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COMMITTEE REPORT

January 28, 2021

**H. 3055**

Introduced by Reps. Hixon and Forrest

S. Printed 1/28/21--H.

Read the first time January 12, 2021.

**THE COMMITTEE ON AGRICULTURE, NATURAL**

**RESOURCES AND ENVIRONMENTAL AFFAIRS**

To whom was referred a Bill (H. 3055) to amend Section 48‑4‑10, Code of Laws of South Carolina, 1976, relating to the establishment of the Department of Natural Resources, etc., respectfully

**REPORT:**

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

DAVID R. HIOTT for Committee.

**A** **BILL**

TO AMEND SECTION 48‑4‑10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ESTABLISHMENT OF THE DEPARTMENT OF NATURAL RESOURCES, SO AS TO UPDATE THE NAMES OF THE DIVISIONS OF THE DEPARTMENT; TO AMEND SECTION 48‑4‑30, RELATING TO THE GOVERNING BOARD OF THE DEPARTMENT OF NATURAL RESOURCES, SO AS TO REMOVE THE AT‑LARGE BOARD MEMBER FROM THE BOARD; TO AMEND SECTION 48‑4‑70, RELATING TO THE GENERAL DUTIES OF THE BOARD, SO AS TO REMOVE THE BOND REQUIREMENT; TO AMEND SECTION 50‑1‑220, RELATING TO THE APPLICATION OF THE PROVISIONS OF SECTIONS 50‑1‑180 TO 50‑1‑230 TO CERTAIN LANDS, SO AS TO REMOVE A REFERENCE TO A REPEALED STATUTE; TO AMEND SECTION 50‑3‑90, RELATING TO GAME AND FISH CULTURE OPERATIONS AND INVESTIGATIONS, SO AS TO REMOVE CERTAIN REQUIREMENTS BEFORE AN INVESTIGATION MAY BE CONDUCTED; TO AMEND SECTION 50‑3‑110, RELATING TO THE SUPERVISION OF ENFORCEMENT OFFICERS, SO AS TO UPDATE THE AGENCY NAME AND DELETE A REFERENCE TO A DISCONTINUED PRACTICE; TO AMEND SECTION 50‑3‑130, RELATING TO UNIFORMS AND EMBLEMS OF ENFORCEMENT OFFICERS, SO AS TO GRANT AUTHORITY TO THE DEPARTMENT OF NATURAL RESOURCES TO PRESCRIBE THE OFFICIAL UNIFORM; TO AMEND SECTION 50‑3‑315, RELATING TO DEPUTY ENFORCEMENT OFFICERS, SO AS TO DELETE AN EXPIRED DIRECTIVE TO ESTABLISH A TRAINING PROGRAM; TO AMEND SECTION 50‑3‑320, RELATING TO THE TRANSMITTAL AND DELIVERY OF COMMISSIONS OF ENFORCEMENT OFFICERS, SO AS TO PROVIDE THE DEPARTMENT IS RESPONSIBLE TO MAINTAIN THE COMMISSIONS OF ENFORCEMENT OFFICERS AND TO DELETE A BOND REQUIREMENT; TO AMEND SECTION 50‑3‑350, RELATING TO THE OFFICIAL BADGE OF ENFORCEMENT OFFICERS, SO AS TO UPDATE THE AGENCY NAME FOR AN ENFORCEMENT OFFICER’S OFFICIAL BADGE; TO AMEND SECTION 50‑3‑395, RELATING TO THE AUTHORITY OF ENFORCEMENT OFFICERS TO ISSUE WARNING TICKETS, SO AS TO ALLOW THE DEPARTMENT TO ESTABLISH CERTAIN PROCEDURES WITHOUT PROMULGATING REGULATIONS; TO AMEND SECTION 50‑11‑980, RELATING TO THE DESIGNATED WILDLIFE SANCTUARY IN CERTAIN AREAS OF CHARLESTON HARBOR, SO AS TO UPDATE THE BOUNDARIES OF THE WILDLIFE SANCTUARY; TO AMEND SECTION 50‑15‑10, AS AMENDED, RELATING TO DEFINITIONS APPLICABLE TO PROVISIONS PROTECTING NONGAME AND ENDANGERED WILDLIFE SPECIES, SO AS TO UPDATE THE CITATION OF THE FEDERAL LIST OF ENDANGERED SPECIES; AND TO AMEND SECTION 50‑15‑30, RELATING TO THE LIST OF ENDANGERED SPECIES, SO AS TO UPDATE THE CITATION TO THE FEDERAL REGULATION AND TO MOVE CERTAIN DUTIES TO THE DEPARTMENT OF NATURAL RESOURCES.

