**South Carolina General Assembly**

120th Session, 2013-2014

**A196, R220, S815**

**STATUS INFORMATION**

General Bill

Sponsors: Senators L. Martin and Campsen

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Introduced in the Senate on January 14, 2014

Introduced in the House on February 27, 2014

Last Amended on May 27, 2014

Passed by the General Assembly on May 28, 2014

Governor's Action: June 2, 2014, Signed

Summary: Candidate nominations

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/10/2013 Senate Prefiled

12/10/2013 Senate Referred to Committee on **Judiciary**

1/14/2014 Senate Introduced and read first time ([Senate Journal‑page 31](file:///H:\SJ%20Archive\2014\01-14-14.docx))

1/14/2014 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 31](file:///H:\SJ%20Archive\2014\01-14-14.docx))

2/5/2014 Senate Committee report: Favorable **Judiciary** ([Senate Journal‑page 27](file:///H:\SJ%20Archive\2014\02-05-14.docx))

2/6/2014 Scrivener's error corrected

2/25/2014 Senate Read second time ([Senate Journal‑page 23](file:///H:\SJ%20Archive\2014\02-25-14.docx))

2/25/2014 Senate Roll call Ayes‑39 Nays‑0 ([Senate Journal‑page 23](file:///H:\SJ%20Archive\2014\02-25-14.docx))

2/26/2014 Senate Read third time and sent to House ([Senate Journal‑page 19](file:///H:\SJ%20Archive\2014\02-26-14.docx))

2/27/2014 House Referred to Committee on **Judiciary** ([House Journal‑page 5](file:///H:\HJ%20Archive\2014\02-27-14.docx))

3/20/2014 House Committee report: Favorable **Judiciary** ([House Journal‑page 3](file:///H:\HJ%20Archive\2014\03-20-14.docx))

3/26/2014 House Debate adjourned until Tues., 4‑1‑14 ([House Journal‑page 43](file:///H:\HJ%20Archive\2014\03-26-14.docx))

4/2/2014 House Requests for debate‑Rep(s). Lemmons, JE Smith, Hixon, Wells, Taylor, Hiott, Skelton, Allison, Hardwick, Spires, Kennedy, JR Smith, Anderson, Gilliard, Neal, Williams, McEachern, Brannon, KR Crawford, Wood, Ryhal, VS Moss ([House Journal‑page 10](file:///H:\HJ%20Archive\2014\04-02-14.docx))

4/9/2014 House Debate adjourned until Tues., 5‑6‑14 ([House Journal‑page 96](file:///H:\HJ%20Archive\2014\04-09-14.docx))

5/13/2014 House Debate adjourned until Wed., 5‑14‑14 ([House Journal‑page 17](file:///H:\HJ%20Archive\2014\05-13-14.docx))

5/14/2014 House Debate adjourned until Thur., 5‑15‑14 ([House Journal‑page 43](file:///H:\HJ%20Archive\2014\05-14-14.docx))

5/21/2014 House Debate adjourned until Thur., 5‑22‑14 ([House Journal‑page 12](file:///H:\HJ%20Archive\2014\05-21-14.docx))

5/22/2014 House Amended ([House Journal‑page 34](file:///H:\HJ%20Archive\2014\05-22-14.docx))

5/22/2014 House Read second time ([House Journal‑page 34](file:///H:\HJ%20Archive\2014\05-22-14.docx))

5/22/2014 House Roll call Yeas‑102 Nays‑0 ([House Journal‑page 42](file:///H:\HJ%20Archive\2014\05-22-14.docx))

5/22/2014 House Unanimous consent for third reading on next legislative day ([House Journal‑page 44](file:///H:\HJ%20Archive\2014\05-22-14.docx))

5/23/2014 House Read third time and returned to Senate with amendments ([House Journal‑page 2](file:///H:\HJ%20Archive\2014\05-23-14.docx))

5/27/2014 Senate House amendment amended ([Senate Journal‑page 6](file:///H:\SJ%20Archive\2014\05-27-14.docx))

