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COMMITTEE REPORT

March 21, 2018

**S. 1120**

Introduced by Senator Campsen

S. Printed 3/21/18--S. [SEC 3/23/18 9:16 AM]

Read the first time March 15, 2018.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 1120) to enact the “South Carolina Lieutenant Governor Restructuring Act of 2018” including provisions to amend Sections 1‑3‑620, 1-17-20, 1‑23, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

LUKE A. RANKIN for Committee.

**A** **BILL**

TO ENACT THE “SOUTH CAROLINA LIEUTENANT GOVERNOR RESTRUCTURING ACT OF 2018” INCLUDING PROVISIONS TO AMEND SECTIONS 1‑3‑620, 1-17-20, 1‑23‑125(B), 1‑23‑125(D), 2‑3‑30, 2‑3‑90, 7‑11‑30(A), 7‑17‑10, 10‑1‑40, 14‑27‑20(10), 14‑27‑30, 14‑27‑40(2), 14‑27‑80, 44‑56‑840(A), AND 59‑6‑15(A), CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DUTIES AND RESPONSIBILITIES OF THE LIEUTENANT GOVERNOR, SO AS TO REVISE STATUTORY REFERENCES TO CONFORM TO CONSTITUTIONAL AND STATUTORY CHANGES CONCERNING SELECTION AS PART OF A JOINT TICKET AND TO MAKE THE GOVERNOR RESPONSIBLE FOR THE EXISTING DUTIES AND RESPONSIBILITIES OF THE LIEUTENANT GOVERNOR SO THE GOVERNOR MAY DETERMINE HOW THOSE DUTIES AND RESPONSIBILITIES MAY BE ACCOMPLISHED; TO AMEND SECTIONS 1-11-720(A)(9), 1-30-10(A), 9-1-10(11)(g), 9-1-10(14), 29-4-60(D), 43-21-10, 43-21-20, 43-21-45, 43-21-60, 43-21-70, 43-21-100, 43-21-130(A)(1), 43-21-190(2), 44-36-20(21), 44-36-50, 44-36-310, 44-36-320(7), AND 44-36-330, RELATING TO THE OFFICE OF THE LIEUTENANT GOVERNOR, DIVISION ON AGING, SO AS TO CREATE IN THE EXECUTIVE BRANCH A DEPARTMENT ON AGING; TO REQUIRE, ON OR BEFORE JANUARY 1, 2019, THE CODE COMMISSIONER TO PREPARE AND DELIVER A REPORT TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES RECOMMENDING ANY ADDITIONAL APPROPRIATE AND CONFORMING CHANGES TO THE 1976 CODE OF LAWS REFLECTING THE PROVISIONS OF THIS ACT; AND ON OR BEFORE JANUARY 1, 2019, TO REQUIRE THE JOINT LEGISLATIVE COMMITTEE ON AGING TO PREPARE AND DELIVER A REPORT TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES RECOMMENDING ANY ADDITIONAL CHANGES TO THE DEPARTMENT ON AGING CREATED BY THIS ACT TO ENHANCE EFFICIENT AND COST EFFECTIVE DELIVERY OF SERVICES TO THE AGING COMMUNITY IN ACCORDANCE WITH THE FEDERAL OLDER AMERICANS ACT.

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

PART I

Citation

SECTION 1. This act is known and may be cited as the “South Carolina Lieutenant Governor Restructuring Act of 2018”.

PART II

Lieutenant Governor

SECTION 2. Section 1‑3‑620 of the 1976 Code is amended to read:

“Section 1‑3‑620. ~~Beginning with the term of the Lieutenant Governor elected in 1982, the duties of such office shall be part‑time.~~ Beginning with the term of the Lieutenant Governor elected in the 2018 General Election, except when otherwise provided by law, the Lieutenant Governor shall perform the duties pertaining to the office of Governor as assigned by the Governor. The office of the Lieutenant Governor is a division of the office of the Governor.”

