

Bylaws of the  
S.C. Coordinating Council  
for Workforce  
Development

Approved August 15, 2023

# Contents

ARTICLE I: ESTABLISHMENT.....	3
1.1    NAME .....	3
1.2    PROVISIONS OF ESTABLISHMENT .....	3
1.3    AREA SERVED.....	3
1.4    SUPERSEDE.....	3
ARTICLE II: PURPOSE AND AUTHORITY .....	3
2.1    PURPOSE .....	3
2.2    AUTHORITY.....	3
2.3    DUTIES.....	3
2.4    OTHER DUTIES.....	5
ARTICLE III: MEMBERSHIP .....	5
3.1    COMPOSITION AND APPOINTMENT .....	5
3.2    TERM LIMITS.....	7
3.3    TERMINATION OF MEMBERSHIP .....	7
ARTICLE IV: ORGANIZATION .....	8
4.1    CHAIR.....	8
4.2    VICE-CHAIR.....	9
4.3    OFFICE OF STATEWIDE WORKFORCE DEVELOPMENT (OSWD) DIRECTOR .....	9
4.4    EXECUTIVE COMMITTEE .....	10
4.5    OTHER COMMITTEES .....	10
4.6    COMMUNICATION WITH INDUSTRY ASSOCIATIONS .....	11
ARTICLE V: MEETINGS.....	11
5.1    ORDER OF BUSINESS/AGENDA.....	11
5.2    MEETINGS OF FULL CCWD & CCWD EXECUTIVE COMMITTEE .....	11
5.3    MEETINGS OF OTHER COMMITTEES.....	12
5.4    ADOPTION OF RECOMMENDATIONS FROM OTHER COMMITTEES .....	13
5.5    CONFLICT OF INTEREST.....	13
5.6    RULES OF ORDER.....	13
5.7    MINUTES .....	13
ARTICLE VI: ATTENDANCE .....	13
6.1    ATTENDANCE .....	13
ARTICLE VII: TRANSPARENCY .....	14
7.1    TRANSPARENCY .....	14
ARTICLE VIII: SUPPORT STAFF.....	14
ARTICLE IX: COMPENSATION .....	14
ARTICLE X: AMENDMENT OF BYLAWS .....	14
ARTICLE XI: MISCELLANEOUS MATTERS.....	14
Appendix.....	16
Statewide Education and Workforce Act.....	17
South Carolina Freedom of Information Act .....	23

## ARTICLE I: ESTABLISHMENT

### 1.1 NAME

In accordance with the S.C. Statewide Education and Workforce Development Act (Act), the name of this organization shall be the Coordinating Council for Workforce Development (Council or CCWD).

### 1.2 PROVISIONS OF ESTABLISHMENT

The CCWD was established in accordance with S.C. Code of Laws Section 41-30-110 et seq.

### 1.3 AREA SERVED

The area to be served by the CCWD is the geographical and political jurisdiction of the State of South Carolina.

### 1.4 SUPERSEDE

These bylaws shall supersede any prior or previous bylaws applicable to, or adopted by, the CCWD.

## ARTICLE II: PURPOSE AND AUTHORITY

### 2.1 PURPOSE<sup>1</sup>

The CCWD shall engage in discussions, collaboration, and information sharing concerning the ability of the State to prepare and train workers to meet current and future workforce needs; and perform the other required duties of S.C. Code of Laws Section 41-30-110 et seq. under the direction of the Chairman of the CCWD.

### 2.2 AUTHORITY

The CCWD shall perform all functions mandated by the S.C. Statewide Education and Workforce Development Act and perform such other duties to

accomplish the intent of the Act as directed by the CCWD Chair.

### 2.3 DUTIES<sup>2</sup>

As required by S.C. Code Section 41-30-540, the CCWD shall:

- 2.3.1 make recommendations to the General Assembly as needed to implement the provisions of this chapter;
- 2.3.2 regularly meet with industry associations to gain an understanding of their workforce needs and ideas;
- 2.3.3 facilitate and coordinate the development of the USP;
- 2.3.4 use data and analysis to create measurable, time-sensitive metrics for the USP in which all workforce pipeline stakeholders including, but not limited to, education and workforce boards, councils, and partner representatives, participate. These measurable, time-sensitive metrics include, but are not limited to: ten-year labor participation rate target; and ten-year target for the number of South Carolinians who possess a high-quality credential or postsecondary degree;
- 2.3.5 create an education and workforce dashboard or other application to enable the public to monitor and track progress of the USP; and
- 2.3.6 annually review the USP and update as needed.

The USP should include, but is not limited to, the following:

- 2.3.7 assurance that agency constituents remain served;

<sup>1</sup> S.C. Code Section 41-30-510

<sup>2</sup> S.C. Code Section 41-530-540(A) and (B)

2.3.8 compliance with federal and state laws including, but not limited to, those relating to state plans, to avoid duplication of efforts;

2.3.9 identification of statewide workforce priorities and methods for identifying and addressing long-term workforce needs;

2.3.10 assurance that the components of Chapter 59, Title 59, the South Carolina Education and Economic Development Act, are implemented with fidelity to provide a better prepared workforce, student success in postsecondary education, and enhanced coordination between K-12, higher education, and employers;

2.3.11 establishment and maintenance of standardized education and workforce terminology and definitions to be used across all agencies and sectors;

2.3.12 development and implementation of an annual statewide workforce and education supply gap analysis which may include, but is not limited to: (a) evaluation of current and projected future employer demands; (b) determination of the makeup of the state's labor force and identifying the industries and occupations that are thriving by constructing a baseline analysis of the state's demographics and performing an analysis of the trends in the workforce and education infrastructure pipeline, including the supply of graduates in the State and the number of graduates by degree/certificate category; (c) identifying the supply of skills found in the workforce, and demand for skills employers need from the workforce, and a means for determining how to close gaps that exist between the supply and demand of such skills; and (d) reviewing growing industry and occupation clusters;

2.3.13 creation and maintenance of an Education

and Workforce Portal to provide South Carolinians with information critical to their lifelong educational journey, which may include, but is not limited to: (a) an "Educational Program Alignment Toolkit" that serves as an infrastructure of resources to enable the K-12, technical college, and higher education systems to individually and collectively ensure their respective educational curriculum, initiatives, and programming match workforce needs; (b) a "Career Pathways Tool" that uses applicable occupational data, educational programming, workforce needs, salary information, job market analyses, in-demand occupations, and other information to provide students, parents of students, job seekers, educators, and counselors with useful information about potential career pathways and the various routes to meaningful employment; (c) real-time labor market information; (d) comprehensive inventory of all education and training assets in the State; and (e) global view of workforce-related program data including federal, state, and local education and training options and opportunities;

2.3.14 development and implementation of a study, recommendations, and tools to address barriers to labor participation including, but not limited to, the following: (a) affordable access to childcare and transportation; (b) government assistance programs and requirements available to working families to determine potential opportunities to better incentivize and support employment, and employment-related activities, while easing the "cliff effect" during the transition to economic self-sufficiency; (c) providing individuals who are receiving assistance from public benefit programs with the supports, skills, and credentials they need to gain and retain employment in occupations for which employers demonstrate persistent demands; and (d) a "SC Benefits calculator"

to help families, case managers, and community providers understand the impact of earnings and assist families planning their exit from the use of these public benefits, with the goal of promoting self-sufficiency and maximizing use of available opportunities;