5/27/2014 Senate Roll call Ayes‑37 Nays‑0 ([Senate Journal‑page 6](file:///H:\SJ%20Archive\2014\05-27-14.docx))

5/27/2014 Senate Returned to House with amendments ([Senate Journal‑page 6](file:///H:\SJ%20Archive\2014\05-27-14.docx))

5/28/2014 House Concurred in Senate amendment and enrolled ([House Journal‑page 4](file:///H:\HJ%20Archive\2014\05-28-14.docx))

5/28/2014 Scrivener's error corrected

5/29/2014 Ratified R 220

6/2/2014 Signed By Governor

6/6/2014 Effective date 06/02/14

6/10/2014 Act No. 196

**VERSIONS OF THIS BILL**

[12/10/2013](file:///p:\pprever\2013-14\815_20131210.docx)

[2/5/2014](file:///p:\pprever\2013-14\815_20140205.docx)

[2/6/2014](file:///p:\pprever\2013-14\815_20140206.docx)

[3/20/2014](file:///p:\pprever\2013-14\815_20140320.docx)

[5/22/2014](file:///p:\pprever\2013-14\815_20140522.docx)

[5/27/2014](file:///p:\pprever\2013-14\815_20140527.docx)

[5/28/2014](file:///p:\pprever\2013-14\815_20140528.docx)

(A196, R220, S815)

**AN ACT TO AMEND SECTION 7‑3‑20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SELECTION AND DUTIES OF THE EXECUTIVE DIRECTOR OF THE STATE ELECTION COMMISSION, SO AS TO REQUIRE THE EXECUTIVE DIRECTOR OF THE STATE ELECTION COMMISSION TO SUPERVISE, REVIEW, AND AUDIT THE CONDUCT AND PERFORMANCE OF THE COUNTY BOARDS OF VOTER REGISTRATION AND ELECTIONS; BY ADDING SECTION 7‑3‑25 SO AS TO PROVIDE REMEDIAL PROCEDURES WHEN THE STATE ELECTION COMMISSION DETERMINES THAT A COUNTY BOARD OF VOTER REGISTRATION AND ELECTIONS HAS FAILED TO COMPLY WITH APPLICABLE STATE OR FEDERAL LAW; TO AMEND SECTION 7‑5‑10, AS AMENDED, RELATING TO THE APPOINTMENT AND REMOVAL OF MEMBERS OF COUNTY BOARDS OF REGISTRATION, SO AS TO ESTABLISH COUNTY BOARDS OF VOTER REGISTRATION AND ELECTIONS AND TO PROVIDE FOR THEIR COMPOSITION, TERMS, AND DUTIES; TO AMEND SECTION 7‑5‑20, RELATING TO DEPUTY MEMBERS OF COUNTY BOARDS OF REGISTRATION, SO AS TO PROVIDE THAT COUNTY BOARDS OF VOTER REGISTRATION AND ELECTIONS MAY APPOINT DEPUTY MEMBERS; TO AMEND SECTION 7‑5‑30, RELATING TO THE DUTIES AND TERMS OF MEMBERS OF COUNTY BOARDS OF REGISTRATION, SO AS TO DELETE REFERENCES TO THE MEMBERS’ TERMS; TO AMEND SECTION 7‑11‑30, AS AMENDED, RELATING TO PARTY CONVENTION NOMINATION OF CANDIDATES, SO AS TO PROVIDE THAT A PARTY MAY CHOOSE TO CHANGE FROM NOMINATION OF CANDIDATES BY PRIMARY TO A METHOD TO NOMINATE CANDIDATES BY CONVENTION AND TO CLARIFY THAT A POLITICAL PARTY THAT HAS NOMINATED CANDIDATES BY CONVENTION IN THE PREVIOUS ELECTION CYCLE IS NOT REQUIRED TO HOLD A PRIMARY IN ORDER TO CONTINUE USING THE CONVENTION METHOD TO NOMINATE CANDIDATES; TO REPEAL SECTION 7‑5‑35 RELATING TO COMBINED COUNTY ELECTION AND REGISTRATION COMMISSIONS, SECTION 7‑13‑70 RELATING TO THE APPOINTMENT, REMOVAL, AND TRAINING OF COUNTY ELECTION COMMISSIONERS, AND CHAPTER 27, TITLE 7 RELATING TO COUNTY BOARDS OF REGISTRATION AND ELECTION COMMISSIONS; AND TO AMEND SECTION 7‑3‑20, AS AMENDED, RELATING TO THE SELECTION AND DUTIES OF THE EXECUTIVE DIRECTOR OF THE STATE ELECTION COMMISSION, SO AS TO REQUIRE THE STATE ELECTION COMMISSION TO PUBLISH ON THE COMMISSION’S WEBSITE CERTAIN CHANGES TO VOTING PROCEDURES ENACTED BY STATE OR LOCAL GOVERNMENTS.**

