**South Carolina General Assembly**

119th Session, 2011-2012

**H. 3227**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Cobb‑Hunter

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Introduced in the House on January 11, 2011

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Workforce Department Appellate Panel

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/14/2010 House Prefiled

12/14/2010 House Referred to Committee on **Labor, Commerce and Industry**

12/21/2010 Scrivener's error corrected

1/11/2011 House Introduced and read first time ([House Journal‑page 90](file:///h:\hj%20archive\2011\01-11-11.docx))

1/11/2011 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 91](file:///h:\hj%20archive\2011\01-11-11.docx))

**VERSIONS OF THIS BILL**

[12/14/2010](file:///p:\pprever\2011-12\3227_20101214.docx)

[12/21/2010](file:///p:\pprever\2011-12\3227_20101221.docx)

**A** **BILL**

TO AMEND SECTION 41‑29‑300, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEPARTMENT OF EMPLOYMENT AND WORKFORCE APPELLATE PANEL, SO AS TO PROVIDE THE PANEL SHALL RENDER DECISIONS INDEPENDENTLY OF INFLUENCE FROM THE DEPARTMENT AND THE DEPARTMENT SHALL ATTEMPT NO EFFORT TO INFLUENCE A DECISION OF THE PANEL; AND TO PROVIDE QUALIFICATIONS FOR A MEMBER OF THE PANEL WHICH INCLUDES MEMBERSHIP IN GOOD STANDING AS A LICENSED ATTORNEY IN SOUTH CAROLINA OR AT LEAST FIVE YEARS EXPERIENCE IN A JUDICIAL OR QUASI‑JUDICIAL CAPACITY, SUCH AS A JUDGE OR HEARING OFFICER.

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

SECTION 1. Section 41‑29‑300 of the 1976 Code, as added by Act 146 of 2010, is amended to read:

“Section 41‑29‑300. (A) There is created the Workforce Department Appellate Panel within the Department of Workforce, which is separate and distinct from the department’s divisions. The sole purpose of the panel is to hear and decide appeals from decisions of the department’s divisions. The panel shall render decisions independently of influence from the department and the department shall attempt no effort to influence a decision of the panel.

(B)(1) The panel initially must be comprised of the members of the South Carolina Employment Security Commission serving on the day before the effective date of this act. These initial panel members may serve in that temporary capacity until their successors are elected pursuant to this section.

(2) The members of the appellate panel must be elected by the General Assembly, in joint session, for terms of four years and until their successors have been elected and qualified, commencing on the first day of July in each presidential election year. Initial elections for members of the appellate panel must be held before May 22, 2010.

(3) The appellate panel must elect one of its members to be chairman. A vacancy must be filled by the Governor through a temporary appointment until the next session of the General Assembly, at which time a joint session of the General Assembly shall elect an appellate panelist to fill the unexpired term.

(4) The appellate panelists shall receive such compensation as may be established under the provisions of Section 8‑11‑160 and for which funds have been authorized in the general appropriations act but not to exceed compensation that is commensurate with their hearing duties.

(C) A party only may appeal from a decision of the department directly to the panel. A party only may appeal a decision of the panel to an administrative law court in the manner provided in Section 41‑35‑750.

(D) A quorum must consist of two panel members and is necessary to hear or decide an appeal under subsection (C). A decision of the panel must be rendered in writing and is subject to disclosure under the Freedom of Information Act.

(E)(1) The Department of Workforce Review Committee must screen a person and find him qualified before he may be elected to serve as a member of the appellate panel. The qualifications that each panelist must possess, include, but are not limited to:

(a) ~~a baccalaureate or more advanced degree from:~~

~~(i)~~ ~~a recognized institution of higher learning requiring face‑to‑face contact between its students and instructors prior to completion of the academic program;~~

~~(ii)~~ ~~an institution of higher learning that has been accredited by a regional or national accrediting body; or~~

~~(iii)~~ ~~an institution of higher learning chartered before 1962; or~~

~~(b)~~ ~~a background of at least five years in any combination of the following fields of expertise:~~

~~(i)~~ ~~general business administration;~~

~~(ii)~~ ~~general business management;~~

~~(iii)~~ ~~management at the Department of Workforce, or its predecessor;~~

~~(iv)~~ ~~human resources management;~~

~~(v)~~ ~~finance; or~~

~~(vi)~~ ~~law~~ being a licensed attorney in this State for at least five years and in good standing with the South Carolina bar; or

(b) having at least five years of experience in a judicial or quasi‑judicial capacity, such as a judge or hearing officer with a state or federal agency.

(2) A member of the General Assembly may not be elected to serve as a panelist or appointed to be a panelist while serving in the General Assembly; nor shall a member of the General Assembly be elected or appointed to be a panelist for a period of two years after the member either:

(a) ceases to be a member of the General Assembly; or

(b) fails to file for election to the General Assembly in accordance with Section 7‑11‑15.

(3) When screening an appellate panel candidate and making its findings regarding the candidate, the South Carolina Department of Workforce Review Committee must give due consideration to a person’s ability, area of expertise, dedication, compassion, common sense, and integrity.

(F)(1) A panelist is bound by the Code of Judicial Conduct, as contained in Rule 501 of the South Carolina Appellate Court Rules, and the State Ethics Commission is responsible for enforcement and administration of Rule 501 pursuant to Section 8‑13‑320. A panelist also must comply with the applicable requirements of Chapter 13, Title 8.

(2) A panelist and his administrative assistant annually must attend and successfully complete a workshop of at least three continuing education hours in ethics.”

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

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