- 2.3.15 review of state and federal funding for all workforce development programs of which CCWD is aware, including passthrough funding to nonprofit/local/regional workforce programs to eliminate duplication and ensure funding is going toward meeting the goals of the USP;
- 2.3.16 development of a reliable and replicable model for measuring returns on public investment in individual education and workforce programs, including a set of common measures used in a performance accountability system;
- 2.3.17 development and delivery of a consolidated budget report that: (a) improves transparency in workforce funding to enable smarter policy decisions; and (b) makes recommendations for using legislative and executive means to improve system alignment, accountability, and efficiency;
- 2.3.18 development and implementation of a method for conducting an ongoing inventory of existing workforce programs to identify duplications among and within the programs and identify ineffective programs; and
- 2.3.19 coordinate with the South Carolina Department of Veterans' Affairs to develop and implement procedures that connect active-duty military spouses, family members, veterans, and military retirees to job opportunities and career support.

## **2.4 OTHER DUTIES**

- 2.4.1 The CCWD shall perform such other duties to accomplish the intent of the Act as directed by the CCWD Chair.

## **ARTICLE III: MEMBERSHIP**

### **3.1 COMPOSITION AND APPOINTMENT**

- 3.1.1 The CCWD shall be composed of members as outlined in S.C. Code Section 41-30-520.
- 3.1.2 The CCWD shall consist of members who are individuals with optimum policy-making authority within the organizations, agencies, or entities they represent.
- 3.1.3 The members of the board shall represent diverse regions and populations of South Carolina, including urban, rural, and suburban areas.

The CCWD must consist of the following members:<sup>3</sup>

- 3.1.4 Executive Director of the Department of Employment and Workforce or his designee, who shall serve as chairman;
- 3.1.5 Director of the Office of Statewide Workforce Development or his designee;
- 3.1.6 Director of the South Carolina Department of Veterans Affairs or his designee;
- 3.1.7 Commissioner of South Carolina Vocational Rehabilitation or his designee;
- 3.1.8 Chairman of the South Carolina Research Authority or his designee;
- 3.1.9 Commissioner of Agriculture or his

---

<sup>3</sup> S.C. Code Section 41-30-520(1)-(28), (30)

- designee;
- 3.1.10 Director of the Department of Labor, Licensing and Regulation or his designee;
  - 3.1.11 Director of the Office of Revenue and Fiscal Affairs or his designee;
  - 3.1.12 Director of the Education Oversight Committee or his designee;
  - 3.1.13 President of the South Carolina Manufacturing Extension Partnership or his designee;
  - 3.1.14 Secretary of the Department of Commerce or his designee;
  - 3.1.15 State Superintendent of Education or his designee;
  - 3.1.16 Executive Director of the State Board for Technical and Comprehensive Education or his designee;
  - 3.1.17 Executive Director of the Commission on Higher Education or his designee;
  - 3.1.18 Director of the South Carolina Department of Parks, Recreation and Tourism or his designee;
  - 3.1.19 Executive Director of South Carolina First Steps or his designee;
  - 3.1.20 Director of the South Carolina Department of Revenue or his designee;
  - 3.1.21 Executive Director of South Carolina State Housing Finance and Development Authority or his designee;
  - 3.1.22 Chairman of the South Carolina State Workforce Development Board or his designee;
  - 3.1.23 president or provost of a research university in this State who is selected by the presidents of the research universities in this State;
  - 3.1.24 president or provost of a four-year college or university in this State who is selected by the presidents of the four-year universities in this State;
  - 3.1.25 president of a technical college in this State who must be appointed by the Chairman of the State Board for Technical and Comprehensive Education;
  - 3.1.26 following members appointed by the State Superintendent of Education who have expertise regarding the South Carolina Education and Economic Development Act: (a) school district superintendent; (b) school counselor; and (c) career and technology education director;
  - 3.1.27 representative of a local workforce board, appointed by the Executive Director of the Department of Employment and Workforce;
  - 3.1.28 two representatives from the business community, appointed by the Governor, who have professional expertise in economic development and workforce issues;
  - 3.1.29 one person appointed by the Chairman of the House Education and Public Works Committee and one person appointed by the House minority party leader;
  - 3.1.30 one person appointed by the Chairman of the Senate Education Committee and one person appointed by the Senate minority party leader;
  - 3.1.31 three persons appointed by the Governor who are considered current or past small business owners under the North American Industry Classification System (NAICS)

code;

- 3.1.32 one person appointed by the Speaker of the House and one person appointed by the Senate President, both of whom have professional expertise in economic development and workforce issues, both of whom also shall serve on the Executive Committee.

The CCWD may also include representatives of any other agencies or entities selected by vote of the Executive Committee.<sup>4</sup>

### **3.2 TERM LIMITS**

- 3.2.1 All entities responsible for appointing individuals to the CCWD have the option to allow individuals currently on the CCWD to remain on the CCWD or make new appointments.
- 3.2.2 All individuals serving on the CCWD as of October 1, 2023, shall be considered to have started their first term on October 1, 2023.
- 3.2.3 *Agency Heads, Organization Heads, Statewide Workforce Development Chair, and Office of Statewide Workforce Development Director* shall serve a term contemporaneous with their respective state appointments or elected term, as applicable.
- 3.2.4 *Appointees of the Governor, Superintendent of Education, Senate, and House of Representatives* shall serve a term of three years. They may serve two terms. Their second term will automatically begin unless the appointing party indicates otherwise. The individual may continue to

serve in a hold-over capacity until the appointing party makes a new appointment. A newly appointed individual will start their first three year when appointed.

- 3.2.5 *Presidents or provosts selected by the presidents of the research universities, presidents of the four-year universities, and Chairman of the State Board for Technical and Comprehensive Education* shall serve a term of three years. They may serve two terms. Their second term will automatically begin unless the appointing party indicates otherwise. The individual may continue to serve in a hold-over capacity until the appointing party makes a new appointment. A newly selected individual will start their first three year when appointed.
- 3.2.6 *Representative of a local workforce board, appointed by the Executive Director of the Department of Employment and Workforce* shall serve a term of three years. They may serve two terms. Their second term will automatically begin unless the appointing party indicates otherwise. The individual may continue to serve in a hold-over capacity until the appointing party makes a new appointment. A newly appointed individual will start their first three year when appointed.
- 3.2.7 *“Other” other agencies or entities selected by vote of the Executive Committee*<sup>5</sup> shall serve at the pleasure of the CCWD Chair. Their term and re-appointment is at the discretion of the CCWD Chair.

### **3.3 TERMINATION OF MEMBERSHIP**

Membership may be terminated for one or more of the following reasons:

include representatives of any other agencies or entities selected by vote of the executive committee.

