducting elections to the county board of voter registration and elections. Currently, some municipalities are using voting systems that are not approved and adopted by SEC, and municipalities may transfer the authority for conducting elections to the county elections commissions.

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Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

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A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 5‑15‑10, RELATING TO THE CONDUCT OF MUNICIPAL PRIMARY, GENERAL, AND SPECIAL ELECTIONS, SO AS TO REQUIRE THAT ALL SUCH MUNICIPAL ELECTIONS BE CONDUCTED USING THE VOTING SYSTEM APPROVED AND ADOPTED BY THE STATE ELECTION COMMISSION; BY AMENDING SECTION 5‑15‑40, RELATING TO TERMS OF OFFICE OF MAYOR AND COUNCILMEN, SO AS TO PROVIDE THAT THE TERMS OF THE MAYOR AND COUNCILMEN COMMENCE the monday following CERTIFICATION OF THE ELECTION RESULTS; BY AMENDING SECTION 5‑15‑50, RELATING TO ESTABLISHMENT OF MUNICIPAL WARD LINES AND TIME FOR MUNICIPAL GENERAL AND SPECIAL ELECTIONS, SO AS TO, among other things, REQUIRE THAT MUNICIPAL GENERAL ELECTIONS BE HELD ON ONE OF CERTAIN ENUMERATED DATES, PROHIBIT THE TERMS OF INCUMBENT COUNCIL MEMBERS FROM BEING EXTENDED WHEN A NEW TIME FOR MUNICIPAL GENERAL ELECTIONS IS ESTABLISHED, AND REQUIRE MUNICIPAL SPECIAL ELECTIONS SCHEDULED TO OCCUR WITHIN CERTAIN TIME FRAMES OF the municipality’s GENERAL ELECTION TO BE HELD AT THE SAME TIME AS THE GENERAL ELECTION; BY AMENDING SECTION 5‑15‑100, RELATING TO FUNCTIONS, POWERS, AND DUTIES OF MUNICIPAL ELECTION COMMISSIONs, SO AS TO EXTEND THE TIME FRAME BY WHICH A MUNICIPAL ELECTION COMMISSION MUST MEET AND DECLARE THE RESULTS FOLLOWING AN ELECTION; BY AMENDING SECTION 5‑15‑120, RELATING TO VOTE COUNTING IN MUNICIPAL ELECTIONS, SO AS TO CHANGE THE TIME WHEN NEWLY ELECTED OFFICERS MAY BE QUALIFIED and their terms commence TO THE monday after certification of the election results; AND BY AMENDING SECTION 5‑15‑145, RELATING TO TRANSFER OF AUTHORITY TO CONDUCT MUNICIPAL ELECTIONS TO COUNTY ELECTION COMMISSIONS, SO AS TO REQUIRE COUNTY ELECTION COMMISSIONS TO CONDUCT MUNICIPAL ELECTIONS FOR MUNICIPALITIES THAT ELECT TO TRANSFER AUTHORITY.

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

SECTION 1. Section 5‑15‑10 of the S.C. Code is amended to read:

Section 5‑15‑10. (A) Municipal primary, general, and special elections shall must be conducted pursuant to Title 7, mutatis mutandis, except as otherwise provided for specifically in Chapters 1 through 17.

(B) All municipal primary, general, and special elections must be conducted using the voting system or systems approved and adopted by the State Election Commission pursuant to Section 7‑13‑1655.

SECTION 2.A. Section 5‑15‑50 of the S.C. Code is amended to read:

Section 5‑15‑50. (A) Each municipal governing body may by ordinance establish municipal ward lines and the time for general and special elections within the municipality in accordance with the provisions of this section. Public notice of the elections shall be given at least sixty days prior to such elections.

(B) The time for general elections within a municipality must be established on odd‑numbered years as follows:

(1) on the third Tuesday in March;

(2) on the first Tuesday in July; or

(3) on the first Tuesday after the first Monday of November.

