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Summary: Human Affairs Commission

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

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**VERSIONS OF THIS BILL**

[2/2/2011](file:///p:\pprever\2011-12\3534_20110202.docx)

**A** **BILL**

TO AMEND SECTION 1‑13‑30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITION OF TERMS USED IN THE SOUTH CAROLINA HUMAN AFFAIRS LAW, SO AS TO PROVIDE THAT THE STATE HUMAN AFFAIRS COMMISSION IS THE DIVISION OF HUMAN AFFAIRS IN THE OFFICE OF THE SECRETARY OF STATE; TO AMEND SECTION 1‑13‑40, RELATING TO THE CREATION OF THE SOUTH CAROLINA HUMAN AFFAIRS COMMISSION, SO AS TO RECONSTITUTE THIS COMMISSION AS A DIVISION UNDER THE ADMINISTRATION OF THE OFFICE OF THE SECRETARY OF STATE AS THE DIVISION OF HUMAN AFFAIRS, THEREBY DEVOLVING THE POWERS AND DUTIES OF THE COMMISSION UPON THE DIVISION OF CONSUMER AFFAIRS, OFFICE OF THE SECRETARY OF STATE, AND TO PROVIDE THAT THE STATE HUMAN AFFAIRS COMMISSION IS AN ADVISORY BOARD TO THE DIVISION OF HUMAN AFFAIRS; TO AMEND SECTIONS 1‑13‑50, 1‑13‑60, 1‑13‑70, 1‑13‑80, 1‑13‑90, AS AMENDED, AND 1‑13‑110, ALL RELATING TO THE GOVERNANCE, ORGANIZATION, AND OPERATION OF THE SOUTH CAROLINA HUMAN AFFAIRS COMMISSION, SO AS TO CONFORM THESE SECTIONS TO THE PROVISIONS OF THIS ACT; TO AMEND CHAPTER 31, TITLE 1, RELATING TO THE CREATION, GOVERNANCE, AND OPERATION OF THE STATE COMMISSION FOR MINORITY AFFAIRS, SO AS TO RECONSTITUTE THIS COMMISSION AS A DIVISION UNDER THE ADMINISTRATION OF THE OFFICE OF THE SECRETARY OF STATE AS THE DIVISION OF MINORITY AFFAIRS, THEREBY DEVOLVING THE POWERS AND DUTIES OF THE COMMISSION UPON THE DIVISION OF MINORITY AFFAIRS, OFFICE OF THE SECRETARY OF STATE, TO PROVIDE THAT THE STATE COMMISSION IS AN ADVISORY BOARD TO THE DIVISION FOR MINORITY AFFAIRS, AND TO CONFORM THIS CHAPTER TO THE PROVISIONS OF THIS ACT; TO AMEND SECTION 37‑6‑103, RELATING TO THE DEFINITION OF “ADMINISTRATOR” AS USED IN THE SOUTH CAROLINA CONSUMER PROTECTION CODE‑ADMINISTRATION, SO AS TO PROVIDE THAT THE ADMINISTRATOR OF THE CONSUMER PROTECTION CODE MUST BE EMPLOYED BY, AND UNDER THE ADMINISTRATION AND SUPERVISION OF, THE SECRETARY OF STATE RATHER THAN BY THE COMMISSION ON CONSUMER AFFAIRS; TO AMEND SECTIONS 37‑6‑104, 37‑6‑117, 37‑6‑203, AS AMENDED, 37‑6‑403, AND 37‑6‑405, ALL RELATING TO CERTAIN DUTIES OF THE ADMINISTRATOR, SO AS TO PROVIDE THAT WHEN THE ADMINISTRATOR PERFORMS THESE DUTIES, IT MUST BE WITH THE APPROVAL OF THE SECRETARY OF STATE; TO AMEND PART 5, CHAPTER 6, TITLE 37, RELATING TO THE DEPARTMENT OF CONSUMER AFFAIRS, SO AS TO RECONSTITUTE THE DEPARTMENT AS A DIVISION UNDER THE ADMINISTRATION OF THE OFFICE OF THE SECRETARY OF STATE AS THE DIVISION OF CONSUMER AFFAIRS, THEREBY DEVOLVING THE POWERS AND DUTIES OF THE DEPARTMENT UPON THE DIVISION OF CONSUMER AFFAIRS, OFFICE OF THE SECRETARY OF STATE, AND TO PROVIDE THAT THE COMMISSION ON HUMAN AFFAIRS IS AN ADVISORY BOARD TO THE DIVISION OF CONSUMER AFFAIRS, AND TO CONFORM THIS PART TO THE PROVISIONS OF THIS ACT; AND TO AMEND SECTIONS 37‑6‑601, 37‑6‑602, 37‑6‑603, AND 37‑6‑604, ALL AS AMENDED, ALL RELATING TO THE CREATION OF THE DIVISION OF CONSUMER ADVOCACY IN THE DEPARTMENT OF CONSUMER AFFAIRS, SO AS TO RECONSTITUTE THE DIVISION OF CONSUMER ADVOCACY AS THE OFFICE OF CONSUMER ADVOCACY WITHIN THE DIVISION OF CONSUMER AFFAIRS, THEREBY DEVOLVING THE POWERS AND DUTIES OF THE DIVISION OF CONSUMER ADVOCACY UPON THE OFFICE OF CONSUMER ADVOCACY, DIVISION OF CONSUMER AFFAIRS, OFFICE OF THE SECRETARY OF STATE AND TO CONFORM THESE SECTIONS WITH THE PROVISIONS OF THIS ACT.

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

SECTION 1. Section 1‑13‑30(a) of the 1976 Code is amended to read:

“(a) ~~‘Commission’~~ ‘Division’ means the ~~State~~ Division of Human Affairs ~~Commission~~ in the Office of the Secretary of State.”

SECTION 2. Sections 1‑13‑40 through 1‑13‑70 of the 1976 Code is amended to read:

“Section 1‑13‑40. (a) There is ~~hereby~~ created in the ~~executive department~~ Office of the Secretary of State, and under the administration and supervision of the Secretary of State, the ~~South Carolina~~ Division of Human Affairs ~~Commission~~, to encourage fair treatment for, and to eliminate and prevent discrimination against, any member of a group protected by this chapter, and to foster mutual understanding and respect among all people in this State.

(b) The ~~Commission shall consist~~ division is supported by an advisory board consisting of fifteen members to be appointed by the Governor, with two members from each congressional district and three at‑large members. ~~appointed by the Governor, with the advice and consent of the Senate, and three members at large appointed by the Governor. The first appointed members from the first and second congressional districts and one at large member shall serve until June, 1984. The first appointed members from the third and fourth congressional districts and one at large member shall serve until June, 1985. Thereafter~~ All members shall serve for a term of three years and until their successors are appointed and qualify. Vacancies shall be filled in the manner of the original appointment for the unexpired term.