<sup>4</sup> S.C. Code Section 41-30-520(29)

<sup>5</sup> As provided in S.C. Code Section 41-30-520(29), the CCWD may also

## ARTICLE IV: ORGANIZATION

### 4.1 CHAIR

4.1.2 The Executive Director of the Department of Employment and Workforce shall serve as Chair of the CCWD.

4.1.3 The term of office shall be subject to the member term limits as described in Section 3.1.

The CCWD Chair's duties include, but are not limited to the following:<sup>6</sup>

4.1.4 Monitor and audit the implementation of S.C. Code Section 41-30-110, et. seq.

4.1.5 Review accountability and performance measures,

4.1.6 Annually report to the Governor and the General Assembly by December first of each fiscal year, on the:

4.1.6.1 actions taken by the CCWD during the previous fiscal year;

4.1.6.2 engagement of the CCWD members to include attendance, participation, and compliance with the Unified State Plan (USP), and;

4.1.6.3 any recommendations for legislation.

4.1.7 Sign all documents requiring the signature of the CCWD Chair.

4.1.8 Delegate authority and responsibility as needed, including selection of another CCWD Executive Committee member to assume authority and responsibility of serving as Chair in his temporary absence should he desire someone other than the Vice-Chair or next available individual listed in descending order in 4.4.1 through 4.4.8.

3.3.1 Failure to continue to meet the requirements of the membership category of which the qualifications were the basis for his/her initial appointment. A status change includes retirement, change in membership category, and/or affiliation.

3.3.1.1 When this occurs, the Board member must provide written notification of his status change and resignation of his position to the party responsible for appointing the member. At a minimum, notification shall include: the Board member's name, membership category, and affiliation.

3.3.1.2 The notification shall be sent to the CCWD Chair.

3.3.2 Resignation of a Board Member. A Board member may resign from the CCWD at any point during his/her term.

3.3.2.1 When this occurs, the Board Member must provide written notification to the Governor of his decision to resign. The resignation will take effect upon delivery of the notification to the Governor. At a minimum, the notification shall include: the board member's name, membership category, and affiliation.

3.3.2.2 The notification shall be sent to the CCWD Chair.

3.3.3 Failure to comply with attendance as outlined in Section 6.1 of these Bylaws, or the CCWD Attendance Policy.

3.3.4 Failure to represent the CCWD in a manner deemed appropriate by the party responsible for appointing the member.

3.3.5 Discretion of the appointing party.

---

<sup>6</sup> S.C. Code Section 41-30-540(C)



## 4.2 VICE-CHAIR

4.2.2 The President of the South Carolina Technical College System will serve as the Vice Chair during the 2023-2024 state fiscal year.

4.2.3 In June 2024, and each June thereafter, the Executive Committee will vote on the Executive Committee member that will serve the one-year term as Vice Chair.

4.2.4 The Vice Chair's duties include but are not limited to the following:

4.2.4.1 preside at CCWD meetings in the absence of the Chair.

4.2.4.2 at the direction of the Chair, sign all documents requiring the signature of the Chair when the Chair is unable to do so because of illness or any other emergency which, in the opinion of the CCWD Executive Committee, prevents the Chair from performing such functions of the office.

4.2.4.3 perform such other duties as may be from time to time may assigned by the Chair or by the CCWD Executive Committee.

## 4.3 OFFICE OF STATEWIDE WORKFORCE DEVELOPMENT (OSWD) DIRECTOR

4.3.1 The Office of Statewide Workforce Development (OSWD) Director shall be appointed by the Governor with the advice and consent of the Senate.

4.3.2 The term of office shall be subject to the term limits as described in Section 3.1.

The OSWD Director's duties include but are not limited to those listed below.<sup>7</sup> These duties shall be performed under the direction of the CCWD Chair.

4.3.3 oversee and ensure implementation of Coordinating Council for Workforce Development responsibilities pursuant to Section 41-30-540;

4.3.4 efficiently marshal public resources to optimally align, consolidate, streamline, and coordinate publicly funded workforce development efforts in this State;

4.3.5 provide centralized oversight of all publicly funded workforce development services in this State provided by state and local government agencies, nonprofit groups, and quasi-governmental groups that are appropriated state funds or are authorized to expend federal funds related to workforce development;

4.3.6 provide oversight of Regional Workforce Advisors as required in Section 41-30-710, et. seq.;

4.3.7 monitor compliance of each state and local government agency, nonprofit group, and quasi-governmental group that is appropriated state funds or is authorized to expend federal funds related to workforce development and, when necessary, direct those entities to take any action necessary to comply with the responsibilities set forth in the USP. Noncompliance with a directive of the OSWD must be recorded and made part of the report made as required in subitem (6); and

4.3.8 submit an annual report by November first of each fiscal year to the Governor, Speaker of the House, President of the Senate, Chair of the House Ways & Means

<sup>7</sup> 4.2.3 - 4.2.8 are from S.C. Code Section 41-30-320

Committee, and Chair of the Senate Finance Committee detailing all funds used for workforce development projects by all reporting state and local government agencies, nonprofit groups, and quasi-governmental groups that are appropriated state funds or are authorized to expend federal funds related to workforce development. This report also must identify those entities that did not comply with the provisions of this chapter.

4.3.9 Perform such other duties as may be assigned from time to time by the Chair.

#### **4.4 EXECUTIVE COMMITTEE**

The Executive Committee shall consist of the following individuals:<sup>8</sup>

- 4.4.1 Executive Director of the Department of Employment and Workforce, who shall serve as chair;
- 4.4.2 Director of the Office of Statewide Workforce Development;
- 4.4.3 Secretary of the Department of Commerce;
- 4.4.4 State Superintendent of Education;
- 4.4.5 Executive Director of the State Board for Technical and Comprehensive Education;
- 4.4.6 Executive Director of the Commission on Higher Education; and
- 4.4.7 One person appointed by the Speaker of the House to the full CCWD in Section 41-30-520(30);
- 4.4.8 One person appointed by the Senate President to the full CCWD in Section 41-30-520(30).

The Executive Committee's duties include, but are not limited to the following:<sup>9</sup>

- 4.4.9 Reviewing and voting on recommendations made by the CCWD or Director of OSWD;
- 4.4.10 Reviewing and approving any actions

proposed to be undertaken by the CCWD including adoption or modification of the USP or any provision of the USP; and

- 4.4.11 Recommending the appropriate actions necessary to accomplish the following:
  - 4.4.12 eliminate duplicative programs and workforce activities that do not further the USP,
  - 4.4.13 improve programs not meeting stated performance targets, and,
  - 4.4.14 when necessary and to the extent not prohibited in law, recommend that entities discontinue programs that repeatedly do not meet targets or may no longer be needed.

#### **4.5 OTHER COMMITTEES**

- 4.5.1 All committees in existence prior to September 1, 2023 are disbanded.
- 4.5.2 The CCWD Chair shall establish such other committees and work groups/taskforces ("Other Committees") as shall be deemed necessary and appropriate for carrying out the functions of the CCWD.
- 4.5.3 The CCWD Chair shall appoint individuals to Other Committees. Non-CCWD members are eligible to serve on Other Committees.
- 4.5.4 The CCWD Chair shall appoint, or determine the method of selecting, the Chair of any Other Committees.

