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AS PASSED BY THE SENATE

May 8, 2019

**H. 3035**

Introduced by Reps. Funderburk, Thigpen, W. Newton, R. Williams and Wheeler

S. Printed 5/8/19--S.

Read the first time February 6, 2019.

**A** **BILL**

TO AMEND SECTION 7-13-72, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MANAGERS OF ELECTION, SO AS TO PROVIDE THAT CLERKS APPOINTED FROM THE POLL MANAGERS FOR EACH POLLING PLACE MUST BE RESIDENTS AND REGISTERED ELECTORS OF THE RESPECTIVE COUNTIES IN WHICH THEY ARE APPOINTED TO WORK OR IN ADJOINING COUNTIES; TO AMEND SECTION 7‑13‑80, RELATING TO ORGANIZATION OF BOARD OF VOTER REGISTRATION AND ELECTIONS MANAGERS AND CLERKS, SO AS TO PROVIDE THAT A CHAIRMAN OF A BOARD OF POLL MANAGERS MUST BE A RESIDENT AND REGISTERED ELECTOR FROM THE COUNTY IN WHICH HE IS APPOINTED TO WORK OR AN ADJOINING COUNTY; AND SECTION 7‑13‑110, RELATING TO POLL MANAGERS AND THEIR ASSISTANTS, SO AS TO PROVIDE THAT POLL MANAGERS MUST BE RESIDENTS AND REGISTERED ELECTORS OF THE STATE OF SOUTH CAROLINA, TO SPECIFY THAT A CLERK OR CHAIRMAN MUST BE A RESIDENT AND REGISTERED ELECTOR FROM THE COUNTY IN WHICH HE IS APPOINTED TO WORK OR IN AN ADJOINING COUNTY, AND TO REQUIRE THAT ANY PERSON QUALIFIED TO SERVE AS A MANAGER WHO REQUESTS TO WORK IN HIS RESIDENT OR AN ADJOINING COUNTY MUST BE GIVEN PRIORITY OVER QUALIFIED PERSONS FROM OTHER COUNTIES FOR APPOINTMENT TO WORK IN THE RESIDENT OR AN ADJOINING COUNTY.

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

SECTION 1. Section 7-13-72 of the 1976 Code is amended to read:

“Section 7‑13‑72. For the general election held on the first Tuesday following the first Monday in November in each even‑numbered year, the members of the county board of voter registration and elections must appoint three managers of election for each polling place in the county for which they must respectively be appointed for each five hundred electors, or portion of each five hundred electors, registered to vote at the polling place.

For primary elections held on the second Tuesday in June of each general election year, the members of the county board of voter registration and elections must appoint three managers of election for each polling place in the county for which they must respectively be appointed for the first five hundred electors registered to vote in each precinct in the county, and may appoint three additional managers for each five hundred electors registered to vote in the precinct above the first five hundred electors, or portion thereof. The members of the county board of voter registration and elections must also appoint from among the managers a clerk for each polling place in the county, and none of the officers may be removed from office except for incompetence or misconduct. All clerks appointed from among the managers must be residents and registered electors of the respective counties in which they are appointed to work or in an adjoining county.

For all other primary, special, or municipal elections, the authority charged by law with conducting the primary, special, or municipal elections must appoint three managers of election for the first five hundred electors registered to vote in each precinct in the county, municipality, or other election district and one additional manager for each five hundred electors registered to vote in the precinct above the first five hundred electors. The authority responsible by law for conducting the election must also appoint from among the managers a clerk for each polling place in a primary, special, or municipal election. All clerks appointed from among the managers must be residents and registered electors of the respective counties in which they are appointed to work or in an adjoining county.

Forty‑five days prior to any primary, except municipal primaries, each political party holding a primary may submit to the county board of voter registration and elections a list of prospective managers for each precinct. The county board of voter registration and elections must appoint at least one manager for each precinct from the list of names submitted by each political party holding a primary. However, the county board of voter registration and elections may refuse to appoint any prospective manager for good cause.

No person may be appointed as a manager in a primary, general, or special election who has not completed a training program approved by the State Election Commission concerning his duties and responsibilities as a poll manager and who has not received certification of having completed the training program. The training program and the issuance of certification must be carried out by the county board of voter registration and elections. After their appointment, the managers and clerks must take and subscribe, before any officer authorized to administer oaths, the following oath of office prescribed by Section 26 of 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 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’.