(c) No member of the ~~Commission~~ advisory board shall serve more than two consecutive terms. A member having served two consecutive terms ~~shall be~~ is eligible for reappointment one year after the expiration of his second term.

(d) The Governor shall appoint one of the at large members to serve as chairman and may appoint any member to serve as ~~vice‑chairman~~ vice chairman, each to serve a term of one year. In the absence of appointment of a ~~vice‑chairman~~ vice chairman, the members may elect one of their number to fill that office. The ~~Commission~~ advisory board may elect other officers from among its members as necessary~~, except that the Commissioner may be elected to serve as secretary~~.

(e) The ~~Commission~~ advisory board shall meet at such times and in such places as it may determine.

(f) A quorum for transacting business shall consist of a majority of the membership as constituted at the time of a meeting.

(g) Each member ~~shall be~~ is entitled to one vote on each issue presented, a majority of the votes cast determining the issue. Votes may be cast only in person. Voting may be by secret ballot or by voice vote.

(h) A vacancy ~~in~~ on the ~~Commission shall~~ advisory board does not impair the right of the remaining members to ~~exercise all the powers of the Commission~~ convene and conduct business in accordance with this chapter.

(i) Members of the ~~Commission shall be~~ advisory board are entitled to ~~such~~ per diem, mileage, and subsistence as is provided for by law for boards, committees, and commissions.

(j) The ~~Commission~~ division shall render each year to the Governor and to the General Assembly a written report of its activities and of its recommendations.

Section 1‑13‑50. (a) The ~~Commission shall recommend to the Governor a person who~~ Secretary of State shall ~~be employed as Commissioner and shall, with the approval of the Governor,~~ employ ~~such person who shall be subject to dismissal by the Commission with the approval of the Governor. The Commissioner shall~~ a director of the division to be the chief administrative officer of the ~~Commission, and~~ division who shall perform ~~such~~ duties as are incident to ~~such office~~ the position or are required of him by the ~~Commission~~ Secretary of State. The director shall serve at the pleasure of the Secretary of State.

(b) The ~~Commissioner~~ director shall receive such compensation as may be ~~provided by law~~ determined by the Secretary of State.

(c) The ~~Commissioner~~ director shall ~~recommend to the Commission, and with its approval,~~ employ attorneys, secretaries, clerks, investigators and conciliators for the expeditious discharge of the ~~Commission’s~~ division’s duties.

Section 1‑13‑60. The chairman shall be the presiding officer at meetings of the ~~Commission~~ advisory board and shall promote the orderly transaction of its business. In the chairman’s absence, or his inability to act, the ~~vice‑chairman~~ vice chairman or, if no ~~vice‑chairman~~ vice chairman has been appointed or elected ~~a commissioner~~ an advisory board member designated by the chairman shall act in his stead.

Section 1‑13‑70. Under the overall administration of the Secretary of State, the ~~Commission shall have~~ divisions have the power to:

(a) ~~To~~ establish and maintain its principal office in the city of Columbia and such other offices within the State as it may ~~deem~~ consider necessary~~.~~;

(b) ~~To adopt bylaws.~~ Reserved;

(c) ~~To~~ promulgate, in accordance with the provisions of this chapter and the Administrative Procedures Act, regulations including, but not limited to, regulations requiring the posting of notices prepared or approved by the ~~Commission~~ Secretary of State and the submission of equal employment opportunity plans and reports by any state agency or department or local subdivisions of a state agency or department, according to a format and schedule approved by the ~~Commission~~ Secretary of State~~.~~ ;

(d) ~~To~~ formulate policies to effectuate the purposes of this chapter and to make recommendations to appropriate parties in furtherance of such policies~~.~~;

(e) ~~To~~ obtain and utilize upon request the services of all governmental departments and agencies~~.~~;

(f) ~~To~~ create or recognize advisory agencies and conciliation councils, local, regional, or statewide, as will aid in effectuating the purposes of this chapter and of Section 3 ~~of~~, Article I of the Constitution of this State. The ~~commission~~ division may empower these agencies and councils to study problems of discrimination in all or specific fields of human affairs or in specific instances of discrimination because of race, religion, color, sex, age, national origin, or disability and to foster through community effort, or otherwise, goodwill, cooperation, and conciliation among the groups and elements of the population of the State. These agencies and councils also may make recommendations to the ~~commission~~ division for the development of policies and procedures in general and in specific instances and for programs of formal or informal education which the ~~commission~~ division may in turn recommend to the appropriate state agency. These ~~advisory~~ agencies and conciliation councils, as far as practicable, must be composed of representative citizens~~.~~;

(g) ~~To~~ seek the understanding and cooperation of or to enter into agreement with any existing or later‑created councils, agencies, commissions, task forces, institutions or organizations, public or private, which are, in the judgment of the ~~Commission~~ division, dedicated to the promotion of human rights and affairs~~.~~;

(h) ~~To~~ issue publications and results of investigations and research as in its judgment will tend to promote goodwill and the betterment of human affairs~~.~~;

(i) ~~To~~ require from any state agency or department or local subdivisions of a state agency or department ~~such~~ reports and information at such times as it may deem reasonably necessary to effectuate the purposes of this chapter~~.~~;

(j) ~~To~~ prepare and distribute copies of this chapter, of any regulations promulgated pursuant to ~~subsection~~ item (c) of this section, of policies formulated pursuant to ~~subsection~~ item (d) of this section or of any other materials effectuating the purposes of this chapter; to make the chapter available to the public and to require the chapter to be posted in places conspicuous to employees of state agencies or departments or local subdivisions of a state agency or department and to applicants for employment ~~therewith.~~;

(k) ~~To~~ cooperate with the United States Equal Employment Opportunity Commission created by the Civil Rights Act of 1964 (78 Stat. 241) in order to achieve the purposes of that act and with other Federal, State and local agencies and departments~~.~~;

(l) ~~To~~ accept reimbursement pursuant to section 709(b) of the Civil Rights Act of 1964 (78 Stat. 241) for services rendered to the United States Equal Employment Opportunity Commission~~.~~;

(m) ~~To~~ accept gifts or bequests, grants or other donations, public or private~~.~~;

(n) ~~To~~ investigate problems in human affairs in the State and in connection therewith, to hold hearings, to request the attendance of persons who shall give testimony, to receive for the record of any ~~such~~ hearing written statements, documents, exhibits, and other items pertinent to the subject matter of any ~~such~~ hearing, and following any ~~such~~ investigation or hearing to issue ~~such~~ a report and recommendations as in its opinion will assist in effectuating the purposes of this chapter~~.~~;