---

<sup>8</sup> S.C. Code Section 41-30-530(A)

<sup>9</sup> S.C. Code Section 41-30-530(B)

#### **4.6 COMMUNICATION WITH INDUSTRY ASSOCIATIONS**

4.6.1 The CCWD shall communicate with industry associations (e.g., S.C. Manufacturers Alliance; S.C. Chamber of Commerce; S.C. Hospital Association; S.C. Council on Competitiveness; etc.) on a regular basis to understand the workforce needs and ideas of businesses in the industries represented by the associations.<sup>10</sup>

### **ARTICLE V: MEETINGS**

#### **5.1 ORDER OF BUSINESS/AGENDA**

- 5.1.1 A matter to be considered at a meeting shall be listed on the agenda.
- 5.1.2 Without objection of those members present and voting at a meeting, a matter not listed on the agenda may be added by the Chair of the meeting, or by motion, and considered at the meeting.
- 5.1.3 An agenda for each meeting shall be posted at least 24 hours prior to such meeting in compliance with S.C. Code Section 30-4-80.
- 5.1.4 An agenda for each meeting shall be distributed, physically or electronically, to the applicable members of such meeting (e.g., all CCWD members shall be sent agendas for full CCWD meetings).

#### **5.2 MEETINGS OF FULL CCWD & CCWD EXECUTIVE COMMITTEE**

- 5.2.1 A full CCWD meeting is one in which all CCWD members are invited.
- 5.2.2 The full CCWD shall meet a minimum of four (4) times per year. Additional meetings

may be called at any time by the Chair.

- 5.2.3 For a full CCWD meeting or CCWD Executive Committee meeting,
  - 5.2.3.1 CCWD Chair is responsible for scheduling meetings;
  - 5.2.3.2 CCWD Chair is responsible for preparing the agenda and designating the meeting time and location;
  - 5.2.3.3 quorum for a full CCWD meeting is a simple majority of the current CCWD membership and quorum for a CCWD Executive Committee meeting is a simple majority of the current CCWD Executive Committee membership;
  - 5.2.3.4 CCWD members in Section 3.1.4 through 3.1.22 may designate a representative from their organization to serve as their designee for one or multiple meetings. Any such designee will count toward quorum;
  - 5.2.3.5 A CCWD Executive Committee member may appoint a proxy to vote or otherwise act for the member, including counting toward quorum, by sending an email personally or by an attorney-in-fact stating such to OSWD staff. Appointment of a proxy is revoked by the person appointing the proxy: (1) attending any meeting; or (2) sending an email stating such to OSWD staff.
  - 5.2.3.6 motions and votes shall only be made or cast by CCWD Executive Committee members at a full CCWD meeting or CCWD Executive

<sup>10</sup> S.C. Code Section 41-30-540(A)(2) (“The CCWD shall: ... (2) regularly meet with industry associations to gain an understanding of their workforce

needs and ideas;”)

Committee meeting;<sup>11</sup>

5.2.3.7 CCWD Chair is responsible for determining the manner in which votes shall be cast (e.g., voice, hand, roll call, etc.);

5.2.3.8 each voting member shall have one (1) vote; and

5.2.3.9 motions must be approved by a vote of the majority of the entire membership of the Executive Committee.<sup>12</sup>

### **5.3 MEETINGS OF OTHER COMMITTEES**

5.3.1 Chairs of Other Committees are responsible for scheduling meetings of their committees, without objection of the CCWD Chair.

5.3.2 Chairs of Other Committees are responsible for preparation of the agenda for their committees and designation of the meeting time and location, without objection of the CCWD Chair.

5.3.3 Quorum for meetings of Other Committees is a simple majority of the applicable committee's membership;

5.3.4 CCWD members in Section 3.1.4 through 3.1.22 may designate a representative from their organization to serve as their designee for one or multiple meetings. Any such designee will count toward quorum and have authority to vote on behalf of the CCWD member.

5.3.5 A CCWD member or individual appointed to an Other Committee may appoint any individual on the Other Committee to serve

as a proxy to vote or otherwise act for them, including counting toward quorum, by sending an email stating such to OSWD staff. Appointment of a proxy is revoked by the person appointing the proxy: (1) attending any meeting; or (2) sending an email stating such to OSWD staff.

5.3.6 If a quorum is not present for meetings of Other Committees, the CCWD Chair, CCWD Vice Chair, or, another individual appointed by the Chair, at his discretion, may serve temporarily as a member of the Other Committee to achieve the number necessary to constitute a quorum.

5.3.7 motions and votes may be made by any individual appointed to the applicable committee;

5.3.8 Chairs of Other Committees are responsible for determining the manner in which votes shall be cast (e.g., voice, hand, roll call, etc.), without objection of the CCWD Chair.

5.3.9 Each voting member shall have one (1) vote.

5.3.10 Motions must be approved by a simple majority of the individuals in attendance, if a quorum is present.

5.3.11 It is the responsibility of the Chair of an Other Committee, or individual designated by the Chair, to inform the CCWD Chair of any recommendations adopted by the Committee upon which the Committee requests the CCWD Executive Committee take action.

---

<sup>11</sup> S.C. Code Section 41-30-530(B)(1)-(2) ("The executive committee: (1) shall review and vote on recommendations made by the CCWD or Director of OSWD; (2) shall review and approve any actions proposed to be undertaken by the CCWD including adoption or modification of the USP or any provision

of the USP;"  
<sup>12</sup> S.C. Code Section 41-30-330

#### **5.4 ADOPTION OF RECOMMENDATIONS FROM OTHER COMMITTEES**

- 5.4.1 Chairs of Other Committees may make a request before, or at, a full CCWD meeting for the CCWD Executive Committee to consider a recommendation from the Other Committee.
- 5.4.2 Recommendations from Other Committees only become recommendations or actions of the CCWD if an Executive Committee Member makes a motion to approve the recommendation and a majority of the Executive Committee membership votes in favor of the motion.<sup>13</sup>

#### **5.5 CONFLICT OF INTEREST**

- 5.5.1 If a CCWD member or individual serving on an Other Committee has a conflict of interest, he shall not cast a vote or participate in discussion prior to a vote on any matter relating to that interest, or otherwise use his influence to his benefit, that of a family member, the entity he represents, an individual with whom he is associated, or a business with which he is associated. Disclosure of the conflict of interest must be presented and recorded in the written minutes of a CCWD and/or Committee meeting. The member or individual will be excused from any votes, discussions, or other actions on a matter on which the potential conflict of interest exists, and the minutes will be noted. State Ethics Law (S.C. Code Ann. § 8-13-100, et al.).

#### **5.6 RULES OF ORDER**

- 5.6.1 Robert's Rules of Order shall govern how CCWD and Committee meetings are conducted, except as modified by statute,

rule, or the CCWD Bylaws.