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

SECTION 1. Section 48‑4‑10(A) of the 1976 Code is amended to read:

“(A) The South Carolina Department of Natural Resources is created to administer and enforce the laws of this State relating to wildlife, marine resources, and natural resources and other laws specifically assigned to it. The department must be comprised of a ~~Natural Resources~~ Law Enforcement Division, a Wildlife and Freshwater Fisheries Division, a Marine Resources Division, ~~a Water Resources Division, and a Land Resources and Conservation Districts Division~~ and a Land, Water, and Conservation Division. Each division of the department must have the functions and powers provided by law.”

SECTION 2. Section 48‑4‑30 of the 1976 Code is amended to read:

“Section 48‑4‑30. (A) The department must be governed by a board consisting of nonsalaried board members to be appointed and constituted in a manner provided by law. The Governor shall appoint one member to serve as chairman, upon the advice and consent of the Senate. The appointment to chairman is subject to the advice and consent of the Senate, even if the person appointed to serve as chairman is already a current member of the board.

(B) All board members must be appointed by the Governor with the advice and consent of the Senate. One member must be appointed from each congressional district of the State.

(C) ~~Notwithstanding subsection (B), membership on the board also shall include the at‑large board member serving on the board on March 1, 2012. The at‑large board member may continue to serve on the board until that board member’s term expires, he is removed from the board as provided by law, or he resigns from the board. At the expiration of the at‑large board member’s term, or upon his removal from or resignation from the board, the provisions of this subsection no longer apply to the composition of the membership of the board.~~

~~(D)~~ In making appointments, race, gender, and other demographic factors should be considered to assure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of the State; however, consideration of these factors in making an appointment in no way creates a cause of action or basis for an employee grievance for a person appointed or for a person who fails to be appointed. Board members must possess sound moral character, superior knowledge in the fields of wildlife, marine, and natural resource management, and proven administrative ability.

~~(E)~~(D) The Governor may remove any board member pursuant to the provisions of Section 1‑3‑240.

~~(F)~~(E) Terms of the members must be for four years and until their successors are appointed and qualify. If a vacancy occurs when the General Assembly is not in session, it must be filled by the Governor’s appointment for the unexpired term, subject to confirmation by the Senate at the next session of the General Assembly.

~~(G)~~(F) Each board member, within thirty days after notice of appointment and before taking office, shall take and file with the Secretary of State the oath of office prescribed by the State Constitution.

~~(H)~~(G) Notwithstanding subsection ~~(E)~~ (D), the terms of members representing ~~congressional districts serving on the board on March 1, 2012, shall terminate on the dates provided in this subsection. The terms of the members representing~~ the Fourth and the Sixth Congressional Districts shall expire July 1, 2012. The terms of the members representing the First, Second, Third, and Fifth Congressional Districts shall expire on July 1, 2014.

~~(I)~~(H) Notwithstanding subsection ~~(E)~~ (D), the initial term of the member representing the Seventh Congressional District shall expire July 1, 2016.”

SECTION 3. Section 48‑4‑70 of the 1976 Code is amended to read:

“Section 48‑4‑70. The board shall:

(1) hold meetings, as considered necessary by the chairman, with a majority of the board members constituting a quorum. The board may hold meetings, transact business, or conduct investigations at any place necessary; however, its primary office is in Columbia;

(2) formulate and recommend legislation to enhance uniformity, enforcement, and administration of the wildlife, marine, and natural resource laws;

(3) make an annual report to the General Assembly on all matters relating to its action;

(4) ~~require those of its officers, agents, and employees it designates to give bond for the faithful performance of their duties in the sum and with the sureties it determines, and all premiums on the bonds must be paid by the board;~~

~~(5)~~ pay travel expenses; and purchase or lease all necessary facilities, equipment, books, periodicals, and supplies for the performance of its duties; and

~~(6)~~(5) exercise and perform other powers and duties as granted to it or imposed upon it by law.”

