**South Carolina General Assembly**

125th Session, 2023-2024

**H. 3685**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Harris, Pace, Magnuson and Kilmartin

Companion/Similar bill(s): 403, 767, 3161, 3472, 3695

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Introduced in the House on January 12, 2023

Currently residing in the House

Summary: Closed primaries

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 1/12/2023 House Introduced and read first time (House Journal‑page 337)

 1/12/2023 House Referred to Committee on **Judiciary** (House Journal‑page 337)

 3/1/2023 House Member(s) request name added as sponsor: Pace,
 Magnuson

 5/3/2023 House Member(s) request name added as sponsor: Kilmartin

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**VERSIONS OF THIS BILL**

[01/12/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3685_20230112.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 7‑5‑115 SO AS TO, AMONG OTHER THINGS, PROVIDE THAT ONLY AN ELECTOR REGISTERED AS A MEMBER OF A CERTIFIED POLITICAL PARTY MAY VOTE IN THAT PARTY’S PRIMARY OR ADVISORY REFERENDUM UNLESS THE STATE EXECUTIVE COMMITTEE OF THE PARTY TAKES ACTION TO ALLOW ELECTORS REGISTERED AS INDEPENDENT VOTERS UNAFFILIATED WITH A POLITICAL PARTY TO PARTICIPATE; BY AMENDING SECTION 7‑5‑110, RELATING TO THE REQUIREMENT OF REGISTRATION IN ORDER TO VOTE, SO AS TO MAKE CONFORMING CHANGES; BY AMENDING SECTION 7‑5‑170, RELATING TO WRITTEN OR ELECTRONIC APPLICATIONS TO REGISTER TO VOTE, SO AS TO REQUIRE INFORMATION CONCERNING THE APPLICANT’S POLITICAL PARTY AFFILIATION, IF ANY; BY AMENDING SECTION 7‑9‑20, RELATING TO QUALIFICATIONS FOR VOTING IN A PARTY’S PARTISAN PRIMARY, SO AS TO INCLUDE REGISTRATION AS A MEMBER OF THE PARTY AS A REQUIREMENT UNLESS THE PARTY HAS TAKEN ACTION TO ALLOW ELECTORS REGISTERED AS INDEPENDENT VOTERS UNAFFILIATED WITH A PARTY TO PARTICIPATE, AND TO PROVIDE A PROCEDURE FOR CHANGING POLITICAL PARTY AFFILIATION OR NONAFFILIATION AFTER A SELECTION HAS BEEN MADE; AND BY AMENDING SECTION 7‑13‑40, RELATING TO THE CERTIFICATION OF NAMES BY A POLITICAL PARTY TO BE PLACED ON PRIMARY BALLOTS, SO AS TO ALLOW A POLITICAL PARTY TO REQUIRE A PERSON TO BE REGISTERED AS AFFILIATED WITH THE PARTY TO APPEAR AS A CANDIDATE ON THE PRIMARY BALLOT.

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

SECTION 1. Article 3, Chapter 5, Title 7 of the S.C. Code is amended by adding:

 Section 7‑5‑115. (A) Only an elector registered as a member of a certified political party may vote in a partisan primary election or partisan advisory referendum of the certified political party with which that elector is registered unless the certified political party has taken action to open its partisan primary election or partisan advisory referendum to independent electors unaffiliated with a certified political party pursuant to subsection (D). In no event may an elector registered as a member of a certified political party vote in the partisan primary election or partisan advisory referendum of a certified political party with which that elector is not registered.

 (B) The State Election Commission shall assist the county entities charged by law with registering electors with creating and maintaining a list of all electors registered by party affiliation. The State Election Commission shall indicate in the state voter file what selection an elector makes. An elector must be registered as a member of a certified political party no later than the close of the candidate filing period for that election in order to vote in that party’s primary or advisory referendum. The county entities shall allow electors to register by party by having an elector sign the following statement before a duly authorized election official overseeing the conduct of the partisan primary election:

 “I do solemnly swear (or affirm) that I am a resident of South Carolina and a registered voter in this precinct. I further swear (or affirm) that I hereby choose to: (a) register as a member of a certified political party, specifically the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Party; or (b) register as an independent voter, unaffiliated with a certified political party.”