#### **5.7 MINUTES**

- 5.7.1 Formal minutes of all CCWD meetings and Committee meetings shall be required and be available for review. Such minutes become part of the public record and therefore need to be reviewed and approved by the CCWD Executive Committee at full CCWD meetings or Committee at Committee meetings.
- 5.7.2 At a minimum, these minutes shall include:
- 5.7.2.1 The date, time, and place of the meeting.
- 5.7.2.2 The members recorded as either present or absent.
- 5.7.2.3 The substance of all matters proposed, discussed or decided and, at the request of any member, a record of any votes taken.
- 5.7.2.4 Any other information that any Board member requests be included or reflected in the minutes.
- 5.7.3 The minutes do not have to describe the nature of the discussion preceding any given action.
- 5.7.4 Meeting minutes approved by the CCWD will be kept on file by DEW for at least three (3) years and posted online.

### **ARTICLE VI: ATTENDANCE**

#### **6.1 ATTENDANCE**

- 6.1.1 Regular attendance at CCWD meetings and Committee meetings is expected of each

---

<sup>13</sup> S.C. Code Section 41-30-330

CCWD member and individual appointed to serve on a Committee.

- 6.1.2 Participation in full CCWD meetings and Committee may be accomplished either in-person or remotely, without objection of the CCWD Chair.
- 6.1.3 A member shall notify the CCWD Chair or OSWD staff at least 24 hours in advance of a meeting if the member is unable to attend. In an emergency, the member shall contact the CCWD Chair or OSWD staff as reasonably possible. Failure to notify shall be recorded in the minutes as an unexcused absence.
- 6.1.4 A member who has two (2) unexcused absences from either a CCWD or Committee meeting may receive a letter from the CCWD Chair encouraging more consistent attendance.
- 6.1.5 A member who has three (3) unexcused absences from either a CCWD or Committee meeting will have their attendance and participation reviewed by the CCWD Executive Committee. The Executive Committee may recommend to the party responsible for appointing the member (appointing party) that the appointing party remove the member who has failed to regularly attend CCWD and Committee meetings.

**ARTICLE VII: TRANSPARENCY**

**7.1 TRANSPARENCY**

- 7.1.1 In accordance with the Freedom of Information Act, CCWD meetings, including Committee meetings, shall be open to the public, except when the CCWD or a Committee convenes in executive

session.

- 7.1.2 Additionally, the CCWD shall make available to the public, on a regular basis through open meetings, information regarding the activities of the CCWD, including information regarding the Unified State Plan prior to adoption of the plan, information regarding membership, and, minutes of formal meetings of the CCWD, upon request.

**ARTICLE VIII: SUPPORT STAFF**

- 8.1 Agencies represented on the CCWD shall provide staff for the CCWD. These staff members may be provided by means of memorandums of agreement that address the scope of duties of each member agencies' personnel in providing this staff support.<sup>14</sup>

**ARTICLE IX: COMPENSATION**

- 9.1 No compensation shall be paid to members of the CCWD or individuals appointed to Committees.

**ARTICLE X: AMENDMENT OF BYLAWS**

- 10.1 The CCWD Bylaws may be amended or repealed by a majority vote of the CCWD Executive Committee membership.

**ARTICLE XI: MISCELLANEOUS MATTERS**

- 11.1 CCWD Chair, at his discretion, may approve publication of Council information on websites he deems applicable.
- 11.2 Whenever the pronoun 'he' appears in any bylaw, it shall be deemed to designate either masculine or feminine.

---

<sup>14</sup> S.C. Code of Laws 41-30-540(D)

11.3 Any distribution required by these bylaws may be provided electronically.

**Approved by the CCWD Executive Committee on**  
\_\_\_\_\_.

# Appendix



## **Statewide Education and Workforce Act**

### **Section 41-30-110.**

(A) The purpose of this chapter is to endeavor to reach the workforce potential of this State. It seeks to coordinate, align, and enhance all publicly funded workforce development services and centralize oversight of the entities that provide these services to enhance accountability, enhance transparency, and promote a customer-centric workforce system so that the opportunities available through it are easy to access, highly effective, and simple to understand, and to provide a mechanism to marshal workforce development resources and services to meet the immediate and future needs of specialized industry workforce demands and economic development commitments of this State and in specific areas of the State. Further, this chapter seeks to:

- (1) deliver value-added services to business customers by collaborating with them to address skills shortages in priority industries and in-demand occupations;
- (2) provide for broader dissemination of information to help students, parents of students, and job seekers make career choices based on an awareness of jobs, skills in demand, and related educational pathways;
- (3) develop methods for coupling workforce training with a continuum of services to assist those who are struggling to overcome workforce participation barriers; and
- (4) address obstacles unique to those in rural areas.

(B) To achieve this purpose:

- (1) a unified comprehensive statewide education and workforce development plan is established;
- (2) all entities performing publicly funded workforce development-related functions are required to comply with the obligations under the plan; and
- (3) their compliance will be monitored and, when necessary, compelled by the Office of Statewide Workforce Development, and such reports will be made publicly available in order to further transparency and better inform workforce development spending and policymaking.

### **Section 41-30-120.**

As used in this chapter, unless the context clearly indicates otherwise:

- (1) "Department" means the Department of Employment and Workforce;
- (2) "Director" means the Director of the Office of Statewide Workforce Development;
- (3) "Executive director" means the Executive Director of the Department of Employment and Workforce;
- (4) "Executive committee" means the executive committee of the Coordinating Council for Workforce Development;
- (5) "Unified State Plan" or "USP" means the comprehensive statewide education and workforce development plan that provides a systemwide approach to streamline and unify efforts of entities involved in education and workforce development in the State;
- (6) "Office of Statewide Workforce Development" or "OSWD" means the Office of Statewide Workforce Development created in this chapter; and
- (7) "Coordinating Council for Workforce Development" or "CCWD" means the Coordinating Council for Workforce Development administered by the department.

### **Section 41-30-130.**

On July 1, 2023, all functions, powers, and duties provided by law to the Department of Commerce with respect to the Coordinating Council for Workforce Development, formerly the Education and Economic Development Coordinating Council, are hereby transferred from the Department of Commerce to the Department of Employment and Workforce, and these functions, powers, and duties are devolved upon the Department of Employment and Workforce, and the Coordinating Council for Workforce Development's officers, members, records, property, personnel, and unexpended appropriations also are transferred to the Department of Employment and Workforce. All rules, regulations, standards, orders, or other actions of these entities shall remain in effect unless specifically changed or voided by the department in accordance with the Administrative Procedures Act. The Department of Commerce and the Department of Employment and Workforce shall work together at all stages of the process until the transition is complete.

## **Article 3**

### **Office of Statewide Workforce Development**

#### **Section 41-30-310.**

The Office of Statewide Workforce Development is created in the Department of Employment and Workforce to coordinate,

align, and direct workforce efforts throughout the State to maximize available resources and actively foster a customer-centric workforce development system that is readily accessible, highly effective, and easily understandable.