SECTION 4. Section 50‑1‑220 of the 1976 Code is amended to read:

“Section 50‑1‑220. The provisions of Sections 50‑1‑180 to ~~50‑1‑230~~ 50‑1‑220 shall also apply to (a) other properties of the United States Government, (b) any other properties acquired or to be acquired from the United States Government by the State, or (c) any other lands or waters purchased by the United States or the State. But hunting and fishing shall not be allowed on any lands under the control or ownership of the State Commission of Forestry except by written agreement with that Commission. Nothing contained in such sections shall interfere in any manner with the use and management of lands by a state agency in charge of such lands in the functions of such agency as authorized by law.”

SECTION 5. Section 50‑3‑90 of the 1976 Code is amended to read:

“Section 50‑3‑90. The authorized agents of the department may conduct game and fish cultural operations and scientific investigations in such manner, places and at such times as are considered necessary and may use whatever methods are deemed advisable for sampling fish populations. ~~Such operations and investigations shall be conducted only at the request of and with the permission from the board, and~~ No such operations and investigations shall be made upon private lands and waters except at the request of the owner or owners of such lands and waters.”

SECTION 6. Section 50‑3‑110 of the 1976 Code is amended to read:

“Section 50‑3‑110. The department shall have charge of the enforcement officers of the Natural Resources Law Enforcement Division of the department and exercise supervision over the enforcement of the laws of the State, regulatory, tax, license or otherwise, in reference to birds, nonmigratory fish, game fish, shellfish, shrimp, oysters, ~~oyster leases,~~ and fisheries.”

SECTION 7. Section 50‑3‑130 of the 1976 Code is amended to read:

“Section 50‑3‑130. The ~~board~~ department shall prescribe a unique and distinctive official uniform, with appropriate insignia to be worn by all uniformed enforcement officers of the Natural Resources Law Enforcement Division of the department when on duty and at such other times as the board shall order, and a distinctive color or colors and appropriate emblems for all motor vehicles used by such officers. No other law enforcement agency, private security agency or any person shall wear a similar uniform and insignia which may be confused with the uniform and insignia of the enforcement officers nor shall any emblem be used on a motor vehicle nor shall it be painted in a color or in any manner which would cause the vehicle to be similar to an enforcement officer’s vehicle or readily confused therewith.”

SECTION 8. Section 50‑3‑315 of the 1976 Code is amended to read:

“Section 50‑3‑315. (A) The director may appoint deputy enforcement officers who serve at the pleasure of the director without pay. The officers have statewide police power. However, the director may restrict their territorial jurisdiction. No person may be appointed as an officer who holds another public office. The Secretary of State shall transmit to the director the commissions of all officers.

(B) Except for specially designated department employees, deputy enforcement officers are volunteers covered by Chapter 25 ~~of~~, Title 8 and not employees entitled to coverage or benefits in Title 42.

(C) Except for specially designated department employees, deputy enforcement officers shall furnish their own equipment but may not equip privately owned vehicles with blue lights, sirens, or police‑type markings.

(D) Deputy enforcement officers must be of good character.

(E) The department shall administer the deputy enforcement officers through its Natural Resources Enforcement Division.

(F) The number of deputy enforcement officers appointed is in the discretion of the director.

(G) All deputy enforcement officers:

(1) must be certified by the South Carolina Criminal Justice Academy or successfully shall complete the ‘Basic State Constables Course’ at their own expense at one of the state technical schools;

(2) successfully shall complete required refresher training;

(3) promptly shall comply with all directives by the Deputy Director of the Natural Resources Enforcement Division and the supervisor of enforcement officers within whose area the officer is acting.