(o) ~~To~~ receive and resolve complaints in accordance with the provisions of Section 1‑13‑90~~.~~;

(p) ~~Pursuant to subsections (e) and (i), if a person fails to permit access, or otherwise refuses to cooperate, the Commission may~~ request an order of a court of competent jurisdiction requiring access and other related good faith compliance if, pursuant to items (e) and (i), a person fails to permit access, or otherwise refuses to cooperate~~.~~;

(q) ~~To~~ furnish technical assistance requested by persons subject to this chapter to assist them in their compliance with this chapter, the regulations promulgated hereunder, a conciliation agreement or an order issued thereunder~~.~~;

(r) ~~To~~ petition for an order of a court of competent jurisdiction requiring compliance with an order issued by the ~~Commission~~ division pursuant to the procedure set forth in item (16) of subsection (c) of Section 1‑13‑90; provided, that a complainant, respondent or intervenor aggrieved by an order of the ~~Commission~~ division is entitled to judicial review. The procedure for compliance, enforcement or review shall be as set forth in item (19) of subsection (c) of Section 1‑13‑90~~.~~;

(s) ~~To~~ institute proceedings in a court of competent jurisdiction, for cause shown, to prevent or restrain any person from violating any provision of this chapter~~.~~;

(t) ~~To~~ contract with persons and organizations to perform services as it may ~~deem~~ consider reasonably necessary to effectuate the purposes of this chapter and to accept reimbursement for services rendered pursuant to the contract~~.~~;

(u) ~~To~~ make contractual agreements, within the scope and authority of this chapter, with any agency of the federal government, which agreements may include provisions under which the Federal Equal Employment Opportunity Commission shall refrain from processing a charge in South Carolina in any class specified in such agreements~~.~~;

(v) ~~To~~ perform the functions specified in this chapter.”

SECTION 3. Section 1‑13‑80(I)(9) and (11) of the 1976 Code is amended to read:

“(9) In applying subsection (I)(8), the retirement benefit test, if a retirement benefit is in a form other than a straight life annuity with no ancillary benefits or if employees contribute to a plan or make rollover contributions, the benefit must be adjusted in accordance with regulations prescribed by the ~~commissioner~~ division so that the benefit is the equivalent of a straight life annuity with no ancillary benefits under a plan to which employees do not contribute and under which no rollover contributions are made.

(11) It is an unlawful employment practice for a person to forcibly resist, prevent, impede, or interfere with the ~~commission~~ division or any of its members or representatives in the lawful performance of duty under this chapter.”

SECTION 4. Section 1‑13‑90 of the 1976 Code, as last amended by Act 387 of 2006, is further amended to read:

“Section 1‑13‑90. (a) Any person shall complain in writing under oath or affirmation to the ~~Commission~~ division within one hundred eighty days after the alleged discriminatory practice occurred. The ~~Commissioner~~ director, his employees or agents, shall assist complainants in reducing verbal complaints to writing and shall assist in setting forth such information as may be required by the ~~Commission~~ division. The ~~Commission~~ division shall serve a copy of the complaint upon the respondent within ten days after the complaint is received by the ~~Commission~~ division, except that if the ~~Commission~~ division determines for good cause that such service will impede its investigation of the complaint, it shall serve notice of the complaint, including the date, place, and circumstances of the alleged unlawful employment practice upon the respondent within ten days after the complaint is received by the ~~Commission~~ division.

(b) ~~Any complainant who is a member of the Commission shall be disqualified from participation except as the complainant in the processing and resolution of the complaint.~~ Reserved

(c) For complaints asserting expressly or in substance a violation by a state agency or department or local subdivisions of a state agency or department of Section 1‑13‑80, the division, under the overall administration of the Secretary of State, shall undertake the following procedure ~~shall be as follows~~:

(1) The ~~Commissioner~~ director shall assign one or more of his employees or agents to investigate the complaint, in which case one shall be designated the investigator in charge of the complaint. Information gathered during an investigation under this subsection shall not be made public by the ~~Commission~~ division, its ~~officers or~~ employees or agents, except for information made public as a result of being offered or received into evidence in an action brought under this subsection.

(2) The ~~Chairman of the Commission or, upon the request of the Chairman, the Commissioner~~ director shall designate ~~a member of the Commission~~ an employee or agent to supervise the processing of the complaint.

(3) The complaint may be resolved at any time before a hearing by conference, conciliation and persuasion with the complainant and the respondent, such resolution to be embodied in a conciliation agreement, which shall include an agreement by the respondent to refrain from committing unlawful discriminatory practices in the future, and which may contain such further provisions as are agreed upon by the complainant and the respondent. No conciliation agreement shall be ~~deemed~~ considered an effective resolution ~~by the Commission~~ unless the supervisory ~~commission member~~ employee or agent shall have reviewed and approved the terms ~~thereof~~ of the agreement. Positions taken by a witness in connection with such efforts toward conciliation shall not be made public or used against the interest of the witness in a subsequent proceeding.

(4) In undertaking its investigation of a complaint, the ~~Commission shall have the authority~~ division may :

(i) ~~To~~ issue a subpoena or subpoena duces tecum and thereby compel attendance of witnesses or production for examination of books, papers, and records, whenever it is deemed necessary to compel the attendance of witnesses, or the production for examination of any books, payrolls, personnel records, correspondence, documents, papers or any other evidence relating to any matter under investigation or in question before the ~~Commission~~ division. The power may be exercised only by the ~~joint action by the Chairman of the Commission and the Commissioner.~~ director, with the approval of the Secretary of State;

(ii) ~~To~~ require any party or witness to answer interrogatories at any time after the complaint is filed~~.~~;

(iii) ~~To~~ take depositions of witnesses including any party pursuant to a complaint or investigation made by the ~~Commission.~~ division;

(iv) ~~Pursuant to subitems (i), (ii), (iii), above, if a person fails to permit access, fails to comply with a subpoena, refuses to have his or her deposition taken, refuses to answer interrogatories, or otherwise refuses to allow discovery, the Commission~~ may request an order of a court of competent jurisdiction requiring discovery and other related good faith compliance if, pursuant to subitems (i), (ii), (iii), above, a person fails to permit access, fails to comply with a subpoena, refuses to have his or her deposition taken, refuses to answer interrogatories, or otherwise refuses to allow discovery.