Section [41-30-320](#). The Governor shall appoint the Director of the OSWD with advice and consent of the Senate, subject to removal from office by the Governor pursuant to the provisions of Section [1-3-240\(B\)](#). The state agency head salary review process and the rules and guidelines thereunder apply to the director. The OSWD shall:

(1) oversee and ensure implementation of Coordinating Council for Workforce Development responsibilities pursuant to

**Section [41-30-540](#);**

(2) efficiently marshal public resources to optimally align, consolidate, streamline, and coordinate publicly funded workforce development efforts in this State;

(3) provide centralized oversight of all publicly funded workforce development services in this State provided by state and local government agencies, nonprofit groups, and quasi-governmental groups that are appropriated state funds or are authorized to expend federal funds related to workforce development;

(4) provide oversight of Regional Workforce Advisors as required in Section [41-30-710](#), et. seq.;

(5) monitor compliance of each state and local government agency, nonprofit group, and quasi-governmental group that is appropriated state funds or is authorized to expend federal funds related to workforce development and, when necessary, direct those entities to take any action necessary to comply with the responsibilities set forth in the USP. Noncompliance with a directive of the OSWD must be recorded and made part of the report made as required in subitem (6); and

(6) shall submit an annual report by November first of each fiscal year to the Governor, Speaker of the House, President of the Senate, Chair of the House Ways & Means Committee, and Chair of the Senate Finance Committee detailing all funds used for workforce development projects by all reporting state and local government agencies, nonprofit groups, and quasi-governmental groups that are appropriated state funds or are authorized to expend federal funds related to workforce development. This report also must identify those entities that did not comply with the provisions of this chapter.

**Section [41-30-330](#).**

Any decision of the executive committee must be made by a majority vote of the entire membership of the committee.

**Section [41-30-340](#).**

The Director of the OSWD and the executive committee of CCWD shall develop and publish uniform procedures and guidelines for the conduct of their responsibilities and duties, including the procedure for considering and voting on recommendations of the CCWD or the director.

**Article 5**

**Coordinating Council for Workforce Development**

**Section [41-30-510](#).**

The Coordinating Council for Workforce Development is reconstituted and generally is responsible for:

(1) engaging in discussions, collaboration, and information sharing concerning the ability of the State to prepare and train workers to meet current and future workforce needs; and

(2) performing the other required duties of this chapter under the direction of the Chairman of the CCWD.

**Section [41-30-520](#).**

The CCWD consists of the following members:

(1) the Executive Director of the Department of Employment and Workforce or his designee, who shall serve as chairman;

(2) the Director of the Office of Statewide Workforce Development or his designee;

(3) the Director of the South Carolina Department of Veterans Affairs or his designee;

(4) the Commissioner of South Carolina Vocational Rehabilitation or his designee;

(5) the Chairman of the South Carolina Research Authority or his designee;

(6) the Commissioner of Agriculture or his designee;

(7) the Director of the Department of Labor, Licensing and Regulation or his designee;

(8) the Director of the Office of Revenue and Fiscal Affairs or his designee;

(9) the Director of the Education Oversight Committee or his designee;

(10) the President of the South Carolina Manufacturing Extension Partnership or his designee;

- (11) the Secretary of the Department of Commerce or his designee;
- (12) the State Superintendent of Education or his designee;
- (13) the Executive Director of the State Board for Technical and Comprehensive Education or his designee;
- (14) the Executive Director of the Commission on Higher Education or his designee;
- (15) the Director of the South Carolina Department of Parks, Recreation and Tourism or his designee;
- (16) the president or provost of a research university in this State who is selected by the presidents of the research universities in this State;
- (17) the president or provost of a four-year college or university in this State who is selected by the presidents of the four-year universities in this State;
- (18) the president of a technical college in this State who must be appointed by the Chairman of the State Board for Technical and Comprehensive Education;
- (19) the following members appointed by the State Superintendent of Education who have expertise regarding the South Carolina Education and Economic Development Act:
  - (a) a school district superintendent;
  - (b) a school counselor; and
  - (c) a career and technology education director;
- (20) the Chairman of the South Carolina State Workforce Development Board or his designee;
- (21) a representative of a local workforce board, appointed by the Executive Director of the Department of Employment and Workforce;
- (22) the Executive Director of South Carolina First Steps or his designee;
- (23) the Director of the South Carolina Department of Revenue or his designee;
- (24) two representatives from the business community, appointed by the Governor, who have professional expertise in economic development and workforce issues;
- (25) one person appointed by the Chairman of the House Education and Public Works Committee and one person appointed by the House minority party leader;
- (26) one person appointed by the Chairman of the Senate Education Committee and one person appointed by the Senate minority party leader;
- (27) the Executive Director of South Carolina State Housing Finance and Development Authority or his designee;
- (28) three persons appointed by the Governor who are considered current or past small business owners under the North American Industry Classification System (NAICS) code;
- (29) representatives of any other agencies or entities selected by vote of the executive committee.
- (30) one person appointed by the Speaker of the House and one person appointed by the Senate President, both of whom have professional expertise in economic development and workforce issues, both of whom also shall serve on the executive committee.

**Section [41-30-530](#).**

(A) The executive committee of the CCWD is created and consists of the following members or their designees:

- (1) the Executive Director of the Department of Employment and Workforce, who shall serve as chairman;
- (2) the Director of the Office of Statewide Workforce Development;
- (3) the Secretary of the Department of Commerce;
- (4) the State Superintendent of Education;
- (5) the Executive Director of the State Board for Technical and Comprehensive Education;
- (6) the Executive Director of the Commission on Higher Education; and
- (7) the one person appointed by the Speaker of the House and the one person appointed by the Senate President to the full CCWD in Section [41-30-520](#)(30).

(B) The executive committee:

- (1) shall review and vote on recommendations made by the CCWD or Director of OSWD;
- (2) shall review and approve any actions proposed to be undertaken by the CCWD including adoption or modification of the USP or any provision of the USP; and
- (3) may recommend the appropriate actions necessary to eliminate duplicative programs and workforce activities that do not further the USP, improve programs not meeting stated performance targets, and, when necessary and to the extent not prohibited in law, recommend that entities discontinue programs that repeatedly do not meet targets or may no longer be

needed.

**Section 41-30-540.**

(A) The CCWD shall:

- (1) make recommendations to the General Assembly as needed to implement the provisions of this chapter;
- (2) regularly meet with industry associations to gain an understanding of their workforce needs and ideas;
- (3) facilitate and coordinate the development of the USP;
- (4) use data and analysis to create measurable, time-sensitive metrics for the USP in which all workforce pipeline stakeholders including, but not limited to, education and workforce boards, councils, and partner representatives, participate. These measurable, time-sensitive metrics include, but are not limited to:
  - (a) ten-year labor participation rate target; and
  - (b) ten-year target for the number of South Carolinians who possess a high-quality credential or postsecondary degree;
- (5) create an education and workforce dashboard or other application to enable the public to monitor and track progress of the USP; and
- (6) annually review the USP and update as needed.