 The form to be signed by the elector may list specifically all of the certified political parties from which the elector may choose and must contain the option for the elector to register as an independent voter unaffiliated with a certified political party. In an instance where an elector fails, for whatever reason, to select membership in one of the certified political parties, that elector is deemed to have chosen to be registered as an independent voter unaffiliated with a certified political party.

 (C) Prior to January 1, 2024, the entity charged by law with registering qualified electors shall contact the qualified electors of that county, by whatever method it determines to be appropriate, informing them of partisan primary voting procedures as provided in this section.

 (D) The state executive committee of a certified political party may, by resolution adopted prior to the close of the candidate filing period for that primary, allow electors registered as independent voters unaffiliated with a certified political party to participate and vote in its partisan primary election or partisan advisory referendum.

SECTION 2. Section 7‑5‑110 of the S.C. Code is amended to read:

 Section 7‑5‑110. (A) No A person shall be allowed to may not vote at any in a partisan primary election or a partisan advisory referendum unless he shall be is registered as herein a member of that political party as required by the provisions of this chapter unless the political party has taken action to open its partisan primary election or partisan advisory referendum to independent electors unaffiliated with a certified political party pursuant to Section 7‑5‑115(D).

 (B) The State Election Commission shall assist the county entities charged by law with registering electors with capturing the data and maintaining a list of all electors registered by party affiliation.

SECTION 3. Section 7‑5‑170 of the S.C. Code is amended to read:

 Section 7‑5‑170. (1)(A) Written application required. A person may not be registered to vote except upon written application or electronic application pursuant to Section 7‑5‑185,. which shall becomeThat application becomes a part of the permanent records of the board to which it is presented and which must be open to public inspection. However, the social security number contained in the application must not be open to public inspection.

 (2)(B) Form of application. ‑ The application must be on a form prescribed and provided by the executive director and shall contain the following information: name, sex, race, social security number, date of birth, residence address, mailing address, telephone number of the applicant, political party affiliation, if any and location of prior voter registration. The applicant must shall affirm that he is not under a court order declaring him mentally incompetent, confined in anya public prison, has never been convicted of a felony or offense against the election laws, or if previously convicted, that he has served his entire sentence, including probation and parole time, or has received a pardon for the conviction. Additionally, the applicant must take the following oath: “I, do solemnly swear (or affirm) that I am a citizen of the United States and that on the date of the next ensuing election, I will have attained the age of eighteen years and am a resident of South Carolina, this county, and of my precinct. I further swear (or affirm) that the present residence address listed herein on my application is my sole legal place of residence, that I claim no other place as my legal residence, and that, to my knowledge, I am neither registered nor intend to register to vote in another state or county. I further swear (or affirm) that I hereby choose to: (a) register as a member of a certified political party, specifically the \_\_\_\_\_\_\_\_\_\_\_\_\_\_ Party; or (b) register as an independent voter, unaffiliated with a certified political party.”

 (C) Fraudulent Application. Any An applicant convicted of fraudulently applying for registration is guilty of perjury and is subject to the penalty for that offense.

 (3)(D) Date stamp voter registration applications. ‑ The county board of voter registration and elections shall date stamp all voter registration applications delivered in person, electronically, or by mail as of the date received.

 (E) Failure to select a party. The form to be signed by the elector may specifically list all of the certified political parties from which the elector may choose and must contain the option for the elector to register as an independent voter, unaffiliated with a certified political party. In an instance where an elector fails, for whatever reason, to select membership in one of the certified political parties, that elector must be deemed to have chosen to be registered as an independent voter, unaffiliated with a certified political party.

 (4)(F) Administration of oaths. ‑ Any A member of the county board of voter registration and elections, deputy registrar, or any registration clerk must be qualified to administer oaths in connection with the application.

 (5)(G) Decisions on applications. ‑ Any member of the county board of voter registration and elections, deputy registrar, or registration clerk may pass on the qualifications of the prospective voter. In case of a question of an applicant being refused registration, at least one member of the board shall pass on the qualifications of the voter. A concise statement of the reasons for the refusal must be written on the application.