(5) If not sooner resolved, the investigator shall upon completion of his investigation submit to the supervisory ~~commission member~~ employee or agent a statement of the facts disclosed by his investigation and recommend either that the complaint be dismissed or that ~~a panel of commission members be designated~~ the director appoint a hearing panel to hear the complaint. The supervisory ~~commission member~~ employee or agent, after review of the case file and the statement and recommendation of the investigator shall issue an order either of dismissal or for a hearing, which order shall not be subject to judicial or other further review.

(6) If the order be of dismissal, the supervisory ~~commission member~~ employee or agent shall mail a copy of the order to the complainant and the respondent at their last known addresses.

(7) If the order be for a hearing, the supervisory ~~commission member~~ employee or agent shall ~~annex thereto~~ serve the order, a notice, and a copy of the complaint on the respondent and require the respondent to answer the complaint at a hearing at a time and place specified in the notice ~~and shall serve upon the respondent a copy of the order, the complaint, and the notice~~.

(8) At any time before a hearing a complaint may be amended by the supervisory ~~commission member~~ employee or agent upon the request of the investigator or of the complainant or of the respondent. Complaints may be amended during a hearing only upon a majority vote of the ~~panel of commission members for such~~ hearing panel.

(9) Upon request by any party, the ~~Commissioner~~ director shall issue appropriate subpoenaes or subpoenaes duces tecum to any witnesses or other custodians of documents desired to be present at the hearing, or at prehearing depositions, unless the ~~Commissioner~~ director determines that issuance of the subpoenaes or subpoenaes duces tecum would be unreasonable or unduly burdensome.

(10) Upon notification by any party that any party or witness has failed to permit access, failed to comply with a subpoena or subpoena duces tecum, refused to have his or her deposition taken, refused to answer interrogatories, or otherwise refused to allow discovery, the ~~Commission~~ director, shall, upon notice to the party or witness, apply to a court of competent jurisdiction for an order requiring discovery and other good faith compliance unless the ~~Commission~~ Secretary of State determines that the discovery would be unreasonably or unduly burdensome.

(11) Upon request by the supervisory ~~commission member~~ employee or agent, the ~~Chairman of the Commission~~ director shall designate a panel of three ~~members of the Commission to sit as the Commission~~ agents or employees to hear the complaint~~; provided, that no member of the Commission shall be a member of a panel to hear a complaint for which he has been a supervisory commission member~~.

(12) At any hearing held pursuant to this subsection, the case in support of the complaint shall be presented before the panel by one or more of the ~~commission’s~~ division’s employees or agents, and, with consent of the panel, by legal representatives of the complaining party; provided, that endeavors at conciliation by the investigator shall not be received into evidence nor otherwise made known to the members of the panel.

(13) The respondent shall submit a written answer to the complaint and appear at such hearing in person or by counsel and may submit evidence. The respondent shall have the power reasonably and fairly to amend his answer.

(14) The complainant shall be permitted to be present and submit evidence.

(15) Proceedings under this section shall be subject to the Administrative Procedures Act, ~~Sections 1‑23‑310 through 1‑23‑400 of the Code of Laws of South Carolina, 1976, as amended,~~ and in case of conflict between the provisions of this chapter and the Administrative Procedures Act, the Administrative Procedures Act shall govern. A recording of the proceedings shall be made, which may be subsequently transcribed upon request and payment of a reasonable fee by the complainant or the respondent. The fee shall be set by the ~~Commission~~ division or upon motion of the panel, in which case copies of such transcription shall be made available to the complainant or the respondent upon request and payment of a reasonable fee to be set by the ~~Commission~~ division.

(16) If upon all the evidence at the hearing the panel shall find that the respondent has engaged in any unlawful discriminatory practice, it shall state its findings of fact and serve upon the respondent in the name of the ~~Commission~~ division an opinion and order requiring that such unlawful discriminatory practice be discontinued and requiring such other action including, but not limited to, hiring, reinstatement or upgrading of employees, with or without back pay to the persons aggrieved by such practice as, in the judgment of the panel, will effectuate the purposes of this chapter. Back pay liability shall not accrue from a date more than two years prior to the filing of a charge with the ~~Commission~~ division. The ~~Commission~~ division may retain jurisdiction of any such case until it is satisfied of compliance by the respondent with its order.

(17) If upon all the evidence at the hearing the panel shall find that the respondent has not engaged in any such unlawful discriminatory practice, the panel shall state its findings of fact and serve upon the complainant and the respondent an opinion and order dismissing the complaint as to the respondent.

(18) A copy of the opinion and order of the ~~Commission~~ division shall be delivered in all cases to the Attorney General and to such other public officers as the ~~Commission deems~~ division considers proper. Copies of the opinion and order shall be available to the public for inspection upon request, and copies shall be made available to any person upon payment of a reasonable fee set by the ~~Commission~~ division.

(19)(i) If an application for review is made to the ~~commission~~ division within fourteen days from the date the order of the ~~commission~~ division is given, the ~~commission~~ division, for good cause shown, shall review the order and evidence, receive further evidence, rehear the parties or their representatives, and, if proper, amend the order.

(ii) The order of the ~~commission~~ division, as provided in item (16) of subsection (c) of this section, if not reviewed in due time, or an order of the ~~commission~~ division upon review, as provided for in subitem (i) of item (19) of this subsection, is conclusive and binding as to all questions of fact unless clearly erroneous in view of the reliable, probative, and substantive evidence in the whole record. Either party to the dispute, within thirty days after receipt of notice to be sent by registered mail of the order may appeal the decision of the ~~commission to~~ division in accordance with the rules of the Administrative Law Court ~~as provided in Sections 1‑23‑380(B) and 1‑23‑600(D)~~. In case of an appeal from the decision of the ~~commission~~ division, the appeal operates as a supersedeas for thirty days only, unless otherwise ordered by the administrative law judge, and the respondent is required to comply with the order involved in the appeal or certification until the questions at issue are fully determined in accordance with the provisions of this chapter.

(iii) The ~~commission~~ division may institute a proceeding for enforcement of its order of item (16) of subsection (c) of this section, or its amended order of subitem (i) of item (19) of this subsection after thirty days from the date of the order, by filing a notice of appeal in the court of common pleas of the county in which the hearing occurred, or where a person required in the order to cease and desist from a practice which is the subject of the ~~commission’s~~ division’s order, or to take other affirmative action, resides, or transacts business.

If no appeal pursuant to subitem (ii) of item (19) of this subsection is initiated, the ~~commission~~ division may obtain a decree of the court for enforcement of its order upon a showing that a copy of the petition for enforcement was served upon the party subject to the dictates of the ~~commission’s~~ division’s order.

