

HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

DRAFFIN/LEE
APRIL 8, 2014

CLERK OF THE HOUSE

THE COMMITTEE ON JUDICIARY PROPOSES THE FOLLOWING
AMENDMENT No. TO H. 3945
(COUNCIL\NL\3945C010.NL.SD14):

REFERENCE IS TO PRINTER'S DATE 3/3/14-H.

**AMEND THE BILL, AS AND IF AMENDED, BY
STRIKING ALL AFTER THE ENACTING WORDS AND
INSERTING:**

**/ SECTION 1. THE GENERAL ASSEMBLY BY
THIS ACT HAS DETERMINED TO CREATE ONE
COMMISSION, TO BE KNOWN AS THE SOUTH
CAROLINA COMMISSION ON ETHICS
ENFORCEMENT AND DISCLOSURE, TO SUPERVISE
AND REGULATE THE ETHICAL CONDUCT AND
ETHICS REQUIREMENTS IMPOSED BY LAW OR**

RULE ON MEMBERS OF THE GENERAL ASSEMBLY AND OTHERS, NOW ADMINISTERED BY THE HOUSE OF REPRESENTATIVES AND SENATE ETHICS COMMITTEES, IMPOSED BY LAW ON PUBLIC OFFICIALS, PUBLIC MEMBERS, PUBLIC EMPLOYEES, AND OTHERS BY THE PROVISIONS OF CHAPTER 17, TITLE 2 AND CHAPTER 13, TITLE 8 OF THE 1976 CODE NOW ADMINISTERED BY THE STATE ETHICS COMMISSION, AND IMPOSED BY LAW AND THE CANNONS OF JUDICIAL CONDUCT ON JUDGES AND OTHER JUDICIAL OFFICIALS OF THE UNIFIED JUDICIAL SYSTEM NOW ADMINISTERED BY THE SUPREME COURT THROUGH ITS COMMISSION ON JUDICIAL CONDUCT.

SECTION 2. CHAPTER 13, TITLE 8 OF THE 1976 CODE IS AMENDED BY ADDING:

“ARTICLE 4

SOUTH CAROLINA COMMISSION ON ETHICS ENFORCEMENT AND DISCLOSURE

SECTION 8-13-410. (A) THERE IS CREATED THE SOUTH CAROLINA COMMISSION ON ETHICS ENFORCEMENT AND DISCLOSURE COMPOSED OF TWELVE MEMBERS SELECTED AS FOLLOWS:

(1) TWO MEMBERS OF THE HOUSE OF REPRESENTATIVES ELECTED BY THE HOUSE. ONE MEMBER ELECTED BY THE HOUSE MUST BE FROM THE LARGEST MINORITY PARTY REPRESENTED IN THE HOUSE. MEMBERS FROM THE HOUSE SHALL SERVE A TERM OF TWO YEARS COTERMINOUS WITH THEIR TERMS OF OFFICE AS A MEMBER OF THE HOUSE.

(2) TWO MEMBERS OF THE SENATE ELECTED BY THE SENATE. ONE MEMBER ELECTED BY THE SENATE MUST BE FROM THE LARGEST MINORITY PARTY REPRESENTED IN THE SENATE. MEMBERS FROM THE SENATE MUST SERVE A TERM OF FOUR YEARS COTERMINOUS

WITH THEIR TERMS OF OFFICE AS A MEMBER OF THE SENATE.

(3) FOUR MEMBERS APPOINTED BY THE GOVERNOR, NONE OF WHOM MAY BE A PUBLIC OFFICIAL, TO SERVE FOR TERMS OF FOUR YEARS EACH COTERMINOUS WITH THAT OF THE GOVERNOR.

(4) FOUR MEMBERS ELECTED BY MAJORITY VOTE OF THE SUPREME COURT, EACH OF WHOM MUST BE AN ACTIVELY SERVING JUDGE IN ONE OF THE COURTS OF RECORD OF THIS STATE. MEMBERS OF THE SUPREME COURT ARE NOT ELIGIBLE TO BE ELECTED TO THE COMMISSION NOR ARE RETIRED JUDGES ELIGIBLE TO BE COMMISSIONED TO SIT AS JUDGES IN THE COURTS OF THIS STATE AFTER THEIR RETIREMENT. TWO OF THESE JUDGES SHALL SERVE AN INITIAL TERM OF TWO YEARS ON THE COMMISSION AND TWO OF THESE JUDGES SHALL SERVE FOR INITIAL TERMS OF FOUR YEARS ON THE COMMISSION, AND THEREAFTER SUCH JUDICIAL MEMBERS OF THE COMMISSION SHALL BE ELECTED FOR TERMS OF FOUR YEARS. THE SUPREME COURT IN CONDUCTING THESE ELECTIONS SHALL DESIGNATE THE TERMS OF ALL MEMBERS SO ELECTED.