SECTION 3. Section 1-17-20 of the 1976 Code is amended to read:

“Section 1‑17‑20. The standing Committee on Interstate Cooperation of the Senate shall consist of five Senators. The members and chairman of this committee shall be designated in the same manner as is customary in the case of the members and chairmen of other standing committees of the Senate. ~~The Lieutenant Governor may serve ex officio as one of the five members of this Committee.~~”

SECTION 4. Section 1‑23‑125(B) of the 1976 Code is amended to read:

“(B) If a majority of a committee determines that it cannot approve a regulation in the form submitted, it shall notify the promulgating agency in writing along with its recommendations as to changes that would be necessary to obtain committee approval. The agency may:

(1) withdraw the regulation from the General Assembly and resubmit it with the recommended changes to the Speaker and the ~~Lieutenant Governor~~ President of the Senate, but ~~any~~ a regulation not resubmitted within thirty days is considered permanently withdrawn;

(2) withdraw the regulation permanently; or

(3) take no action and abide by whatever action is taken or not taken by the General Assembly on the regulation concerned.”

SECTION 5. Section 1‑23‑125(D) of the 1976 Code is amended to read:

“(D) This section, as it applies to approval, disapproval, or modification of regulations, does not apply to joint resolutions introduced by members other than the committees to which regulations are initially referred by the ~~Lieutenant Governor~~ President of the Senate or the Speaker of the House of Representatives.”

SECTION 6. Section 2‑3‑30 of the 1976 Code is amended to read:

“Section 2‑3‑30. Except for legislative days ~~which~~ that, by Senate or House action, are designated for consideration only of local and uncontested matters, members of the General Assembly~~, including the Lieutenant Governor, shall~~ must be paid ~~fifty ($50.00) dollars~~ subsistence expenses for each legislative day as provided by law. Provided, such subsistence allowance ~~shall~~ must be paid for each calendar day occurring within the same legislative day to members of that body in session on each calendar day.”

SECTION 7. Section 2-3-90 of the 1976 Code is amended to read:

“Section 2‑3‑90. The Senate and House of Representatives ~~shall~~ also, at the same time, each for itself, shall elect a reading clerk, a sergeant at arms, and an assistant sergeant at arms. Should a vacancy occur in the sergeant at arms or assistant sergeant at arms while the General Assembly is not in session, the ~~Lieutenant Governor~~ President of the Senate or the Speaker of the House is authorized to appoint for their respective Houses a sergeant at arms or assistant sergeant at arms until the convening of the next General Assembly.”

SECTION 8. Section 7‑11‑30(A) of the 1976 Code, as last amended by Act 196 of 2014, is further amended to read:

“(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.”

SECTION 9. Section 7‑17‑10 of the 1976 Code, as last amended by Act 261 of 2002, is further amended to read:

“Section 7‑17‑10. The commissioners of election for Governor~~,~~ and Lieutenant Governor, state officers, circuit solicitors, members of the General Assembly, and county officers or any of these officers shall meet in some convenient place at the county seat on the Friday next following the election, before one o’clock in the afternoon of that day, and shall proceed to organize as the county board of canvassers. They may appoint some competent person as secretary. The chairman ~~shall~~ then shall proceed to administer the constitutional oath to each member of the board, as canvassers, and shall administer the constitutional oath to the secretary, and the secretary shall administer to the chairman the same oath that he has administered to the other members of the board. The commissioners of election for members of Congress and presidential electors or any of these officers ~~shall~~ likewise shall meet at the same time at the county seat and ~~shall~~ in the same manner shall proceed to organize as the county board of canvassers for the election of the federal officers.”