The oath must be immediately filed in the office of the clerk of court of common pleas of the county in which the managers and clerks are appointed, or if there is no clerk of court, in the office of the Secretary of State. Before opening the polls, the managers of election must take and subscribe the oath provided for in Section 7‑13‑100. Upon the completion of the canvassing of votes, this oath must be filed with the members of the county board of voter registration and elections along with the ballots from that election precinct.”

SECTION 2. Section 7-13-80 of the 1976 Code is amended to read:

“Section 7‑13‑80. The board members, managers, and clerks at their first meeting, respectively, must proceed to organize as a board. The county board of voter registration and elections must appoint the chairman of the board of managers. The chairman must be a resident and registered elector of the respective county in which he is appointed to work or in an adjoining county. The chairman, in each instance, may administer oaths.”

SECTION 3. Section 7‑13‑110 of the 1976 Code is amended to read:

“Section 7‑13‑110. Each chairman and clerk appointed from among the managers of election for the various polling places must be a resident and registered elector of the respective county in which he is appointed to work or in an adjoining county. All managers of election who are not appointed to serve as chairmen or clerks for the various polling places in the State must be residents and registered electors of the ~~respective counties in which they are appointed to work or in an adjoining county~~ State of South Carolina. Any person qualified to serve as a manager who requests to work in his resident county or an adjoining county must be given priority over qualified persons from other counties for appointment to work in the resident county or an adjoining county. Any person at least sixteen years of age who has completed the training required by Section 7‑13‑72 and who is not otherwise disqualified by law may be appointed as a poll manager’s assistant by the appropriate county board of voter registration and elections. ~~Any~~ A sixteen‑ or seventeen‑year‑old appointed as a poll manager’s assistant may not serve as chairman of the managers or clerk in the polling place to which he or she is appointed. Sixteen‑ and seventeen‑year‑olds must serve under supervision of the chairman of the managers of the polling place, and their specific duties must be prescribed by the county board of voter registration and elections. One sixteen‑ or seventeen‑year‑old assistant poll manager may be appointed for every two regular poll managers appointed to work in ~~any~~ a precinct.”

SECTION 4. Section 1-3-210 of the 1976 Code is amended to read:

“Section 1-3-210. (A)(1) ~~During the recess of the Senate, vacancy which occurs in an~~ If an office filled by an appointment of the Governor with the advice and consent of the Senate becomes vacant during the interim period between regular legislative sessions, then the office may be filled by an interim appointment of the Governor only if the Governor acts to fill the office during the same interim period during which the office became vacant. The Governor must report the interim appointment to the Senate and must forward a formal appointment at its next ensuing regular session. If the Senate votes to reject an interim appointee’s formal appointment during the next ensuing regular session then the office is immediately vacant and may not be filled by another interim appointment.

(2) If the Senate does not advise and consent ~~thereto~~ to the formal appointment prior to ~~sine die adjournment~~ the second Thursday in May following the interim period during which the interim appointment was made ~~of the next ensuing regular session~~, the office shall be vacant and the interim appointment shall not serve in hold over status notwithstanding any other provision of law to the contrary. The Governor may not make a subsequent interim appointment for the same vacancy. ~~A subsequent interim appointment of a different person to a vacancy created by a failure of the Senate to grant confirmation to the original interim appointment shall expire on the second Tuesday in January following the date of such subsequent interim appointment and the office shall be vacant.~~

(B) The Governor’s authority to make an interim appointment pursuant to subsection (A) terminates when the General Assembly convenes the regular legislative session following the interim period between regular legislative sessions during which the office became vacant.”

SECTION 5. Article 5, Chapter 3 of Title 1 of the 1976 Code is amended by adding:

“Section 1-3-211. (A) If a vacancy exists in the head of an agency that requires appointment by the Governor with the advice and consent of the Senate, the Governor may designate an employee of the agency as the acting head of the agency if the person designated was employed by the agency for at least twelve consecutive months prior to the date upon which the vacancy occurred. A person designated as an acting agency head pursuant to this subsection may serve as the acting agency head no longer than the second Thursday in May following date upon which the vacancy occurred.

(B)(1) A person nominated by the Governor to head an agency that requires the advice and consent of the Senate who did not receive the advice and consent of the Senate, or whose nomination was withdrawn, may not be designated by the Governor as the acting head of the agency to which the person was nominated.

(2) A person nominated by the Governor to head an agency that requires the advice and consent of the Senate who also had been previously designated as the acting head of the agency who did not receive the advice and consent of the Senate, or whose nomination was withdrawn, may no longer exercise any authority or duties of that agency.”

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

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