~~(H)~~ ~~The department by regulation shall establish a training program for deputy enforcement officers commissioned after July 1, 1980.~~”

SECTION 9. Section 50‑3‑320 of the 1976 Code is amended to read:

“Section 50‑3‑320. The Secretary of State shall transmit to the ~~board~~ department the commissions of all enforcement officers and the director shall deliver such commissions to the enforcement officers only after the enforcement officers have filed oaths ~~and bonds~~ as required by Section 50‑3‑330.”

SECTION 10. Section 50‑3‑350 of the 1976 Code is amended to read:

“Section 50‑3‑350. The enforcement officers, when acting in their official capacity, shall wear a metallic shield with the words ~~‘Enforcement Officer of the Natural Resources Enforcement Division’~~ ‘South Carolina Department of Natural Resources Law Enforcement Officer’ inscribed thereon.”

SECTION 11. Section 50‑3‑395 of the 1976 Code is amended to read:

“Section 50‑3‑395. Enforcement officers may issue warning tickets to violators in cases of misdemeanor violations under this title. The department shall ~~by regulation~~ provide for the form, administration, and use of warning tickets authorized by this section.”

SECTION 12. Section 50‑11‑980 of the 1976 Code is amended to read:

“Section 50‑11‑980. The lands and waters in Charleston Harbor and its adjacent estuarine system in Charleston County lying within the following boundaries are designated a wildlife sanctuary:

~~The area in Charleston County beginning at the foot of Station 22 1/2 Street on Sullivan’s Island, thence on a line north following Ben Sawyer Boulevard (Highway 703) into Mt. Pleasant to a point just south of Center Street where the marsh of the upper reaches of Jeanette Creek meets highland, thence turning 230 degrees southwest following a line to Pitt Street in Mt. Pleasant, thence turning northwest following Pitt Street to its intersection with Live Oak Avenue, thence northeast to Coleman Boulevard, thence following Coleman Boulevard across Shem Creek and continuing on a line 310 degrees northwest to the eastern range marker for the Drum Island Channel Range just south of Remley’s Point, thence continuing northwest on the Drum Island Reach for approximately six thousand eighty feet, thence due west on a line across the Charleston peninsula for approximately seven thousand nine hundred sixty‑six feet, thence turning 330 degrees northwest and continuing for approximately nine thousand six hundred forty‑three feet along the east side of the Ashley River, thence turning 330 degrees northwest and continuing on a line for approximately five thousand eight hundred seventy feet, thence turning 240 degrees and continuing for approximately four thousand one hundred ninety‑three feet, thence turning 134 degrees southeast and continuing approximately nine thousand six hundred forty‑three feet to a point on the west bank of the Ashley River just south of the WTMA radio tower, thence turning 200 degrees south and continuing for approximately three thousand three hundred fifty‑four feet along the west bank of the Ashley River, thence turning south 170 degrees for approximately three thousand seven hundred seventy‑three feet, thence turning northwest 310 degrees and continuing for approximately four thousand one hundred ninety‑three feet, thence turning south 190 degrees and continuing approximately five thousand thirty‑one feet, thence returning east 105 degrees and continuing for approximately three thousand seven hundred seventy‑three feet, thence turning south again 190 degrees and continuing for approximately two thousand five hundred sixteen feet to its intersection with Highway 61, thence turning southeast 120 degrees and continuing approximately nineteen thousand sixty‑two feet to the north bank of Wappoo Creek, thence turning south 200 degrees and continuing approximately two thousand nine hundred thirty‑five feet, thence turning southeast 144 degrees and continuing for approximately two thousand nine hundred thirty‑five feet to a point just south of Harborview Road, thence turning east‑southeast 100 degrees and continuing for approximately one thousand two hundred fifty‑eight feet, thence turning southeast 130 degrees and continuing approximately one thousand six hundred seventy‑seven feet, thence turning east 100 degrees and continuing for approximately four thousand one hundred ninety‑three feet, thence turning northeast 30 degrees and continuing for approximately two thousand ninety‑six feet, thence turning east 80 degrees and continuing for approximately one thousand two hundred fifty‑eight feet, thence turning southeast 120 degrees and continuing for approximately one thousand two hundred fifty‑eight feet, thence turning south 200 degrees and continuing approximately one thousand six hundred seventy‑seven feet to the head of Kushiwah Creek, thence turning east‑southeast 110 degrees and continuing approximately four thousand one hundred ninety‑three feet, thence turning northeast 30 degrees and continuing for approximately eight hundred thirty‑nine feet, thence turning northwest 320 degrees and continuing for approximately two thousand five hundred sixteen feet, thence turning north 20 degrees and continuing approximately six hundred twenty‑nine feet, thence turning east‑southeast 110 degrees and continuing for approximately two thousand nine hundred thirty‑five feet, thence returning due north and continuing for approximately one thousand two hundred fifty‑eight feet, thence turning due east and continuing for approximately three thousand seven hundred seventy‑three feet along the southern edge of Charleston Harbor, thence turning northeast 60 degrees and continuing for approximately one thousand two hundred fifty‑eight feet to the point at Fort Johnson, thence turning due south and continuing approximately nine thousand two hundred twenty‑four feet to a point on the west bank of Schooper (Schooner) Creek, thence turning due east and continuing for approximately six thousand seven hundred eight feet across Morris Island along the dike on the north end of the spoil area, thence turning northeast 50 degrees and continuing approximately sixteen thousand three hundred fifty‑one feet across the mouth of Charleston Harbor to the point of beginning on Sullivan’s Island.~~