SECTION 10. Section 10-1-40 of the 1976 Code is amended to read:

“Section 10‑1‑40. There is hereby established a committee to be known as the ‘State House Committee’, consisting of five members of the Senate, appointed by the ~~Lieutenant Governor~~ President of the Senate and five members of the House of Representatives, appointed by the Speaker, whose duties shall be to review all proposals for alterations and/or renovations to the State House. No alterations or renovations shall be undertaken without the approval of this committee.”

SECTION 11. Section 14-27-20(10) of the 1976 Code is amended to read:

“(10) the ~~Lieutenant Governor~~ President of the Senate or his designee;”

SECTION 12. Section 14-27-30 of the 1976 Code is amended to read:

“Section 14‑27‑30. The Chief Justice of the Supreme Court shall appoint the following members to the Judicial Council: the two circuit court judges; the two family court judges; the two probate judges; the two summary court judges; the two masters‑in‑equity; the Attorney General or one of the Assistant Attorneys General or one of the circuit solicitors; the Dean or member of the faculty of the Law School of the University of South Carolina; one person recommended by the Charleston School of Law; and the six remaining members of the Judicial Council.

The ~~Lieutenant Governor~~ President of the Senate, the Speaker of the House or their designees, the Chairmen of the Senate Finance Committee, House Ways and Means Committee, Senate Judiciary Committee, and House Judiciary Committee or their designees, the Director of the Legislative Council, and the President of the South Carolina Bar or his designee all serve ex officio.”

SECTION 13. Section 14-27-40(2) of the 1976 Code is amended to read:

“(2) The ~~Lieutenant Governor~~ President of the Senate, Speaker of the House or their designees, and the Chairmen of the Senate Finance Committee, House Ways and Means Committee, Senate Judiciary Committee, and House Judiciary Committee or their designees serve during their respective terms as those officers.”

SECTION 14. Section 14-27-80 of the 1976 Code is amended to read:

“Section 14‑27‑80. The duties performed by the Chief Justice of the Supreme Court, or other member of that court designated by him, by the circuit judges, inferior court judges and probate judges, by members of the legal department of the State, and by the ~~Lieutenant Governor~~ President of the Senate, Speaker of the House, legislative members, Director of the Legislative Council and dean of the Law School of the University of South Carolina shall be performed as a part of the duties of their respective offices.”

SECTION 15. Section 44-56-840(A) of the 1976 Code is amended to read:

“Section 44‑56‑840. (A) There is created a Hazardous Waste Management Select Oversight Committee to monitor funds generated from the fees imposed under Section 44‑56‑170(C) and (E) and designated for the fund under Section 44‑56‑810. The committee shall oversee the research efforts and projects approved for funding by the foundation. Notwithstanding any other provision of law, the committee is composed of:

(1) the Governor or his designee;

(2) the Chairman of the House Agriculture and Natural Resources Committee or his designee;

(3) the Chairman of the Senate Agriculture and Natural Resources Committee or his designee;

(4) the Chairman of the House Labor, Commerce and Industry Committee or his designee;

(5) the Chairman of the Senate Labor, Commerce and Industry Committee or his designee;

(6) the Director of the Department of Health and Environmental Control or his designee;

(7) one member representing business and industry appointed by the Governor;

(8) one public member appointed by the Governor;

(9) one member representing environmental interests appointed by the Governor; and

(10) the ~~Lieutenant Governor~~ President of the Senate or his designee.”

SECTION 16. Section 59-6-15(A) of the 1976 Code is amended to read:

“(A) There is created the Business‑Education Partnership for Excellence in Education and a permanent standing subcommittee of the partnership for the purpose of reviewing the implementation of the South Carolina Education Improvement Act of 1984 and recommending other major education initiatives.