(d) For complaints asserting expressly or in substance a violation of Section 1‑13‑80 by employers, employment agencies or labor organizations, including municipalities, counties, special purpose districts, school districts, and local governments, but not including employers, employment agencies or labor organizations covered by ~~Section 1‑13‑90~~ subsection (c), the division, under the overall administration of the Secretary of State, shall undertake the following ~~procedure shall be as follows~~:

(1) The ~~Commissioner~~ director shall assign one or more ~~of his~~ employees or agents to investigate the complaint, in which case one shall be designated the investigator in charge of the complaint.

(2) The ~~Commission~~ division shall institute an investigation by its employees to ascertain the facts relating to such alleged unlawful employment practice. In its investigation of a charge filed under this chapter, the ~~Commission~~ division or its designated employees shall at all reasonable times have access to, for the purposes of examination, and the right to copy any evidence of any person being investigated that relates to unlawful employment practices covered by this chapter and is relevant to the charge under investigation. If any persons fail to permit access to such evidence, the ~~Commission~~ director may issue a subpoena duces tecum and thereby compel the production for examination and copying of such evidence. If any person fails to comply with a subpoena issued under this chapter, the ~~Commission~~ director may request an order of a court of competent jurisdiction requiring compliance with the subpoena. The person against whom an order of court is sought shall be given at least four days’ notice of the time and place of the court hearing and may appear and oppose the granting of any order. Any person may, after giving the ~~Commission~~ division at least four days’ notice, move before a court of competent jurisdiction for an order quashing any subpoena issued under this subsection. Information gathered during an investigation under this subsection shall not be made public by the ~~Commission~~ division, its ~~officers or~~ employees or agents, except for information made public as a result of being offered or received into evidence in an action brought under this subsection.

(3) The complaint may be resolved at any time by conference, conciliation and persuasion with the complainant and the party complained of, such resolution to be embodied in a conciliation agreement, which may include an agreement by the respondent to refrain from committing unlawful discriminatory practices in the future, and which may contain such further provisions as are agreed upon by the complainant and the party complained of. Nothing said or done during and as part of such informal endeavors may be made public by the ~~Commission~~ division or used as evidence in a subsequent proceeding.

(4) If not sooner resolved, the investigator shall upon completion of his investigation submit to the ~~Commissioner~~ director a statement of the facts disclosed by his investigation and recommend either that the complaint be dismissed or that the ~~Commission~~ division bring an action in equity in circuit court against the respondent. The ~~Commissioner~~ director, after a review of the case file and the statement and recommendation of the investigator, may issue an order either to dismiss the charge or to bring an action in equity in circuit court against the respondent, which order shall not be subject to judicial or other further review.

(5) If the order be of dismissal, the ~~Commissioner~~ director shall mail a copy of the order to the complainant and to the respondent at their last known addresses.

(6) If a charge filed with the ~~commission~~ division by a complainant pursuant to this chapter is dismissed by the ~~commission~~ division, or if within one hundred eighty days from the filing of the charge the ~~commission~~ division has not filed an action under this chapter or entered into a conciliation agreement to which the complainant is a party, the complainant may bring an action in equity against the respondent in circuit court. The action must be brought within one year from the date of the violation alleged, or within one hundred twenty days from the date the complainant’s charge is dismissed, whichever occurs earlier, except that this period may be extended by written consent of the respondent.

(7) If within thirty days after issuance of its determination the ~~Commission~~ division is unable to secure from the respondent a conciliation agreement acceptable to the ~~Commission~~ division, or if the ~~Commission~~ division determines after investigation that the respondent has violated the terms of a conciliation agreement, the ~~Commission~~ director may bring an action in equity against the respondent in circuit court. Such action shall be brought within one year from the date of the violation alleged, except that this period may be extended by written consent of the respondent.

(8) No action may be brought under this chapter by a complainant if an action based on the same charge has been brought by the ~~Commission~~ director, and no action may be brought under this chapter by the ~~Commission~~ director if an action based on the same charge has been brought by the complainant. No action may be brought under this chapter if an action alleging essentially the same facts and seeking relief for the same complainant has been brought in any federal court. Any action brought under this chapter shall be promptly dismissed if an action alleging essentially the same facts and seeking relief for the same complainant is brought in any federal court.

(9) If the court finds that the respondent has intentionally engaged in or is intentionally engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate, which may include, but is not limited to, reinstatement of hiring of employees, with or without back pay payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice or any other equitable relief as the court deems appropriate. Back pay liability shall not accrue from a date more than two years prior to the filing of a charge with the ~~Commission~~ division. Unemployment compensation, interim earnings, or amount earnable with reasonable diligence, by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. No order of the court shall require the admission or reinstatement of an individual as a member of a union, of the hiring, reinstatement, or promotion of an individual as an employee, or the payment to him of any back pay if such individual was refused admission, suspended or expelled, or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of race, color, religion, sex, age or national origin in violation of this chapter, or discrimination in violation of subsection (e) of Section 1‑13‑80.

(e) For complaints of the existence or occurrence of a practice asserted to be discriminatory on the basis of race, religion, color, age, sex, national origin, or disability, other than those discriminatory practices declared unlawful by Section 1‑13‑80, or of any other dispute regarding human affairs, the procedure of the ~~commission~~ division is as follows:

The ~~commissioner~~ director shall assign one or more of the ~~commission’s~~ division’s employees or agents who may resolve the complaint by conference, conciliation, and persuasion with the complainant and the respondent, the resolution to be embodied in a conciliation agreement which shall include such provisions as are agreed upon by the complainant and the respondent. If the employee or agent is unable after reasonable efforts to resolve the complaint, the employee or agent shall withdraw from the matter and not participate further and the ~~commission~~ division file of the complaint must be closed. If the complainant and the respondent thereafter resolve the complaint and submit a record of the resolution to the ~~commission~~ division, the record must be entered into the ~~commission~~ division file of the complaint.

(f) If in the course of processing any complaint under the procedure set forth in (e) above sufficient facts shall appear warranting the processing of the complaint under the procedure provided by subsection (c) or (d) of this section upon notice to the complainant and to the respondent, such other procedure shall thereafter be followed for the processing of the complaint.

(g) The ~~Commission~~ division shall establish such rules as may be necessary to govern, expedite and effectuate the procedures prescribed in this section.”

SECTION 5. Section 1‑13‑110 of the 1976 Code is amended to read:

“Section 1‑13‑110. Each state agency shall develop an affirmative action plan to assure equitable employment for members of minorities (race and sex) and shall present such plans to the Division of Human Affairs ~~Commission~~. On or before February ~~1~~ first of each year, the Division of Human Affairs ~~Commission~~ shall submit a report to the General Assembly concerning the status of the affirmative action plans of all state agencies. If any affirmative action plans have been disapproved, the report shall contain the reasons for such disapproval. If the General Assembly takes no action within sixty ~~(60)~~ days on those plans which have been disapproved, the action of the Division of Human Affairs ~~Commission shall be~~ is final.”