The area in Charleston County beginning at the foot of Station 22 1/2 Street on Sullivan’s Island; thence 332°47’51” following Ben Sawyer Boulevard (Highway 703) into Mt. Pleasant for approximately 10672.74’ to a point just south of Center Street where the marsh of the upper reaches of Jeanette Creek meets highland; thence 226°30’39” and continuing for approximately 5711.45’ to Pitt Street; thence 315°06’28” and continuing for approximately 5601.19’; thence 42°35’09” and continuing for approximately 96.36’; thence 315°40’50” and continuing for approximately 546.86’; thence 317°58’41” and continuing for approximately 675.02’; thence 46°54’12” and continuing for approximately 349.17’ to the intersection of Coleman Boulevard; thence 316°01’24” following Coleman Boulevard across Shem Creek and continuing for approximately 1249.48’; thence 310°00’00” and continuing for approximately 11746.20’ to the eastern range marker for the Drum Island Channel Range just south of Remley’s Point;

thence 291°44’09” and continuing for approximately 6080.00’ through the Drum Reach; thence due west and continuing for approximately 7960.00’ across the Charleston peninsula; thence 330°00’00” and continuing for approximately 9643.00’ along the east side of the Ashley River; thence 279°04’59” and continuing for approximately 7617.53’; thence 154°18’05” and continuing for approximately 10204.25’ to a point on the west bank of the Ashley River just south of the WTMA radio tower; thence 200°00’00” and continuing for approximately 3354.00’; thence 170°00’00” and continuing for approximately 3773.00’; thence 310°00’00” and continuing for approximately 4193.00’; thence 190°00’00” and continuing for approximately 5031.00’; thence 105°00’00” and continuing for approximately 3773.00’; thence 189°36’09” and continuing for approximately 1785.89’ to the intersection of Highway 61; thence 132°12’36” and continuing for approximately 9390.67’ to the north bank of Wappoo Creek; thence 200°00’00” and continuing for approximately 4413.48’; thence 144°00’00” and continuing for approximately 2935.00’ to a point just south of Harborview Road; thence 100°00’00” and continuing for approximately 1258.00’; thence 130°00’00” and continuing for approximately 1677.00’; thence 100°00’00” and continuing for approximately 4193.00’; thence 30°00’00” and continuing for approximately 2096.00’; thence 80°00’00” and continuing for approximately 1258.00’; thence 120°00’00” and continuing for approximately 1258.00’; thence 200°00’00” and continuing for approximately 2147.63’ to the head of Kushiwah Creek; thence 110°00’00” and continuing for approximately 4065.35’; thence 30°00’00” and continuing for approximately 893.00’; thence 320°00’00” and continuing for approximately 2516.00’; thence 20°00’00” and continuing for approximately 629.00’; thence 110°00’00” and continuing for approximately 2935.00’; thence due north and continuing for approximately 1258.00’; thence due east and continuing for approximately 3773.00’ along the southern edge of Charleston Harbor; thence 60°00’00” and continuing for approximately 1258.00’ to the point at Fort Johnson; thence 171°52’50” and continuing for approximately 9317.40’ to a point on the west bank of Schooper (Schooner) Creek; thence due east and continuing for approximately 6491.17’ along the dike on the north end of the spoil area; thence 43°27’46” and continuing for approximately 16506.59’ across the mouth of Charleston Harbor to the point of beginning on Sullivan’s Island.