The Business‑Education Partnership for Excellence in Education consists of the following persons:

(1) thirty‑two prominent civic and business leaders of which fourteen are appointed by the Governor; six appointed by the State Superintendent of Education; three appointed by the Speaker of the House of Representatives; three appointed by the President of the Senate; three appointed by the Chairman of the Education and Public Works Committee of the House of Representatives; and three appointed by the Chairman of the Education Committee of the Senate;

(2) twenty educators of which eight are appointed by the State Superintendent of Education; four appointed by the Governor; two appointed by the Speaker of the House of Representatives; two appointed by the President of the Senate; two appointed by the Chairman of the Education and Public Works Committee of the House of Representatives; and two appointed by the Chairman of the Education Committee of the Senate;

(3) ~~Lieutenant Governor~~ President of the Senate or his designee;

(4) Chairman of the Committee on Children or his designee;

(5) Chairman of the Education Oversight Committee or his designee;

(6) the Governor and State Superintendent of Education shall serve as ex officio members.

The term of office of the members of the Business‑Education Partnership must be four years except that of those first appointed an equal number must serve terms of two, three, and four years respectively as determined by lot. Except in those cases where the term of a member of the Business‑Education Subcommittee has not expired, no member of the Business‑Education Partnership may serve more than two consecutive terms. The number of appointments provided for in items (1) and (2) above must be reduced proportionately by the membership requirements of subsection (B).

The Chairman of the Business‑Education Partnership for Excellence in Education must be elected by the members of the partnership and must be chosen from among the thirty‑two business and civic leaders serving on the partnership. The Business‑Education Partnership must meet at the call of the chairman but not less than quarterly. The Governor must preside at all regular and special meetings of the partnership in which he is in attendance; at those meetings at which the Governor is not in attendance the State Superintendent of Education must preside, and in the absence of the Superintendent, the chairman of the partnership must preside.

The partnership in conjunction with the State Department of Education may cause to be held statewide public forums for the purpose of fostering open discussions regarding the impact of the Education Improvement Act on the state's education system and education reform in general.”

PART III

Office or Division on Aging and Related Provisions

SECTION 17. Section 1-11-720(A)(9) of the 1976 Code is amended to read:

“(9) local councils on aging or other governmental agencies providing aging services funded by the ~~Office on Aging, Office of the Lieutenant Governor~~ Department on Aging;”

SECTION 18. Section 1‑30‑10(A) of the 1976 Code is amended to read:

“(A) There are hereby created, within the executive branch of the state government, the following departments:

1. Department of Administration

2. Department of Agriculture

3. Department of Alcohol and Other Drug Abuse Services

4. Department of Commerce

5. Department of Corrections

6. Department of Disabilities and Special Needs

7. Department of Education

8. Department of Health and Environmental Control

9. Department of Health and Human Services

10. Department of Insurance

11. Department of Juvenile Justice

12. Department of Labor, Licensing and Regulation

13. Department of Mental Health

14. Department of Motor Vehicles

15. Department of Natural Resources

16. Department of Parks, Recreation and Tourism

17. Department of Probation, Parole and Pardon Services

18. Department of Public Safety

19. Department of Revenue

20. Department of Social Services

21. Department of Transportation

22. Department of Employment and Workforce

23. Department on Aging.”

SECTION 19. Section 9-1-10(11)(g) of the 1976 Code is amended to read:

“(g) an employee of a local council on aging or other governmental agency providing aging services funded by the ~~Office on Aging,~~ ~~Office of the Lieutenant Governor~~ Department on Aging.”

SECTION 20. Section 9-1-10(14) of the 1976 Code is amended to read:

“(14) ‘Employer’ means this State, a county board of education, a district board of trustees, the board of trustees or other managing board of a state‑supported college or educational institution, or any other agency of this State by which a teacher or employee is paid; the term ‘employer’ also includes a county, municipality, or other political subdivision of the State, or an agency or department of any of these, which has been admitted to the system under the provisions of Section 9‑1‑470, a service organization referred to in item (11)(e) of this section, an alcohol and drug abuse planning agency authorized to receive funds pursuant to Section 61‑12‑20, and a local council on aging or other governmental agency providing aging services funded by the ~~Office on Aging, Office of the Lieutenant Governor~~ Department on Aging.”