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

**Executive Director of State Election Commission**

SECTION 1. Section 7‑3‑20(C) of the 1976 Code, as last amended by Act 265 of 2012, is further amended to read:

“(C) The executive director shall:

(1) supervise the conduct of county board of elections and voter registration, as established pursuant to Article 1, Chapter 5, which administer elections and voter registration in the State and ensure those boards’ compliance with the requirements with applicable state or federal law or State Election Commission policies and procedures with regard to the conduct of elections or the voter registration process by all persons involved in the elections process;

(2) conduct reviews, audits, or other postelection analysis of county board of elections and voter registration, as established pursuant to Article 1, Chapter 5, to ensure those boards’ compliance with the requirements with applicable state or federal law or State Election Commission policies and procedures with regard to the conduct of elections or the voter registration process by all persons involved in the elections process;

(3) maintain a complete master file of all qualified electors by county and by precincts;

(4) delete the name of any elector:

(a) who is deceased;

(b) who is no longer qualified to vote in the precinct where currently registered;

(c) who has been convicted of a disqualifying crime;

(d) who is otherwise no longer qualified to vote as may be provided by law; or

(e) who requests in writing that his name be removed;

(5) enter names on the master file as they are reported by the county registration boards;

(6) furnish each county registration board with a master list of all registered voters in the county, together with a copy of all registered voters in each precinct of the county, at least ten days prior to each election. The precinct copies shall be used as the official list of voters;

(7) maintain all information furnished his office relating to the inclusion or deletion of names from the master file for four years;

(8) purchase, lease, or contract for the use of such equipment as may be necessary to properly execute the duties of his office, subject to the approval of the State Election Commission;

(9) secure from the United States courts and federal and state agencies available information as to persons convicted of disqualifying crimes;

(10) obtain information from any other source which may assist him in carrying out the purposes of this section;

(11) perform such other duties relating to elections as may be assigned him by the State Election Commission;

(12) furnish at reasonable price any precinct lists to a qualified elector requesting them;

(13) serve as the chief state election official responsible for implementing and coordinating the state’s responsibilities under the National Voter Registration Act of 1993;

(14) serve as the chief state election official responsible for implementing and enforcing the state’s responsibilities under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), as set forth in the U.S.C., Title 42, Section 1973ff, et seq.; and

(15) establish and maintain a statewide voter registration database that shall be administered by the commission and made continuously available to each board of elections and to other agencies as authorized by law.”

**Noncompliant county boards of voter registration and elections**

SECTION 2. Chapter 3, Title 7 of the 1976 Code is amended by adding:

“Section 7‑3‑25. (A) In the event that the State Election Commission, acting through its executive director, determines that a county board of elections and voter registration has failed to comply with applicable state or federal law or State Election Commission policies and procedures with regard to the conduct of the election or voter registration process, the State Election Commission, acting through its executive director or other designee, must supervise, pursuant to Section 7‑3‑20(C)(1), the county board to the extent necessary to:

(1) identify the failure to comply with state or federal law or State Election Commission policies and procedures;

(2) establish a plan to correct the failure; and

(3) implement the plan to correct the failure. The officials and employees of the State Election Commission and the county board must work together, in good faith, to remedy the failure of the county board to adhere to state or federal law. In the event of a difference of policy or opinion between a county election official or employee and the State Election Commission or its designee, pertaining to the manner in which particular functions must be performed, the policy or opinion of the State Election Commission shall control.