(C) A municipal governing body which establishes, or has established, the first Tuesday after the first Monday of November of odd years as the time for its general elections may not subsequently establish a different time for its general elections.

(D) In the event a municipal governing body must establish a new time for general elections to comply with the provisions of this section, the terms of incumbent council members elected in an even year may not be extended or lengthened beyond the terms for which the council members were elected to serve. For incumbent council members elected in an odd year, the terms may be extended to the new election date.

B. Each municipal governing body must establish by ordinance one of the three times for general elections permitted by Section 5‑15‑50 within ninety days of the effective date of this act. Any municipal governing body that fails to timely comply with this requirement is considered to have established its general elections on the first Tuesday after the first Monday of November of odd‑numbered years, the first of which must be held in November of 2025.

SECTION 3. Section 5‑15‑100 of the S.C. Code is amended to read:

Section 5‑15‑100. (A) The municipal election commission shall be vested with the functions, powers and duties of Municipal Supervisors of Registration if no such supervisors have been appointed pursuant to §Section 7‑5‑640, and shall also have the functions, powers and duties of commissioners of election, as set forth in §Section 7‑5‑10 and other provisions of Title 7. The municipal election commission shall insure proper books of registration are provided for each ward or precinct, shall prepare and distribute ballots and election materials, appoint managers of election for each polling place and otherwise supervise and conduct all municipal, special and general elections. The managers shall certify the results of the election to the commission within one day. and The commission shall meet on the Friday next following the election and shall declare the results not later than three daysnoon on the Saturday next following the election.

(B) Nominees in a party primary or party convention and nominees by petition shall be certified to the municipal election commission within the time specified herein and when so certified, the commission shall place the names of such nominees upon the ballots.

SECTION 4. Section 5‑15‑120 of the S.C. Code is amended to read:

Section 5‑15‑120. (A) Immediately upon the closing of the polls at any municipal election, the managers shall count publicly the votes cast and make a statement of the whole number of votes cast in such election together with the number of votes cast for each candidate for mayor and councilman and transmit this information to the municipal election commission. In partisan elections the person securing the highest number of votes for mayor shall be declared elected and the councilmen shall be selected by the following methods:

(a)(1) When all councilmen are to be elected at large, the persons receiving the highest number of votes in number equal to the number to be chosen shall be declared elected.

(b)(2) When the councilmen are to be elected from each ward and are required to be residents of that ward, the person receiving the highest number of votes in that ward shall be declared elected.

(c)(3) When some councilmen are to be elected from each ward and required to be residents of that ward and the remainder of the councilmen to be elected at large, those persons receiving the highest number of votes in each ward shall be declared elected and those persons running at large who receive the highest number of votes in number equal to the number to be chosen at large shall be declared elected.

(d)(4) When all councilmen are to be elected at large, but required to reside in a particular ward, the person receiving the highest number of votes for the seat to be filled shall be declared elected.

(e)(5) When all councilmen are to be elected at large, but some are required to be residents of particular wards and other councilmen may not be so required, the person receiving the highest number of votes for the seat to be filled shall be declared elected.

(B) Newly elected officers shall not be qualified, and their terms do not commence, until at least forty‑eight hours after the closing of the polls the next regular meeting of the municipal council in the month following certification of the election results by the election commission. and In the case a contest is finally filed the incumbents shall hold over until the contest is finally determined. Officers shall serve their terms pursuant to Section 5-15-40 or until their successors are elected and qualified.

SECTION 5. Section 5‑15‑145(A) of the S.C. Code is amended to read:

(A) Municipalities are authorized to transfer authority for conducting municipal elections to the county boards of voter registration and elections commission. County boards of voter registration and elections commissions are authorized toshall conduct municipal elections for municipalities that elect to transfer authority for conducting municipal elections pursuant to the provisions of this section.

SECTION 6. This act takes effect upon approval by the Governor.

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