It is unlawful for any person to hunt, trap, molest, or to attempt to take or molest in any manner, any wild bird, bird egg, or mammal within the sanctuary. The department, its duly authorized agents, or persons with written permits issued by the department may engage in predator control, bird banding, and other scientific activities including the collection of specimens for scientific purposes intended to enhance, maintain, or further our understanding of wildlife populations within the sanctuary.

The department shall post the general outline of the sanctuary and during the nesting season shall conspicuously post bird nesting areas. Posting of bird nesting areas constitutes public notice that the areas are closed to entry. The term ‘molest’ as used in this section includes, but is not limited to, walking upon posted lands or allowing pets to roam upon them. It is also unlawful for any person to remove or tamper with signs posted by the department pursuant to this section.

Nothing herein shall preclude the normal operations of the marine terminals and other facilities of the South Carolina State Ports Authority, or the dredging and disposal operations by the U.S. Army Corps of Engineers, South Carolina State Ports Authority, or their agents or contractors, or the normal shipping and maritime activities in the Port of Charleston.

Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned for not more than ninety days, or both.”

SECTION 13. Section 50‑15‑10(2)(e) of the 1976 Code, as last amended by Act 177 of 2020, is further amended to read:

“(e) any combination of the foregoing factors. The term shall also be deemed to include any species or subspecies of fish or wildlife appearing on the United States’ List of Endangered Native Fish and Wildlife as it appears on July 2, 1974, (Part 17 of Title 50, Code of Federal Regulations, Appendix D, 50 C.F.R. Section 17.11) as well as any species or subspecies of fish and wildlife appearing on the United States’ List of Endangered Foreign Fish and Wildlife (Part 17 of Title 50 of the Code of Federal Regulations, Appendix A, 50 C.F.R. Section 17.11), as such list may be modified hereafter.”

SECTION 14. Section 50‑15‑30(B) and (C) of the 1976 Code is amended to read:

“(B) The ~~board~~ department shall conduct a review of the state list of endangered species within not more than two years from its effective date and every two years thereafter and may amend the list by such additions or deletions as are deemed appropriate. The ~~board~~ department shall submit to the Governor a summary report of the data used in support of all amendments to the state list during the preceding biennium.

(C) Except as otherwise provided in this article, it shall be unlawful for any person to take, possess, transport, export, process, sell or offer for sale, or ship, and for any common or contract carrier knowingly to transport or receive for shipment any species or subspecies of wildlife appearing on any of the following lists:

(1) the list of wildlife indigenous to the State determined to be endangered within the State pursuant to subsection (A);

(2) the United States’ List of Endangered Native Fish and Wildlife as it appears on July 2, 1974, (Part 17 of Title 50, Code of Federal Regulations, Appendix D, 50 C.F.R. Section 17.11); and

(3) the United States’ List of Endangered Foreign Fish and Wildlife (Part 17 of Title 50, Code of Federal Regulations, Appendix A, 50 C.F.R. Section 17.11), as such list may be modified hereafter; provided, that any species or subspecies of wildlife appearing on any of the foregoing lists which enters the State from another state or from a point outside the territorial limits of the United States and which is transported across the State destined for a point beyond the State may be so entered and transported without restriction in accordance with the terms of any federal permit or permit issued under the laws or regulations of another state.”

SECTION 15. The General Assembly finds that the sections presented in this act constitute one subject as required by Article III, Section 17 of the South Carolina Constitution, in particular finding that each change and each topic relates directly to or in conjunction with other sections to the subject of the Department of Natural Resources as clearly enumerated in the title.

The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in the act.

SECTION 16. This act takes effect upon approval by the Governor.

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