SECTION 4. Section 7‑9‑20 of the S.C. Code is amended to read:

 Section 7‑9‑20. (A) The qualifications To qualify for membership in a certified political party and for voting at a party primary election include the following: the applicant for membership, or voter, must be at least eighteen years of age or become so before the succeeding general election, and must be a registered elector and a citizen of the United States and of this State. A person may not vote in a primary unless he is a registered elector. The state convention of any political party, organization, or association in this State may add by party rules to the qualifications for membership in the party, organization, or association and for voting at the primary elections if the qualifications do not conflict with the provisions of this section or with the Constitution and laws of this State or of the United States. and to meet the criteria for voting in a party’s partisan primary election or partisan advisory referendum, unless a certified political party has taken action to open its partisan primary election or partisan advisory referendum to independent electors unaffiliated with a certified political party pursuant to the requirements of Section 7‑5‑115(D), the applicant for membership, or voter, must be:

 (1) at least eighteen years of age or become so before the succeeding general election;

 (2) a registered elector, a citizen of the United States and of this State; and

 (3) registered as a member of a certified political party.

 (B) A person may not vote in a partisan primary election unless he is a registered elector and a member of that party. The state convention of a political party, organization, or association in this State may add by party rules to the qualifications for membership in the party, organization, or association and for voting at the primary elections if the qualifications do not conflict with the provisions of this section or with the constitution and laws of this State or of the United States.

 (C) The entity charged by law with conducting a primary shall allow an elector to change his political party affiliation by executing an affidavit no later than the close of the candidate filing period for that election. During that time, an elector may execute an affidavit declaring that he desires not to be affiliated with a political party. The choice to affiliate with a political party or remain independent and unaffiliated with a certified political party is valid until changed by the qualified elector pursuant to the provisions of this section. In an instance where an elector fails, for whatever reason, to select membership in one of the certified political parties, that elector must be deemed to have chosen to be registered as an independent voter, unaffiliated with a certified political party.

 (D) When a qualified elector presents himself at a polling place to vote in a partisan primary election or partisan advisory referendum, the entity charged by law with conducting the election or its representative shall require the qualified elector to sign an affidavit affirming that he is a member of the party conducting the primary. In the event the political party has taken action to open its partisan primary election or partisan advisory referendum to independent electors unaffiliated with a certified political party pursuant to Section 7‑5‑115(D), the qualified elector shall be required to sign an affidavit affirming that he is an independent elector unaffiliated with a certified political party. If the qualified elector does not sign this affidavit, he may not vote in the partisan primary election or partisan advisory referendum.

SECTION 5. Section 7‑13‑40 of the S.C. Code is amended to read:

 Section 7‑13‑40. (A) In the event that a party nominates candidates by party primary, a party primary must be held by the party and conducted by the State Election Commission and the respective county boards of voter registration and elections on the second Tuesday in June of each general election year, and a second and third primary each two weeks successively thereafter, if necessary. Written certification of the names of all candidates to be placed on primary ballots must be made by the political party chairman, vice chairman, or secretary to the State Election Commission or the county board of voter registration and elections whichever is responsible under law for preparing the ballot, not later than twelve o'clock noon on April fifth, or if April fifth falls on a Saturday or Sunday, not later than twelve o'clock noon on the following Monday. Political parties nominating candidates by party primary must verify the qualifications of those candidates prior to certification to the appropriate election commission of the names of candidates to be placed on primary ballots. The written verification required by this section must contain a statement that each candidate certified meets, or will meet by the time of the general election, or as otherwise required by law, the qualifications for office for which he has filed. A political party must not certify any candidate who does not or will not by the time of the general election, or as otherwise required by law, meet the qualifications for the office for which the candidate has filed, and such candidate's name shall not be placed on a primary ballot. The filing fees for all candidates filing to run in all primaries, except municipal primaries, must be transmitted by the respective political parties to the State Election Commission and placed by the executive director of the commission in a special account designated for use in conducting primary elections and must be used for that purpose. The filing fee for each office is one percent of the total salary for the term of that office or one hundred dollars, whichever amount is greater.

 (B) A political party may, by party rules not in conflict with the Constitution and laws of this State or of the United States, require all persons who wish to appear on the ballot for the party’s primary elections to be registered as affiliated with that political party pursuant to Section 7‑5‑115(D). Provided, a political party may not refuse to certify a candidate based on party affiliation who is registered as affiliated with that political party at the time of filing.

SECTION 6. Notwithstanding the provisions of this act, in all primaries conducted before June 2024, an elector is permitted to vote if he has not signed the affidavit required by this act. After May 31, 2024, all political party primaries must be conducted pursuant to the provisions of this act.

SECTION 7. This act takes effect upon approval by the Governor.

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