SECTION 6. Title 1, Chapter 31 of the 1976 Code is amended to read:

“CHAPTER 31

State Commission for Minority Affairs

Section 1‑31‑10. (A) There is created ~~a State Commission~~ in the Office of the Secretary of State, and under the administration and supervision of the Secretary of State, the Division for Minority Affairs.

(B) The division is supported by an advisory board consisting of nine members and the Governor ex officio. The Governor must appoint one person from each of the six congressional districts of the State and three persons from the State at large ~~upon the advice and consent of the Senate~~. The Governor shall designate the chairman. The members serve for a term of four years and until their successors are appointed and qualify. A vacancy must be filled in the same manner as original appointment for the remainder of the unexpired term. A majority of the members of the ~~commission~~ advisory board must be African American.

Section 1‑31‑20. The ~~commission~~ advisory board must meet quarterly and at other times as the chairman determines necessary to study the causes and effects of the socio‑economic deprivation of minorities in the State and to ~~implement~~ recommend programs to the director necessary to address inequities confronting minorities in the State.

Section 1‑31‑30. The ~~commission is authorized to hire~~ Secretary of State shall employ an executive director who serves at the pleasure of the Secretary of State. ~~and~~ The executive director shall employ other personnel necessary to carry out ~~its~~ the duties and functions of the division ~~under~~ pursuant to this chapter. The General Assembly shall provide for the funds in the annual appropriations act.

Section 1‑31‑40. (A) The ~~commission~~ division, under the overall administration of the Secretary of State, shall:

(1) provide the minority community consisting of African Americans, Native American Indians, Hispanics/Latinos, Asians, and others with a single point of contact for statistical and technical assistance in the areas of research and planning for a greater economic future;

(2) work with minority officials on the state, county, and local levels of government in disseminating statistical data and its impact on their constituencies;

(3) provide for publication of a statewide statistical abstract on minority affairs;

(4) provide statistical analyses for members of the General Assembly on the state of minority communities as the State experiences economic growth and changes;

(5) provide the minority community with assistance and information on Voting Rights Act submissions in the State, as well as other related areas of concern to the minority community;

(6) determine, approve, and acknowledge by certification state recognition for Native American Indian entities; however, notwithstanding their state certification, the tribes have no power or authority to take any action which would establish, advance, or promote any form of gambling in this State;

(7) establish ~~advisory~~ ad hoc committees representative of minority groups, as the ~~commission~~ division considers appropriate ~~to advise the commission~~;

(8) act as liaison with the business community to provide programs and opportunities to fulfill its duties under this chapter;

(9) seek federal and other funding on behalf of the State of South Carolina for the express purpose of implementing various programs and services for African Americans, Native American Indians, Hispanics/Latinos, Asians, and other minority groups;

(10) promulgate regulations as may be necessary to carry out its duties under the provisions of this ~~article~~ chapter including, but not limited to, regulations regarding State Recognition of Native American Indian entities in the State of South Carolina;

(11) establish and maintain a twenty‑four hour toll free telephone number and electronic website in accordance with Section 8‑30‑10; and

(12) perform other duties necessary to implement programs.

(B) The ~~commission~~ executive director may delegate these powers and duties as necessary.

(C) Nothing in this chapter recognizes, creates, extends, or forms the basis of any right or claim of interest in land or real estate in this State for any Native American tribe which is recognized by the State.

~~Section 1‑31‑50.~~  ~~The commission may promulgate those regulations necessary to carry out its duties under this chapter.~~”

SECTION 7. Section 37‑6‑103 of the 1976 Code is amended to read:

“Section 37‑6‑103. ‘Administrator’ means the ~~officer appointed by the Commission on Consumer Affairs~~ person employed by, and under the administration and supervision of, the Secretary of State, to administer this title part 5 of this chapter.”

SECTION 8. Section 37‑6‑104(6) of the 1976 Code is amended to read:

“(6) The administrator shall not bring class actions, initiate criminal actions or seek injunctive relief, as provided in this title, without prior approval of ~~a majority of the Commission on Consumer Affairs, exclusive of members who are associated with any such business within the meaning of Section 8‑13‑20~~ the Secretary of State.”

SECTION 9. Section 37‑6‑117(i) of the 1976 Code is amended to read:

“(i) With the approval of the ~~Commission on Consumer Affairs~~ Secretary of State, bring an individual action for a consumer who might have a cause of action for damages resulting from the use of or employment by another person of an unfair or deceptive method, act, or practice, as provided in Section 39‑5‑140, when he considers such action is necessary to protect the consumer’s interest, the actual damages sought are two thousand five hundred dollars or less, and either the individual has written evidence that two attorneys licensed to practice law in this State have reviewed the case and have declined to represent the individual in pursuing the cause of action, or an attorney licensed to practice law in this State, after reviewing the facts of the case, in writing has requested that the administrator bring an action on behalf of the consumer under this section.”

SECTION 10. Section 37‑6‑203 of the 1976 Code, as last amended by Act 353 of 2008, is further amended to read:

“Section 37‑6‑203. A person required to file notification shall pay on or before January thirty‑first of each year to the administrator an annual fee of one hundred twenty dollars for that year, for each address in this State listed in the notification. The fee for any one person must be not less than one hundred twenty dollars. A person who does not extend credit pursuant to written contracts and a person whose annual gross volume of business does not exceed one hundred fifty thousand dollars is exempt from any fee and from the notification requirements of Section 37‑6‑202. A person engaged in making consumer credit sales or consumer leases who is also engaged in making consumer rental‑purchase agreements is only required to pay one one hundred twenty dollar fee for each location. The ~~Department~~ Division of Consumer Affairs in the Office of the Secretary of State shall retain thirty dollars of each fee to offset the cost of administration and enforcement of this chapter.”

SECTION 11. Section 37‑6‑403 of the 1976 Code is amended to read:

“Section 37‑6‑403. (1) In addition to other rule‑making requirements imposed by law, the administrator, under the overall supervision of the Secretary of State, shall:

(a) adopt as a rule a description of the organization of his office, stating the general course and method of the operations of his office, and the methods whereby the public may obtain information or make submissions or requests;

(b) adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available, including a description of all forms and instructions used by the administrator or his office;

(c) make available for public inspection all rules and all other written statements of policy or interpretations formulated, adopted, or used by the administrator in the discharge of his functions.