(B) If a county board of voter registration and elections does not or cannot determine and certify the results of an election or referendum for which it is responsible by the time set for certification by applicable law, the responsibility to determine and certify the results is devolved upon the State Election Commission.

(C) If the State Election Commission determines that an official or an employee of a county board of voter registration and elections has negligently failed to comply with applicable state or federal law or State Election Commission policies and procedures with regard to the election or voter registration process or fails to comply with or cooperate with the corrective plan established by the State Election Commission or its designee under the provisions of subsection (A), the commission may order the decertification of that official or employee and if decertified the commission shall require that official to participate in a retraining program approved by the commission prior to recertification. If the commission finds that the failure to comply with state or federal law or State Election Commission policies and procedures by an official is wilful, it shall recommend the termination of that official to the Governor or it shall recommend termination of a staff member to the director of the appropriate county board of voter registration and elections.”

**Appointment and removal of members of county boards of voter registration and elections**

SECTION 3. Section 7‑5‑10 of the 1976 Code, as last amended by Act 100 of 2007, is further amended to read:

“Section 7‑5‑10. (A)(1) The Governor shall appoint, upon the recommendation of the legislative delegation of the counties, competent and discreet persons in each county, who are qualified electors of that county and who must be known as the ‘Board of Voter Registration and Elections of \_\_\_\_\_\_\_\_\_ County’. The total number of members on the board must not be less than five nor more than nine persons. At least one appointee on the board shall be a member of the majority political party represented in the General Assembly and at least one appointee shall be a member of the largest minority political party represented in the General Assembly.

(2) After their appointment, the board members must take and subscribe, before any officer authorized to administer oaths, the following oath of office prescribed by Section 26, Article III of the Constitution: ‘I do solemnly swear (or affirm) that I am duly qualified, according to the Constitution of this State, to exercise the duties of the office to which I have been elected (or appointed), and that I will, to the best of my ability, discharge the duties thereof, and preserve, protect and defend the Constitution of this State and of the United States. So help me God.’

(3) The oath must be filed immediately in the office of the clerk of court of common pleas of the county in which the commissioners are appointed, or if there is no clerk of court, in the office of the Secretary of State.

(4) The Governor shall notify the State Election Commission in writing of the appointments. The members appointed are subject to removal by the Governor for incapacity, misconduct, or neglect of duty.

(B)(1) The Governor shall appoint the initial appointees within six months of the effective date of this section. Four of the initial appointees shall serve two‑year terms, and the remaining initial appointees shall serve four‑year terms. Upon expiration of the terms of those members initially appointed, the term of office for the members of the board is four years, and until their successors are appointed and qualify. Members may succeed themselves.

(2) A member must be present at a meeting in order to vote.

(3) If a member misses three consecutive meetings of the board, the chairman or his designee immediately shall notify the Governor who shall then remove the member from office.

(4) In case of a vacancy on the board, the vacancy must be filled in the same manner as an original appointment, as provided in this section, for the unexpired term.

(5) The board shall elect from among its members a chairman and such other officers as it may consider desirable. The board shall then notify the State Election Commission in writing of the name of the persons elected as chairman and officers of the board. Each officer shall be elected for a term of two years.

(6) The board must hire a director. The director is responsible for hiring and managing the staff. Staff positions are subject to the personnel system policies and procedures by which all county employees are regulated, except that the director serves at the pleasure of the board. A member of the board must not be hired or serve as a member of the staff while serving as a board member.

(7) Members of the board and its staff shall receive compensation as may be appropriated by the governing body of the county.

(C) The previous offices of county election commissions, voter registration boards, or combined boards are abolished. The powers and duties of the county election commissions, voter registration boards, or combined boards are devolved upon the board of voter registration and elections for each county created in subsection (A). Those members currently serving on the county election commissions, voter registration boards, or combined boards shall continue to serve in a combined governing capacity until at least five members of the successor board members established under this section are appointed and qualify.

