CHAPTER 2

Legislative Oversight of Executive Departments

**SECTION 2‑2‑5.** Declaration of public policy.

 The General Assembly finds and declares the following to be the public policy of the State of South Carolina:

 (1) Section 1, Article XII of the State Constitution requires the General Assembly to provide for appropriate agencies to function in the areas of health, welfare, and safety and to determine the activities, powers, and duties of these agencies and departments.

 (2) This constitutional duty is a continuing and ongoing obligation of the General Assembly that is best addressed by periodic review of the programs of the agencies and departments and their responsiveness to the needs of the state’s citizens by the standing committees of the State Senate or House of Representatives.

HISTORY: 2014 Act No. 121 (S.22), Pt IV, Section 6.D, eff January 1, 2015.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. General Assembly Section 51, Constitutional Power to Enact Statutes.

**SECTION 2‑2‑10.** Definitions.

 As used in this chapter:

 (1) “Agency” means an authority, board, branch, commission, committee, department, division, or other instrumentality of the executive or judicial departments of state government, including administrative bodies. “Agency” includes a body corporate and politic established as an instrumentality of the State. “Agency” does not include:

 (a) the legislative department of state government; or

 (b) a political subdivision.

 (2) “Investigating committee” means any standing committee or subcommittee of a standing committee exercising its authority to conduct an oversight study and investigation of an agency within the standing committee’s subject matter jurisdiction.

 (3) “Program evaluation report” means a report compiled by an agency at the request of an investigating committee that may include, but is not limited to, a review of agency management and organization, program delivery, agency goals and objectives, compliance with its statutory mandate, and fiscal accountability.

 (4) “Request for information” means a list of questions that an investigating committee serves on a department or agency under investigation. The questions may relate to any matters concerning the department or agency’s actions that are the subject of the investigation.

 (5) “Standing committee” means a permanent committee with a regular meeting schedule and designated subject matter jurisdiction that is authorized by the Rules of the Senate or the Rules of the House of Representatives.

HISTORY: 2014 Act No. 121 (S.22), Pt IV, Section 6.D, eff January 1, 2015.

**SECTION 2‑2‑20.** Scheduled seven‑year oversight studies and investigations.

 (A) Beginning January 1, 2015, each standing committee shall conduct oversight studies and investigations on all agencies within the standing committee’s subject matter jurisdiction at least once every seven years in accordance with a schedule adopted as provided in this chapter.

 (B) The purpose of these oversight studies and investigations is to determine if agency laws and programs within the subject matter jurisdiction of a standing committee:

 (1) are being implemented and carried out in accordance with the intent of the General Assembly; and

 (2) should be continued, curtailed, or eliminated.

 (C) The oversight studies and investigations must consider:

 (1) the application, administration, execution, and effectiveness of laws and programs addressing subjects within the standing committee’s subject matter jurisdiction;

 (2) the organization and operation of state agencies and entities having responsibilities for the administration and execution of laws and programs addressing subjects within the standing committee’s subject matter jurisdiction; and

 (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation addressing subjects within the standing committee’s subject matter jurisdiction.

HISTORY: 2014 Act No. 121 (S.22), Pt IV, Section 6.D, eff January 1, 2015.

**SECTION 2‑2‑30.** Procedure for conducting oversight studies and investigations.

 (A) The procedure for conducting the oversight studies and investigations is provided in this section.

 (B)(1) The President Pro Tempore of the Senate, upon consulting with the chairmen of the standing committees in the Senate and the Clerk of the Senate, shall determine the agencies for which each standing committee must conduct oversight studies and investigations. A proposed seven‑year review schedule must be published in the Senate Journal on the first day of session each year.

 (2) In order to accomplish the requirements of this chapter, the chairman of each standing committee must schedule oversight studies and investigations for the agencies for which his standing committee is the investigating committee and may:

 (a) coordinate schedules for conducting oversight studies and investigations with the chairmen of other standing committees; and

 (b) appoint joint investigating committees to conduct the oversight studies and investigations including, but not limited to, joint committees of the Senate and House of Representatives or joint standing committees of concurrent subject matter jurisdiction within the Senate or within the House of Representatives.

 (3) Chairmen of standing committees having concurrent subject matter jurisdiction over an agency or the programs and law governing an agency by virtue of the Rules of the Senate or Rules of the House of Representatives, may request that a joint investigating committee be appointed to conduct the oversight study and investigation for an agency.

 (C)(1) The Speaker of the House of Representatives, upon consulting with the chairmen of the standing committees in the House of Representatives and the Clerk of the House of Representatives, shall determine the agencies for which each standing committee must conduct oversight studies and investigations. A proposed seven‑year review schedule must be published in the House Journal on the first day of session each year.