(B) The USP should include, but is not limited to, the following:

- (1) assurance that agency constituents remain served;
- (2) compliance with federal and state laws including, but not limited to, those relating to state plans, to avoid duplication of efforts;
- (3) identification of statewide workforce priorities and methods for identifying and addressing long-term workforce needs;
- (4) assurance that the components of Chapter 59, Title 59, the South Carolina Education and Economic Development Act, are implemented with fidelity to provide a better prepared workforce, student success in postsecondary education, and enhanced coordination between K-12, higher education, and employers;
- (5) establishment and maintenance of standardized education and workforce terminology and definitions to be used across all agencies and sectors;
- (6) development and implementation of an annual statewide workforce and education supply gap analysis which may include, but is not limited to:
  - (a) evaluation of current and projected future employer demands;
  - (b) determination of the makeup of the state's labor force and identifying the industries and occupations that are thriving by constructing a baseline analysis of the state's demographics and performing an analysis of the trends in the workforce and education infrastructure pipeline, including the supply of graduates in the State and the number of graduates by degree/certificate category;
  - (c) identifying the supply of skills found in the workforce, and demand for skills employers need from the workforce, and a means for determining how to close gaps that exist between the supply and demand of such skills; and
  - (d) reviewing growing industry and occupation clusters;
- (7) creation and maintenance of an Education and Workforce Portal to provide South Carolinians with information critical to their lifelong educational journey, which may include, but is not limited to:
  - (a) an "Educational Program Alignment Toolkit" that serves as an infrastructure of resources to enable the K-12, technical college, and higher education systems to individually and collectively ensure their respective educational curriculum, initiatives, and programming match workforce needs;
  - (b) a "Career Pathways Tool" that uses applicable occupational data, educational programming, workforce needs, salary information, job market analyses, in-demand occupations, and other information to provide students, parents of students, job seekers, educators, and counselors with useful information about potential career pathways and the various routes to meaningful employment;
  - (c) real-time labor market information;
  - (d) comprehensive inventory of all education and training assets in the State; and
  - (e) global view of workforce-related program data including federal, state, and local education and training options and opportunities;
- (8) development and implementation of a study, recommendations, and tools to address barriers to labor participation including, but not limited to, the following:
  - (a) affordable access to childcare and transportation;
  - (b) government assistance programs and requirements available to working families to determine potential opportunities to

better incentivize and support employment, and employment-related activities, while easing the "cliff effect" during the transition to economic self-sufficiency;

(c) providing individuals who are receiving assistance from public benefit programs with the supports, skills, and credentials they need to gain and retain employment in occupations for which employers demonstrate persistent demands; and

(d) a "SC Benefits calculator" to help families, case managers, and community providers understand the impact of earnings and assist families planning their exit from the use of these public benefits, with the goal of promoting self-sufficiency and maximizing use of available opportunities;

(9) review of state and federal funding for all workforce development programs of which CCWD is aware, including passthrough funding to nonprofit/local/regional workforce programs to eliminate duplication and ensure funding is going toward meeting the goals of the USP;

(10) development of a reliable and replicable model for measuring returns on public investment in individual education and workforce programs, including a set of common measures used in a performance accountability system;

(11) development and delivery of a consolidated budget report that:

(a) improves transparency in workforce funding to enable smarter policy decisions; and

(b) makes recommendations for using legislative and executive means to improve system alignment, accountability, and efficiency;

(12) development and implementation of a method for conducting an ongoing inventory of existing workforce programs to identify duplications among and within the programs and identify ineffective programs; and

(13) coordinate with the South Carolina Department of Veterans' Affairs to develop and implement procedures that connect active duty military spouses, family members, veterans, and military retirees to job opportunities and career support.

(C) The Executive Director of the Department of Employment and Workforce shall serve as Chairman of the CCWD, and, as Chairman of the CCWD, monitor and audit the implementation of this chapter, review accountability and performance measures, and annually report to the Governor and the General Assembly by December first of each fiscal year, on the:

(1) actions taken by the council during the previous fiscal year;

(2) engagement of the council to include attendance, participation, and compliance with the USP, and;

(3) any recommendations for legislation.

The Executive Director or OSWD may submit additional reports on an ongoing basis as considered necessary.

(D) Agencies represented on the CCWD shall provide staff for the CCWD. These staff members may be provided by means of memorandums of agreement that address the scope of duties of each member agencies' personnel in providing this staff support.

(E) The Department of Employment and Workforce shall provide office space and equipment for the OSWD.

## **Article 7**

### **Regional Workforce Advisors**

#### **Section 41-30-710.**

(A) The OSWD shall provide oversight to the regional workforce advisors (RWA), which are to coordinate and facilitate the delivery of information, resources, and services to students, educators, employers, and the community as provided in this article. The OSWD shall ensure that RWA's are providing services in schools and directly to students regarding opportunities available to students in industries and businesses across the State. The department shall hire RWAs and shall seek input from the State Department of Education and others, as needed, in carrying out the requirements of this section.

(B) The primary responsibilities of these advisors are to:

(1) provide services to students and adults for career planning, employment seeking, training, and other support functions;

(2) provide information, resources, and professional development programs to educators;

(3) provide resources to school districts for compliance and accountability pursuant to the provisions of Chapter 59, Title 59;

(4) provide information and resources to employers including, but not limited to, education partnerships, career-oriented learning, and training services;

(5) facilitate local connections among businesses and those involved in education; and

(6) work with school districts and institutions of higher education to create and coordinate workforce education programs.

(C) Each RWA shall coordinate career development, and postsecondary transitioning for the schools in its region.

(D) The RWAs shall provide data and reports that the department requests.

(E) Each RWA's geographic area of responsibility must conform to the geographic configuration of the local areas designated pursuant to the Workforce Innovation and Opportunity Act, Pub.L. 113-128. Each RWA's geographic area of responsibility shall have an advisory board comprised of a school district superintendent, high school principal, local workforce investment



board chairperson, technical college president, four-year college or university representative, career center director or school district career and technology education coordinator, parent-teacher organization representative, and business and civic leaders. Appointees must reside or do business in the geographic area of the RWA's geographic area of responsibility. Local legislative delegations shall make the appointments to their respective advisory boards.

Section [41-30-720](#). The Department of Employment and Workforce, in collaboration with the Department of Commerce, the State Board for Technical and Comprehensive Education, the Commission on Higher Education, and the State Department of Education shall plan and promote the career information and employment options and preparation programs provided for in this section by:

- (1) identifying potential employers to participate in the career-oriented learning programs;
- (2) serving as a contact point for employees and job seekers who are seeking career information and training;
- (3) providing labor market information including, but not limited to, supply and demand;
- (4) promoting increased career awareness and career counseling through the management and promotion of the South Carolina Occupational Information System;
- (5) collaborating with local agencies and businesses to stimulate funds; and
- (6) cooperating in the creation and coordination of workforce education programs.

### **Contribution and wage reports, criteria and filing requirements revised**

Section [41-31-160](#) of the S.C. Code is amended to read:

The department shall not require contribution and wage reports more frequently than quarterly. Effective with the quarter ending March 31, 2024, every employer with ten or more employees and every individual or organization that, as an agent, reports wages on a total of ten or more employees on behalf of one or more subject employers, shall file that portion of the "Employer Quarterly Contribution and Wage Reports" containing the employee's social security number, name, Standard Occupational Classification (SOC) code, total number of hours worked, and total wages electronically, in a format approved by the department. The department may waive the requirement to file electronically if a hardship is shown. In determining whether a hardship has been shown, the department shall take into account, among other relevant factors, the ability of the employer to comply with the filing requirement at a reasonable cost.