(D)(1) Each member, and each staff person designated by the board, must complete, within eighteen months after a member’s initial appointment or his reappointment following a break in service, or within eighteen months after a staff person’s initial employment or reemployment following a break in service, a training and certification program conducted by the State Election Commission. When a member or staff person has successfully completed the training and certification program, the State Election Commission must issue the member or staff person a certification, whether or not the member or staff person applies for the certification.

(2) If a member does not fulfill the training and certification program as provided in this section, the Governor, upon notification, must remove that member from the board unless the Governor grants the member an extension to complete the training and certification program based upon exceptional circumstances.

(3) Following completion of the training and certification program required in item (1), each board member, and each staff person designated by the board or commission, must take at least one training course each year.”

**Deputy members of county boards of voter registration and elections**

SECTION 4. Section 7‑5‑20 of the 1976 Code is amended to read:

“Section 7‑5‑20. The board of voter registration and elections of each county may appoint deputy members of the board, in numbers as may be necessary, whose terms shall be for a period of time as determined by the boards. The deputy members shall have the same powers and duties as regular members of the board. The clerk to each board may be made a deputy member of the board for the purpose of taking applications.”

**Duties of county boards of voter registration and elections**

SECTION 5. Section 7‑5‑30 of the 1976 Code is amended to read:

“Section 7‑5‑30. Such boards shall register and conduct the registration of the electors who shall apply for registration in their respective counties as herein required. Their office shall be at the county seat, and they shall keep a record of all their official acts and proceedings. Provided, that nothing herein shall be construed as prohibiting the boards of registration from taking their registration books across adjoining county lines to register qualified electors of their respective county whose regular place of employment is in an adjoining county or who are otherwise unable to get to the county seat during office hours to register. One member of the board shall constitute a quorum for the purpose of registering or refusing to register applications for registration.”

**Convention nomination of candidates**

SECTION 6. Section 7‑11‑30 of the 1976 Code, as last amended by Act 61 of 2013, is further amended to read:

“Section 7‑11‑30. (A) A party may choose to change from nomination of candidates by primary to a method to nominate candidates by convention for all offices including, but not limited to, Governor, Lieutenant Governor, United States Senator, United States House of Representatives, Circuit Solicitor, State Senator, and members of the State House of Representatives if:

(1) there is a three‑fourths vote of the total membership of the convention to use the convention nomination process; and

(2) a majority of voters in that party’s next primary election approve the use of the convention nomination process.

(B) A party may not choose to nominate by party convention for an election cycle in which the filing period for candidates has begun.

(C) A political party nominating candidates by party convention shall nominate the party candidates and make the nominations public not later than the time for certifying candidates to the authority charged by law with preparing ballots for the general or special election.

(D) Nothing in this section requires a political party that has nominated candidates by convention in the previous election cycle to hold a primary in order to continue using the convention method to nominate candidates.”

**Repeal**

SECTION 7. Section 7‑5‑35, Section 7‑13‑70, and Chapter 27, Title 7 of the 1976 Code are repealed.

**Code Commissioner directed to make conforming changes**

SECTION 8. The code commissioner is directed to change all references in Title 7 to county election commissions or commissioners or county boards of voter registration to the “Board of Voter Registration and Elections of County” and board members as appropriate.

**Severability**

SECTION 9. The provisions of this act are severable. If any section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of the act, the General Assembly hereby declaring that it would have passed each and every section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, items, subitems, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

**Publication of voting procedure changes**

SECTION 10. Section 7‑3‑20(C) of the 1976 Code, as last amended by Act 265 of 2012, is further amended by adding an appropriately numbered item at the end to read:

“( ) The State Election Commission shall publish on the commission’s website each change to voting procedures enacted by state or local governments. State and local governments shall file notice of all changes in voting procedures, including, but not limited to, changes to precincts with the State Election Commission within five days after adoption of the change or thirty‑five days prior to the implementation, whichever is earlier. All voting procedure changes must remain on the commission’s website at least through the date of the next general election. However, if changes are made within three months prior to the next general election, then the changes shall remain on the commission’s website through the date of the following general election.”

**Time effective**

SECTION 11. This act takes effect upon approval by the Governor.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

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