(d) make available for public inspection all final orders, decisions and opinions.

(2) No rule, order, or decision of the administrator is valid or effective against any person or party, nor may it be invoked by the administrator for any purpose, until it has been made available for public inspection as herein required. This provision is not applicable in favor of any person or party who has actual knowledge thereof.”

SECTION 12. Section 37‑6‑405 of the 1976 Code is amended to read:

“Section 37‑6‑405. (1) The administrator shall file in the Office of the Secretary of State a certified copy of each rule adopted by ~~him~~ the administrator. The Secretary of State shall keep a permanent register of the rules open to public inspection.

(2) Each rule hereafter adopted is effective twenty days after filing, except that, if a later date is specified in the rule, the later date is the effective date.”

SECTION 13. Part 5 of Chapter 6, Title 37 of the 1976 Code is amended to read:

“Part 5

~~Department~~ Division of Consumer Affairs

Office of the Secretary of State

Section 37‑6‑501. There is ~~hereby~~ created:

(a) The ~~Department~~ Division of Consumer Affairs in the Office of the Secretary of State;

(b) The ~~Commission~~ Advisory Board on Consumer Affairs; and

(c) The Office of Administrator of Consumer Affairs in the Office of the Secretary of State.

Section 37‑6‑502. There is established in the Office of the Secretary of State, and under the administration and supervision of the Secretary of State, the ~~Commission on Consumer Affairs shall~~ Division of Consumer Affairs. The division is supported by the Advisory Board on Consumer Affairs which must be composed of nine members, one of whom ~~shall be~~ is the Secretary of State as an ex officio member; four members ~~shall~~ must be appointed by the Governor ~~with advice and consent of the Senate~~ and the remaining four members ~~shall~~ must be ~~elected by the General Assembly~~ appointed by the Secretary of State. Members of the ~~Commission~~ advisory board shall elect a chairman. Terms of the members ~~shall be~~ are four years unless otherwise stipulated in this section, and upon the expiration of the terms, the Governor shall appoint a member and the ~~General Assembly~~ Secretary of State shall ~~elect~~ appoint one member respectively. ~~With the exception of the ex officio member, any~~ A vacancy ~~in the office of a member shall~~ on the advisory board must be filled ~~by the Governor by appointment~~ in the manner of the original appointment for the unexpired portion of the term. Members of the ~~Commission shall be~~ advisory board are eligible for reappointment. No person associated with any businesses, as defined in Section 8‑13‑20, regulated by the ~~Commission on~~ Division of Consumer Affairs ~~shall be~~ is eligible to serve on the ~~Commission~~ advisory board ~~as defined by Section 8‑13‑20 of the Code of Laws of South Carolina~~.

Section 37‑6‑503. A majority of the members shall constitute a quorum. The ~~Commission~~ advisory board shall meet monthly on such date as it may designate and may meet at such other times as it may deem necessary, or when called by the chairman or by a majority of its members, and shall counsel and advise with the administrator on ~~any and all phases of~~ the operations and functions of the ~~Department~~ division.

~~Section 37‑6‑504.~~  ~~Each member of the Commission other than ex officio shall, before entering upon the duties of his office, give bond to the State in the sum of twenty‑five thousand dollars with a sufficient surety, to be approved by the State Treasurer, for the faithful performance of all duties required of him under the law during the term of his office. The premium of such bond shall be paid by the State.~~

Section 37‑6‑505. Each member of the ~~Commission~~ advisory board other than ex officio shall receive such compensation and official expenses as provided by law for members of state boards and commissions.

Section 37‑6‑506. (1) The ~~Commission shall be the policymaking and governing authority~~ advisory board shall consult with and advise the administrator, in his discretion, on issues pertaining to the governance and operation of the ~~Department~~ Division of Consumer Affairs and shall ~~appoint the~~ make recommendations to the Secretary of State for the position of administrator ~~and be responsible for enforcement of this title~~.

(2) The ~~Commission, through the~~ administrator, under the administration and supervision of the Secretary of State, shall see that the provisions of this title are faithfully administered and enforced and to that end ~~it~~, the administrator may adopt, amend and repeal rules and regulations, not inconsistent with law, to interpret and explain provisions of this title, carry out the purposes and policies of this title, to prevent circumvention or evasion ~~thereof~~ of this title or to facilitate compliance ~~therewith~~ with this title.

(3) No provision of this title or of any statute to which this title refers which imposes any penalty on any creditor shall apply to any act done, or omitted to be done, in conformity with any rule or regulation so adopted, amended or repealed or in conformity with any written order, opinion, interpretation or statement of the ~~Commission or of the~~ administrator, notwithstanding that such rule, regulation, order, opinion, interpretation or statement may, after such act or omission, be amended, or rescinded or be determined by judicial or other authority to be erroneous or invalid for any reason.

Section 37‑6‑507. The administrator shall be a person of good moral character, at least thirty years of age, a resident taxpayer of this State, and shall be thoroughly familiar with this title and the consumer transactions to which it pertains. The ~~Commission may also~~ Secretary of State also may require additional qualifications. The administrator, while serving as such, shall not directly or indirectly be financially interested in or associated with any other person subject to the jurisdiction of the ~~Commission or the~~ administrator ~~thereof~~. The administrator shall serve at the pleasure of the ~~Commission~~ Secretary of State.

Section 37‑6‑508. The administrator, with the approval of the ~~commission~~ Secretary of State, may ~~designate~~ employ such deputies as he determines necessary to assist him in performing the duties he is required to perform under this title. Any deputy shall satisfy and meet the same qualifications~~, including bond,~~ required for the administrator.

~~Section 37‑6‑509.~~  ~~The Administrator shall take the oath of office prescribed for all State officers. Before entering upon the duties of his office, he shall give bond to the State for the benefit of any person aggrieved by his unlawful or wrongful actions, and such bond shall be in the sum of fifty thousand dollars, with sufficient surety, to be approved by the State Treasurer, for the faithful performance of all the duties required of him under the law during the term of his office. The premium of the bond shall be paid by the State.~~

Section 37‑6‑510. The administrator shall prepare in writing a manual of necessary employee positions for the ~~Department~~ division, including job classifications, personnel qualifications, duties, maximum and minimum salary schedules, and other personnel information for approval by the ~~Commission~~ Secretary of State before ~~appointing~~ employing any personnel. The ~~Deputy~~ administrator  ~~and other employees of the Department~~ shall serve at the pleasure of the ~~Administrator~~ Secretary of State.