(B) THE MEMBERS OF THE COMMISSION, EXCEPT FOR THE MEMBERS APPOINTED BY THE GOVERNOR, SHALL SERVE EX-OFFICIO. NO PERSON SHALL SERVE CONSECUTIVE TERMS ON THE COMMISSION, EXCEPT THAT THE MEMBERS WHO SERVE AN INITIAL TERM OF LESS THAN FOUR YEARS ARE ELIGIBLE TO SERVE FOR A SINGLE ADDITIONAL TERM. MEMBERS APPOINTED BY THE GOVERNOR SHALL RECEIVE NO COMPENSATION BUT SHALL RECEIVE THE USUAL MILEAGE, SUBSISTENCE, AND PER DIEM AS IS PAID BY LAW TO MEMBERS OF STATE BOARDS, COMMISSION, AND COMMITTEES TO BE PAID FROM THE APPROVED ACCOUNTS OF THE COMMISSION. VACANCIES MUST BE FILLED IN THE MANNER OF THE ORIGINAL SELECTION FOR THE UNEXPIRED PORTION OF THE TERM ONLY.

(C) THE CHAIRMAN OF THE COMMISSION MUST BE ELECTED BY THE MEMBERS OF THE COMMISSION. THE COMMISSION MAY ELECT A VICE CHAIRMAN AND SUCH OTHER OFFICERS AS IT CONSIDERS NECESSARY. SEVEN MEMBERS OF THE COMMISSION SHALL CONSTITUTE A QUORUM. THE COMMISSION SHALL ADOPT A POLICY CONCERNING THE ATTENDANCE OF ITS MEMBERS AT COMMISSION MEETINGS. THE COMMISSION MEETS AT THE CALL OF THE CHAIRMAN OR A MAJORITY OF ITS MEMBERS. MEMBERS MAY SET THEIR OWN POLICY RELATED TO THE ROTATION OF THE SELECTION OF OFFICERS.

(D) THE TERMS OF MEMBERS OF THE COMMISSION BEGIN ON JULY FIRST OF THE APPLICABLE YEAR AND END ON JUNE THIRTIETH. THE HOUSE OF REPRESENTATIVES ETHICS COMMITTEE, THE SENATE ETHICS COMMITTEE, THE COMMISSION ON JUDICIAL CONDUCT, AND THE STATE ETHICS COMMISSION ARE ABOLISHED ON JANUARY 1, 2015, AND THE TERMS OF THE PRESENT MEMBERS THEREOF EXPIRE ON THIS DATE, OR IF THEY DO NOT HAVE A SET TERM, THEIR SERVICE IS TERMINATED ON THIS DATE.

(E) THE COMMISSION SHALL RECEIVE SUCH APPROPRIATIONS FOR ITS OPERATIONS AND RESPONSIBILITIES AS MAY BE PROVIDED BY THE GENERAL ASSEMBLY IN THE ANNUAL GENERAL APPROPRIATIONS ACT, IN ADDITION TO THE OTHER SOURCES OF REVENUE AVAILABLE TO IT AS PROVIDED BY LAW.

(F) MEMBERS OF THE COMMISSION WHILE SERVING ON THE COMMISSION MAY NOT MAKE POLITICAL CONTRIBUTIONS IN ANY MANNER PROHIBITED BY LAW AND SHALL CONDUCT THEMSELVES IN ACCORDANCE WITH THE CANNONS OF JUDICIAL CONDUCT. THE PROVISIONS OF SECTION 8-13-330(B) AND (C) APPLY TO MEMBERS OF THE COMMISSION EXCEPT FOR ITS LEGISLATIVE MEMBERS.