SECTION 21. Section 29-4-60(D) of the 1976 Code is amended to read:

“(D) The ~~Office of the Governor, Division on Aging~~ Department on Aging shall provide independent consumer information on reverse mortgages and their alternatives.”

SECTION 22. Section 43-21-10 of the 1976 Code is amended to read:

“Section 43-21-10. There is created ~~in~~ the ~~Office of the Lieutenant Governor, the Division on Aging~~ Department on Aging. The ~~division~~ department must be supported by an Advisory Council on Aging consisting of one member from each of the ten planning and service areas ~~under the Division on Aging~~ and five members from the State at large. The director of the ~~division~~ department shall provide statewide notice that nominations may be submitted to the director from which the ~~Lieutenant~~ Governor shall appoint the members of the council. The members must be citizens of the State who have an interest in and a knowledge of the problems of an aging population. In making appointments to the council, consideration must be given to assure that the council is composed of appointees who are diverse in age, who are able and disabled, and who are active leaders in organizations and institutions that represent different concerns of older citizens and their families. The chair must be elected by the members of the advisory council from its members for a term of two years and until a successor is elected. Members of the council shall serve without compensation but shall receive mileage and subsistence authorized by law for members of boards, commissions, and committees. The advisory council shall meet at least once each quarter and special meetings may be called at the discretion of the director of the ~~division~~ department. Rules and procedures must be adopted by the council for the governance of its operations and activities.”

SECTION 23. Section 43-21-20 of the 1976 Code is amended to read:

“Section 43-21-20. The members of the advisory council shall serve for terms of four years and until their successors are appointed and qualify. The terms of the members expire on June thirtieth and all vacancies must be filled in the manner of the original appointment for the unexpired portion of the term only. No member may serve more than two consecutive terms.

The ~~Lieutenant~~ Governor may terminate a member of the council for any reason pursuant to the provisions of Section 1-3-240, and the reason for the termination must be communicated to each member of the council.”

SECTION 24. Section 43-21-45 of the 1976 Code is amended to read:

“Section 43‑21‑45. The ~~Office of the Lieutenant Governor, Division on Aging,~~ Department on Aging shall designate area agencies on aging, and area agencies on aging shall designate focal points. Focal points shall provide leadership on aging issues in their respective communities and shall carry out a comprehensive service system for older adults or shall coordinate with a comprehensive service system in providing services for older adults. The area agencies on aging represent the regional level of the state aging network and the focal points represent the local level of the state aging network.”

SECTION 25. Section 43-21-60 of the 1976 Code is amended to read:

“Section 43‑21‑60. The ~~division~~ Department on Aging shall submit an annual report to the ~~Lieutenant~~ Governor and to the General Assembly on or before January first of each year. The report shall deal with the present and future needs of the elderly and with the work of the ~~division~~ department during the year.”

SECTION 26. Section 43-21-70 of the 1976 Code is amended to read:

“Section 43‑21‑70. The ~~Lieutenant~~ Governor ~~may employ~~ shall appoint with the advice and consent of the Senate a director to be the administrative officer of the ~~division~~ Department on Aging who shall serve at ~~his~~ the Governor’s pleasure and who is subject to removal pursuant to the provisions of Section 1‑3‑240.”

SECTION 27. Section 43-21-100 of the 1976 Code is amended to read:

“Section 43‑21‑100. The ~~division~~ Department on Aging shall prepare the budget for its operation which must be submitted to the ~~Lieutenant~~ Governor and to the General Assembly for approval.”