 (2) In order to accomplish the requirements of this chapter, the chairman of each standing committee must schedule oversight studies and investigations for the agencies for which his standing committee is the investigating committee and may:

 (a) coordinate schedules for conducting oversight studies and investigations with the chairmen of other standing committees; and

 (b) appoint joint investigating committees to conduct the oversight studies and investigations including, but not limited to, joint committees of the Senate and House of Representatives or joint standing committees of concurrent subject matter jurisdiction within the Senate or within the House of Representatives.

 (3) Chairmen of standing committees having concurrent subject matter jurisdiction over an agency or the programs and law governing an agency by virtue of the Rules of the Senate or Rules of the House of Representatives, may request that a joint investigating committee be appointed to conduct the oversight study and investigation for the agency.

 (D) The chairman of an investigating committee may vest the standing committee’s full investigative power and authority in a subcommittee. A subcommittee conducting an oversight study and investigation of an agency: (1) must make a full report of its findings and recommendations to the standing committee at the conclusion of its oversight study and investigation; and (2) must not consist of fewer than three members.

HISTORY: 2014 Act No. 121 (S.22), Pt IV, Section 6.D, eff January 1, 2015.

**SECTION 2‑2‑40.** Unscheduled oversight studies and investigations.

 (A) In addition to the scheduled seven‑year oversight studies and investigations, a standing committee of the Senate or House of Representatives may initiate an oversight study and investigation of an agency within its subject matter jurisdiction. The motion calling for the oversight study and investigation must state the subject matter and scope of the oversight study and investigation. The oversight study and investigation must not exceed the scope stated in the motion or the scope of the information uncovered by the investigation.

 (B) Nothing in the provisions of this chapter prohibits or restricts the President Pro Tempore of the Senate, the Speaker of the House of Representatives, or chairmen of standing committees from fulfilling their constitutional obligations by authorizing and conducting legislative investigations into agencies’ functions, duties, and activities.

HISTORY: 2014 Act No. 121 (S.22), Pt IV, Section 6.D, eff January 1, 2015.

**SECTION 2‑2‑50.** Acquisition of evidence or information.

 When an investigating committee conducts an oversight study and investigation or a legislative investigation is conducted pursuant to Section 2‑2‑40(B), evidence or information related to the investigation may be acquired by any lawful means, including, but not limited to:

 (A) serving a request for information on the agency being studied or investigated. The request for information must be answered separately and fully in writing under oath and returned to the investigating committee within forty‑five days after being served upon the department or agency. The time for answering a request for information may be extended for a period to be agreed upon by the investigating committee and the agency for good cause shown. The head of the department or agency must sign the answers verifying them as true and correct. If any question contains a request for records, policies, audio or video recordings, or other documents, the question is not considered to have been answered unless a complete set of records, policies, audio or video recordings, or other documents is included with the answer;

 (B) deposing witnesses upon oral examination. A deposition upon oral examination may be taken from any person that the investigating committee has reason to believe has knowledge of the activities under investigation. The investigating committee shall provide the person being deposed and the agency under investigation with no less than ten days notice of the deposition. The notice to the agency shall state the time and place for taking the deposition and name and address of each person to be examined. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena must be attached to or included in the notice. The deposition must be taken under oath administered by the chairman of the investigating committee or his designee. The testimony must be taken stenographically or recorded by some other means and may be videotaped. A person may be compelled to attend a deposition in the county in which he resides or in Richland County;

 (C) issuing subpoenas and subpoenas duces tecum pursuant to Chapter 69, Title 2; and

 (D) requiring the agency to prepare and submit to the investigating committee a program evaluation report by a date specified by the investigating committee. The investigating committee must specify the agency program or programs or agency operations that it is studying or investigating and the information to be contained in the program evaluation report.

HISTORY: 2014 Act No. 121 (S.22), Pt IV, Section 6.D, eff January 1, 2015.

**SECTION 2‑2‑60.** Program evaluation reports.

 (A) An investigating committee’s request for a program evaluation report must contain:

 (1) the agency program or operations that it intends to investigate;

 (2) the information that must be included in the report; and

 (3) the date that the report must be submitted to the committee.

 (B) An investigating committee may request that the program evaluation report contain any of the following information:

 (1) enabling or authorizing law or other relevant mandate, including any federal mandates;

 (2) a description of each program administered by the agency identified by the investigating committee in the request for a program evaluation report, including the following information:

 (a) established priorities, including goals and objectives in meeting each priority;

 (b) performance criteria, timetables, or other benchmarks used by the agency to measure its progress in achieving its goals and objectives;

 (c) an assessment by the agency indicating the extent to which it has met the goals and objectives, using the performance criteria. When an agency has not met its goals and objectives, the agency shall identify the reasons for not meeting them and the corrective measures the agency has taken to meet them in the future;

 (3) organizational structure, including a position count, job classification, and organization flow chart indicating lines of responsibility;