SECTION 8-13-420. ON THE EFFECTIVE DATE OF THIS ARTICLE, THE FUNCTIONS, DUTIES, AND POWERS OF THE HOUSE OF REPRESENTATIVES AND SENATE ETHICS COMMITTEES, THE STATE

ETHICS COMMISSION, AND THE SUPREME COURT OF THIS STATE ACTING THROUGH ITS COMMISSION ON JUDICIAL CONDUCT IN REGARD TO JUDICIAL ETHICS AND CONDUCT ARE DEVOLVED UPON THE SOUTH CAROLINA COMMISSION ON ETHICS ENFORCEMENT AND DISCLOSURE. ALL PROVISIONS OF LAW ADMINISTERED BY THESE PRESENT ENTITIES NOW SHALL BE ADMINISTERED BY THE COMMISSION ON ETHICS ENFORCEMENT AND DISCLOSURE, INCLUDING THOSE PENALTY PROVISIONS IT BY LAW OR RULE WILL BE PERMITTED TO IMPOSE, OR THOSE RECOMMENDATIONS FOR PENALTIES IT IS AUTHORIZED TO SUGGEST. THE TERMS STATE ETHICS COMMISSION, HOUSE OF REPRESENTATIVES AND SENATE ETHICS COMMITTEES, AND SUPREME COURT, OR THE COMMISSION ON JUDICIAL CONDUCT IN REGARD TO JUDICIAL ETHICS AND CONDUCT, NOW SHALL BE CONSTRUED TO MEAN THE COMMISSION ON ETHICS ENFORCEMENT AND DISCLOSURE AND TO THE EXTENT NECESSARY THE CODE COMMISSIONER SHALL CONFORM THESE REFERENCES ACCORDINGLY.

SECTION 8-13-430. BEGINNING JANUARY 1, 2015, PURSUANT TO THE PROVISIONS OF SECTION 8-13-420, THE COMMISSION ON ETHICS ENFORCEMENT AND DISCLOSURE SHALL HAVE JURISDICTION OVER AND MAY RECEIVE AND HEAR COMPLAINTS INVOLVING, BUT NOT LIMITED TO, THE FOLLOWING INDIVIDUALS:

(1) ALL STATEWIDE OR CONSTITUTIONAL OFFICERS OF THE STATE AND THEIR STAFFS;

(2) ALL MEMBERS OF THE GENERAL ASSEMBLY AND THEIR STAFFS, INCLUDING EMPLOYEES OF CAUCUSES;

(3) JUDGES AND OTHER JUDICIAL OFFICIALS OF THE UNIFIED JUDICIAL SYSTEM AND THEIR STAFFS WHOSE CONDUCT IS NOW REGULATED AND SUPERVISED BY THE COMMISSION ON JUDICIAL CONDUCT AS GOVERNED BY THE SUPREME COURT;

(4) ANY PERSON WHO HOLDS AN ELECTED OR APPOINTED POSITION FOR ANY POLITICAL SUBDIVISION OF THE STATE AND THEIR STAFFS;

(5) MEMBERS OF ALL BOARDS AND COMMISSIONS OF THE STATE AND ITS POLITICAL SUBDIVISIONS AND THEIR STAFFS;

(6) ANY LOBBYIST OR LOBBYIST PRINCIPAL OR ANY PERSON ACTING AS A LOBBYIST OR LOBBYIST PRINCIPAL WHO HAS FAILED TO REGISTER AS SUCH;

(7) CANDIDATES FOR A STATE OR LOCAL PUBLIC OFFICE FILLED BY POPULAR ELECTION WHETHER OR NOT ELECTED TO SUCH OFFICE; AND

(8) JUDGES OF THE ADMINISTRATIVE LAW COURT AND THEIR STAFFS.

SECTION 8-13-440. NOTHING IN THIS ARTICLE PREVENTS THE HOUSE OF REPRESENTATIVES, THE SENATE, OR THE SUPREME COURT BY RULE FROM IMPOSING THOSE RULES OF CONDUCT ON THE MEMBERS OR JUDICIAL OFFICIALS UNDER THEIR JURISDICTION AS THEY CONSIDER APPROPRIATE, AND THESE RULES MUST BE ENFORCED BY THE COMMISSION ON ETHICS ENFORCEMENT AND DISCLOSURE JUST AS IT ENFORCES ALL APPLICABLE PROVISIONS OF LAW. HOWEVER, BEGINNING JANUARY 1, 2015, NO SUCH RULE OF CONDUCT MAY BE IN CONFLICT WITH THE PROVISIONS OF THIS ARTICLE.