Section 37‑6‑511. The ~~Department~~ Division of Consumer Affairs shall maintain a file for each creditor containing the original and all revised rate schedules filed by the creditor. A certified copy of each filing showing the date and time that it was received shall be sent to the creditor making the filing at the time of its receipt. A fee of ten dollars for each rate schedule filed by a creditor shall be payable to the ~~Department~~ Division of Consumer Affairs for its services in maintaining the rate schedule files and providing one certified copy of each rate filing to the creditor. ~~Provided, That~~ Each creditor shall be required to pay a minimum annual fee of ten dollars. Additional certified copies of a filing shall be provided at a charge of four dollars per copy.

Section 37‑6‑512. The Administrator of the ~~Department~~ Division of Consumer Affairs acting as the Consumer Advocate may appoint an advisory committee of persons with cognizable handicaps to provide advice to the Consumer Advocate in regard to protecting the rights of consumers with these types of handicaps with particular attention to the manner in which consumers with these handicaps interact with those entities regulated by the Public Service Commission. Nothing herein shall require the Consumer Advocate to take a position or undertake an action that is contrary to his general duty to protect and represent the interests of the general public and consumers.”

SECTION 14 . Sections 37‑6‑601, 37‑6‑602, 37‑6‑603 and 37‑6‑604 of the 1976 Code, all as last amended by Act 175 of 2004 are amended to read:

“Section 37‑6‑601. There is created within the ~~Department~~ Division of Consumer Affairs, Office of the Secretary of State, the ~~Division~~ Office of Consumer Advocacy with duties and organizations as provided in this chapter.

Section 37‑6‑602. The Consumer Advocate may be the Administrator of the Division of Consumer Affairs or he may be ~~appointed~~ employed by the administrator with the approval of the ~~Commission on Consumer Affairs~~ Secretary of State. The Consumer Advocate must be an attorney qualified to practice in all courts of this State with a minimum of three years’ practice experience.

Section 37‑6‑603. The ~~Division~~ Office of Consumer Advocacy must be staffed and equipped to perform the functions prescribed in Section 37‑6‑604. The expenses of the office must be paid from appropriations provided annually in the state General Appropriations Act.

Section 37‑6‑604. (A) The functions and duties of the ~~Division~~ Office of Consumer Advocacy are to:

(1) ~~to~~ provide legal representation of the consumer interest before the state and federal regulatory agencies which undertake to fix rates or prices for consumer products or services or to enact regulations or establish policies related thereto and to provide legal representation of the consumer interest concerning insurance matters, certificates of need for health facilities and services as required for an activity under Section 44‑7‑160, and other health‑related provisions;

(2) ~~to~~ monitor existing regulations, rate structures, and policies of that agency of special interest to consumers and report to the public through the news media proposed changes therein under consideration and the effect of those changes on the lives of the citizens of the State; and

(3) ~~to~~ evaluate and act upon requests from consumers concerning the matters set forth in items (1) and (2), except that any proceedings initiated by the Consumer Advocate must be brought on behalf of the public at large and not for individuals; initiation or continuation of any proceedings is in the sole discretion of the Consumer Advocate.

(B) The annual report required of the ~~Commission~~ Division on Consumer Affairs must include a report on the activities of the ~~Division~~ Office of Consumer Advocacy.

(C) After January 1, 2005, the ~~division~~ Office of Consumer Advocacy must not represent consumers in matters arising under Title 58. Matters or appeals ~~under~~ pursuant to Title 58 that are pending on January 1, 2005, shall be transferred to the Office of Regulatory Staff.”

SECTION 15. (A) Where the provisions of this act transfer particular state agencies, departments, boards, commissions, committees or entities, or sections, divisions or portions thereof (transferring departments), to another state agency, department, division, entity or official or make them a part of another department or division (receiving departments), the employees, authorized appropriations, bonded indebtedness if applicable, and real and personal property of the transferring department are also transferred to and become part of the receiving department or division unless otherwise specifically provided. All classified or unclassified personnel of the affected agency, department, board, commission, committee, entity, section, division or position employed by these transferring departments on the effective date of this act, either by contract or by employment at will, shall become employees of the receiving department or division, with the same compensation, classification, and grade level, as applicable. The State Budget and Control Board shall cause all necessary actions to be taken to accomplish this transfer and shall in consultation with the agency heads of the transferring and receiving agencies prescribe the manner in which the transfer provided for in this section shall be accomplished. The boards’ action in facilitating the provisions of this section are ministerial in nature and shall not be construed as an approval process over any of the transfers.

(B) Where an agency, department, entity or official is transferred to or consolidated with another agency, department, division, entity or official, regulations promulgated by that transferred agency, department, entity or official under the authority of former provisions of law pertaining to it are continued and are considered to be promulgated under the authority of present provisions of law pertaining to it, until such time as the regulations are amended or repealed or new regulations are promulgated by the agency, department, entity or official to which another agency, department, entity or official was transferred to or consolidated with.

(C) References to the names of agencies, departments, entities or public officials changed by this act, to their duties or functions herein devolved upon other agencies, departments, entities or officials, or to provisions of law consolidated with or transferred to other parts of the 1976 Code are considered to be and must be construed to mean appropriate references.

(D) Employees or personnel of agencies, departments, entities or public officials, or sections, divisions or portions thereof, transferred to or made a part of another agency, department, division, or official pursuant to the terms of this act shall continue to occupy the same office locations and facilities which they now occupy unless or until otherwise changed by appropriate action and authorization. The rent and physical plant operating costs of these offices and facilities, if any, shall continue to be paid by the transferring agency, department, entity or official formerly employing these personnel until otherwise provided by the General Assembly. The records and files of the agencies that formerly employed these personnel shall continue to remain the property of these transferring agencies, except that these personnel shall have complete access to these records and files in the performance of their duties as new employees of the receiving agency.

(E) Unless otherwise provided herein or by law, all fines, fees, forfeitures, or revenues imposed or levied by agencies, personnel, or portions thereof, so transferred to other agencies or departments must continue to be used and expended for those purposes provided prior to the effective date of this act. If a portion of these fines, fees, forfeitures, or revenues were required to be used for the support, benefit, or expense of personnel transferred, such funds must continue to be used for these purposes.

(F) The State Budget and Control Board, in consultation with the appropriate standing committees of the General Assembly as designated by the President Pro Tempore of the Senate and the Speaker of the House of Representatives and the other affected agencies, shall prescribe the manner in which the provisions of subsections (A), (D), and (E) must be implemented where agreement between the affected agencies cannot be obtained.

(G) The membership of the Legislative Council shall cause the changes to the 1976 Code as contained in this act to be printed in replacement volumes or in cumulative supplements as they consider practical and economical.

SECTION 16. This act takes effect July 1, 2011.

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