 (4) financial summary, including sources of funding by program and the amounts allocated or appropriated and expended over the last ten years;

 (5) identification of areas where the agency has coordinated efforts with other state and federal agencies in achieving program objectives and other areas in which an agency could establish cooperative arrangements including, but not limited to, cooperative arrangements to coordinate services and eliminate redundant requirements;

 (6) identification of the constituencies served by the agency or program, noting any changes or projected changes in the constituencies;

 (7) a summary of efforts by the agency or program regarding the use of alternative delivery systems, including privatization, in meeting its goals and objectives;

 (8) identification of emerging issues for the agency;

 (9) a comparison of any related federal laws and regulations to the state laws governing the agency or program and the rules implemented by the agency or program;

 (10) agency policies for collecting, managing, and using personal information over the Internet and nonelectronically, information on the agency’s implementation of information technologies;

 (11) a list of reports, applications, and other similar paperwork required to be filed with the agency by the public. The list must include:

 (a) the statutory authority for each filing requirement;

 (b) the date each filing requirement was adopted or last amended by the agency;

 (c) the frequency that filing is required;

 (d) the number of filings received annually for the last seven years and the number of anticipated filings for the next four years;

 (e) a description of the actions taken or contemplated by the agency to reduce filing requirements and paperwork duplication;

 (12) any other relevant information specifically requested by the investigating committee.

 (C) All information contained in a program evaluation report must be presented in a concise and complete manner.

 (D) The chairman of the investigating committee may direct the Legislative Audit Council to perform a study of the program evaluation report and report its findings to the investigating committee. The chairman also may direct the Legislative Audit Council to perform its own audit of the program or operations being studied or investigated by the investigating committee.

 (E) A state agency that is vested with revenue bonding authority may submit annual reports and annual external audit reports conducted by a third party in lieu of a program evaluation report.

HISTORY: 2014 Act No. 121 (S.22), Pt IV, Section 6.D, eff January 1, 2015.

**SECTION 2‑2‑70.** Testimony under oath.

 All testimony given to the investigating committee must be under oath.

HISTORY: 2014 Act No. 121 (S.22), Pt IV, Section 6.D, eff January 1, 2015.

**SECTION 2‑2‑80.** Witnesses; right to counsel; legal privilege; ruling on objections; review.

 Any witness testifying before the investigating committee may have counsel present to advise him. The witness or his counsel may, during the time of testimony, claim any legal privilege recognized by the laws of this State in response to any question and is entitled to have a ruling by the chairman on any objection. In making his ruling, the chairman of the investigating committee shall follow as closely as possible the statutory law and the decisions of the courts of this State regarding legal privileges. The ruling of the chair may not be reviewed by the courts of this State except in a separate proceeding for contempt of the General Assembly.

HISTORY: 2014 Act No. 121 (S.22), Pt IV, Section 6.D, eff January 1, 2015.

**SECTION 2‑2‑90.** Witnesses; privilege at law.

 A witness shall be given the benefit of any privilege at law which he may have in court as a party to a civil action.

HISTORY: 2014 Act No. 121 (S.22), Pt IV, Section 6.D, eff January 1, 2015.

**SECTION 2‑2‑100.** Contempt; penalty.

 Any person who appears before a committee or subcommittee of either house, pursuant to this chapter, and wilfully gives false, materially misleading, or materially incomplete testimony under oath is guilty of contempt of the General Assembly. A person who is convicted of or pleads guilty to contempt of the General Assembly is guilty of a felony and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both.

HISTORY: 2014 Act No. 121 (S.22), Pt IV, Section 6.D, eff January 1, 2015.

CROSS REFERENCES

Notification to Attorney General of violations of Section 2‑2‑100, filing of charges, see Section 2‑2‑110.

**SECTION 2‑2‑110.** Notification to Attorney General of violations of Section 2‑2‑100; filing of charges.

 Whenever any person violates Section 2‑2‑100 it is the duty of the chair of the committee or subcommittee before which the false, misleading, or incomplete testimony was given, to notify the Attorney General of South Carolina who shall cause charges to be filed in the appropriate county.

HISTORY: 2014 Act No. 121 (S.22), Pt IV, Section 6.D, eff January 1, 2015.

**SECTION 2‑2‑120.** Criminal contempt; penalty.

 A person is guilty of criminal contempt when, having been duly subpoenaed to attend as a witness before either house of the legislature or before any committee thereof, he:

 (1) fails or refuses to attend without lawful excuse; or

 (2) refuses to be sworn; or

 (3) refuses to answer any material and proper question; or

 (4) refuses, after reasonable notice, to produce books, papers, or documents in his possession or under his control which constitute material and proper evidence.

 A person who is convicted of or pleads guilty to criminal contempt is guilty of a felony and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both.

HISTORY: 2014 Act No. 121 (S.22), Pt IV, Section 6.D, eff January 1, 2015.