SECTION 28. Section 43-21-130(A)(1) of the 1976 Code is amended to read:

“(1) the ~~Lieutenant~~ Governor or his designee;”

SECTION 29. Section 43-21-190(2) of the 1976 Code is amended to read:

“(2) make recommendations to the ~~Lieutenant~~ Governor and members of the General Assembly and to the Joint Legislative Committee on Aging;”

SECTION 30. Section 44-36-20(21) of the 1976 Code is amended to read:

“(21) Alzheimer's Disease and Related Disorders Resource Coordination Center~~, Office of the Governor, Division on Aging~~ of the Department on Aging;”

SECTION 31. Section 44-36-50 of the 1976 Code is amended to read:

“Section 44-36-50. The registry shall submit an annual report to the ~~Office of the Governor, Division on Aging,~~ Alzheimer’s Disease and Related Disorders Resource Coordination Center of the Department on Aging, the Department of Health and Environmental Control, and the Office of Research and Statistics of the Revenue and Fiscal Affairs Office.”

SECTION 32. Section 44-36-310 of the 1976 Code is amended to read:

“Section 44‑36‑310. ~~There~~ In the Department on Aging, there is created ~~in the~~ ~~Office of the Lieutenant Governor, Division on Aging,~~ the Alzheimer’s Disease and Related Disorders Resource Coordination Center to provide statewide coordination, service system development, information and referral, and caregiver support services to individuals with Alzheimer’s Disease and related disorders, their families, and caregivers.”

SECTION 33. Section 44-36-320(7) of the 1976 Code is amended to read:

“(7) submit an annual report to the Chairman of the Medical Affairs Committee of the Senate and the Chairman of the Medical, Military, Public and Municipal Affairs Committee of the House of Representatives in addition to publishing the report on the ~~Lieutenant~~ Governor’s website.”

SECTION 34. Section 44-36-330 of the 1976 Code is amended to read:

“Section 44‑36‑330. (A) The Alzheimer’s Disease and Related Disorders Resource Coordination Center must be supported by an advisory council appointed by the ~~Lieutenant~~ Governor including, but not limited to, representatives of:

(1) Alzheimer’s Association Chapters;

(2) American Association of Retired Persons;

(3) Clemson University;

(4) Department of Disabilities and Special Needs;

(5) Department of Health and Environmental Control;

(6) Department of Mental Health;

(7) Department of Social Services;

(8) Department of Health and Human Services;

(9) Medical University of South Carolina;

(10) National Association of Social Workers, South Carolina Chapter;

(11) South Carolina Adult Day Care Association;

(12) South Carolina Association of Area Agencies on Aging;

(13) South Carolina Association of Council on Aging Directors;

(14) South Carolina Association of Nonprofit Homes for the Aging;

(15) South Carolina Association of Residential Care Homes;

(16) South Carolina Health Care Association;

(17) South Carolina Home Care Association;

(18) South Carolina Hospital Association;

(19) South Carolina Medical Association;

(20) South Carolina Nurses’ Association;

(21) Statewide Alzheimer’s Disease and Related Disorders Registry;

(22) University of South Carolina;

(23) South Carolina State University.

(B) Members of the advisory council are not entitled to mileage, per diem, subsistence, or any other form of compensation.”

PART IV

Code Commissioner’s Report

SECTION 35. On or before January 1, 2019, the Code Commissioner shall prepare and deliver a report to the President of the Senate and the Speaker of the House of Representatives recommending any additional appropriate and conforming changes to the 1976 Code of Laws reflecting the provisions of this act.

PART V

Joint Legislative Committee on Aging’s Report

SECTION 36. On or before January 1, 2019, the Joint Legislative Committee on Aging shall prepare and deliver a report to the President of the Senate and the Speaker of the House of Representatives recommending any additional changes to the Department on Aging created by this act to enhance efficient and cost effective delivery of services to the aging community in accordance with the federal Older Americans Act.

PART VI

Severability

SECTION 37. If any section, subsection, paragraph, subparagraph, 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 this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

PART VII

Effective Dates

SECTION 38. PARTS II and III take effect on January 9, 2019, pursuant to the inauguration date specified in the South Carolina Constitution, Article IV, Section 4. All other PARTS take effect upon approval by the Governor.

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