SECTION 8-13-450. THE STATE COMMISSION ON ETHICS ENFORCEMENT AND DISCLOSURE IN CONDUCTING ITS PROCEEDINGS IN REGARD TO ALL PERSONS UNDER ITS JURISDICTION SHALL GENERALLY FOLLOW THE PROCEDURES APPLICABLE TO THE FORMER STATE ETHICS COMMISSION AS CONTAINED IN ARTICLE 3, CHAPTER 13, TITLE 8, INCLUDING CONFIDENTIALITY REQUIREMENTS, UNLESS OTHER PROVISIONS OF LAW OR RULE AND THE PROCEDURES SPECIFIED

THEREIN ARE SPECIFICALLY APPLICABLE TO MEMBERS OF THE HOUSE OF REPRESENTATIVES, THE SENATE, OR THE STATE JUDICIARY.”

SECTION 3. (A) ALL EMPLOYEES, APPROPRIATIONS, ASSETS, AND LIABILITIES OF THE HOUSE OF REPRESENTATIVES AND SENATE ETHICS COMMITTEES, THE STATE ETHICS COMMISSION, THE COMMISSION ON JUDICIAL CONDUCT, OR THE SUPREME COURT IN REGARD TO JUDICIAL ETHICS AND CONDUCT SHALL REMAIN AND CONTINUE IN EFFECT AND IN PLACE EXCEPT AS OTHERWISE PROVIDED BY THE PROVISIONS OF THIS ACT.

(B) THE MEMBERS OF THE COMMISSION ON ETHICS ENFORCEMENT AND DISCLOSURE AND ITS STAFF SHALL BE LOCATED AT THE OFFICES OF THE FORMER STATE ETHICS COMMISSION. EMPLOYEES OF THE LEGISLATIVE BRANCH OR THE JUDICIAL BRANCH INVOLVED IN ADMINISTRATION OF ETHICAL OR JUDICIAL CONDUCT ALSO MAY BE LOCATED AT THE OFFICES OF THE FORMER STATE ETHICS COMMISSION UPON THE CONSENT OF THE CHAIRMAN OF THE COMMISSION ON ETHICS ENFORCEMENT AND DISCLOSURE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE PRESIDENT PRO TEMPORE OF THE SENATE, OR THE CHIEF JUSTICE OF THE SUPREME COURT AS APPROPRIATE.

SECTION 4. SECTIONS 8-13-310, 8-13-510, AND 8-13-520 OF THE 1976 CODE ARE REPEALED.

SECTION 5. THE REPEAL OR AMENDMENT BY THIS ACT OF ANY LAW, WHETHER TEMPORARY OR PERMANENT OR CIVIL OR CRIMINAL, DOES NOT AFFECT PENDING ACTIONS, RIGHTS, DUTIES, OR LIABILITIES FOUNDED THEREON, OR ALTER, DISCHARGE, RELEASE OR EXTINGUISH ANY PENALTY, FORFEITURE, OR LIABILITY INCURRED UNDER THE REPEALED OR AMENDED LAW, UNLESS THE REPEALED OR AMENDED PROVISION SHALL SO EXPRESSLY PROVIDE. AFTER THE EFFECTIVE

DATE OF THIS ACT, ALL LAWS REPEALED OR AMENDED BY THIS ACT MUST BE TAKEN AND TREATED AS REMAINING IN FULL FORCE AND EFFECT FOR THE PURPOSE OF SUSTAINING ANY PENDING OR VESTED RIGHT, CIVIL ACTION, SPECIAL PROCEEDING, CRIMINAL PROSECUTION, OR APPEAL EXISTING AS OF THE EFFECTIVE DATE OF THIS ACT, AND FOR THE ENFORCEMENT OF RIGHTS, DUTIES, PENALTIES, FORFEITURES, AND LIABILITIES AS THEY STOOD UNDER THE REPEALED OR AMENDED LAWS.

SECTION 6. THIS ACT TAKES EFFECT JANUARY 1, 2015. /

RENUMBER SECTIONS TO CONFORM.

AMEND TITLE TO CONFORM.