### **Requests for determination of insured status, employer criteria, filing requirements**

Section [41-35-615](#) of the S.C. Code is amended to read:

All notices given to an employer concerning a request for determination of insured status, a request for initiation of a claim series in a benefit year, a notice of unemployment, a certification for waiting-week credit, a claim for benefits, and any reconsideration of a determination must be made by United States mail or electronic mail. The employer may designate with the department its preferred method of notice. If an employer does not make a designation, then notices must be made by United States mail. The employer may not be required to respond to the notice until ten calendar days, or the next business day if the tenth day falls on a Saturday, Sunday, or state holiday, after the postmark on notices sent via United States mail or ten calendar days after the date a notice is sent via electronic mail. Effective March 1, 2024, every employer with ten or more employees and every individual or organization that, as an agent, reports information to the department on ten or more employees on behalf of one or more subject employers, shall file responses to department requests for information regarding an individual's claim for benefits (e.g. job separations, wage audits, etc.) electronically, in a format approved by the department. The department may waive the requirement to file electronically if a hardship is shown. In determining whether a hardship is shown, the department shall take into account, among other relevant factors, the ability of the employer to comply with the filing requirement at a reasonable cost.

### **Repeal**

SECTION 5. Article 13 and Article 15 of Chapter 1, Title 13 of the S.C. Code are repealed.

### **Time effective**

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

Ratified the 17th day of May, 2023.

Approved the 19th day of May, 2023.

## South Carolina Freedom of Information Act

### **SECTION 30-4-10.** Short title.

This chapter shall be known and cited as the "Freedom of Information Act".

HISTORY: 1978 Act No. 593, Section 1.

### **SECTION 30-4-15.** Findings and purpose.

The General Assembly finds that it is vital in a democratic society that public business be performed in an open and public manner so that citizens shall be advised of the performance of public officials and of the decisions that are reached in public activity and in the formulation of public policy. Toward this end, provisions of this chapter must be construed so as to make it possible for citizens, or their representatives, to learn and report fully the activities of their public officials at a minimum cost or delay to the persons seeking access to public documents or meetings.

HISTORY: 1987 Act No. 118, Section 1.

### **SECTION 30-4-20.** Definitions.

(a) "Public body" means any department of the State, a majority of directors or their representatives of departments within the executive branch of state government as outlined in Section 1-30-10, any state board, commission, agency, and authority, any public or governmental body or political subdivision of the State, including counties, municipalities, townships, school districts, and special purpose districts, or any organization, corporation, or agency supported in whole or in part by public funds or expending public funds, including committees, subcommittees, advisory committees, and the like of any such body by whatever name known, and includes any quasi-governmental body of the State and its political subdivisions, including, without limitation, bodies such as the South Carolina Public Service Authority and the South Carolina State Ports Authority. Committees of health care facilities, which are subject to this chapter, for medical staff disciplinary proceedings, quality assurance, peer review, including the medical staff credentialing process, specific medical case review, and self-evaluation, are not public bodies for the purpose of this chapter.

(b) "Person" includes any individual, corporation, partnership, firm, organization or association.

(c) "Public record" includes all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials regardless of physical form or characteristics prepared, owned, used, in the possession of, or retained by a public body. Records such as income tax returns, medical records, hospital medical staff reports, scholastic records, adoption records, records related to registration, and circulation of library materials which contain names or other personally identifying details regarding the users of public, private, school, college, technical college, university, and state institutional libraries and library systems, supported in whole or in part by public funds or expending public funds, or records which reveal the identity of the library patron checking out or requesting an item from the library or using other library services, except nonidentifying administrative and statistical reports of registration and circulation, and other records which by law are required to be closed to the public are not considered to be made open to the public under the provisions of this act; nothing herein authorizes or requires the disclosure of those records where the public body, prior to January 20, 1987, by a favorable vote of three-fourths of the membership, taken after receipt of a written request, concluded that the public interest was best served by not disclosing them. Nothing herein authorizes or requires the disclosure of records of the Board of Financial Institutions pertaining to applications and surveys for charters and branches of banks and savings and loan associations or surveys and examinations of the institutions required to be made by law. Information relating to security plans and devices proposed, adopted, installed, or utilized by a public body, other than amounts expended for adoption, implementation, or installation of these plans and devices, is required to be closed to the public and is not considered to be made open to the public under the provisions of this act.

(d) "Meeting" means the convening of a quorum of the constituent membership of a public body, whether corporal or by means of electronic equipment, to discuss or act upon a matter over which the public body has supervision, control, jurisdiction or advisory power.

(e) "Quorum" unless otherwise defined by applicable law means a simple majority of the constituent membership of a public body.

HISTORY: 1978 Act No. 593, Section 3; 1985 Act No. 108, Section 3; 1987 Act No. 118, Section 2; 2002 Act No. 339, Section 17; 2003 Act No. 86, Section 7.

**SECTION 30-4-30.** Right to inspect or copy public records; fees; notification as to public availability of records; presumption upon failure to give notice; records to be available when requestor appears in person.

(A)(1) A person has a right to inspect, copy, or receive an electronic transmission of any public record of a public body, except as otherwise provided by Section 30-4-40, or other state and federal laws, in accordance with reasonable rules concerning time and place of access. This right does not extend to individuals serving a sentence of imprisonment in a state or county correctional facility in this State, in another state, or in a federal correctional facility; however, this may not be construed to prevent those individuals from exercising their constitutionally protected rights, including, but not limited to, their right to call for evidence in their favor in a criminal prosecution under the South Carolina Rules of Criminal Procedure.

(2) A public body is not required to create an electronic version of a public record when one does not exist to fulfill a records request.

(B) The public body may establish and collect fees as provided for in this section. The public body may establish and collect reasonable fees not to exceed the actual cost of the search, retrieval, and redaction of records. The public body shall develop a fee schedule to be posted online. The fee for the search, retrieval, or redaction of records shall not exceed the prorated hourly salary of the lowest paid employee who, in the reasonable discretion of the custodian of the records, has the necessary skill and training to perform the request. Fees charged by a public body must be uniform for copies of the same record or document and may not exceed the prevailing commercial rate for the producing of copies. Copy charges may not apply to records that are transmitted in an electronic format. If records are not in electronic format and the public body agrees to produce them in electronic format, the public body may charge for the staff time required to transfer the documents to electronic format. However, members of the General Assembly may receive copies of records or documents at no charge from public bodies when their request relates to their legislative duties. The records must be furnished at the lowest possible cost to the person requesting the records. Records must be provided in a form that is both convenient and practical for use by the person requesting copies of the records concerned, if it is equally convenient for the public body to provide the records in this form. Documents may be furnished when appropriate without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public. Fees may not be charged for examination and review to determine if the documents are subject to disclosure. A deposit not to exceed twenty-five percent of the total reasonably anticipated cost for reproduction of the records may be required prior to the public body searching for or making copies of records.

(C) Each public body, upon written request for records made under this chapter, shall within ten days (excepting Saturdays, Sundays, and legal public holidays) of the receipt of the request, notify the person making the request of its determination and the reasons for it; provided, however, that if the record is more than twenty-four months old at the date the request is made, the public body has twenty days (excepting Saturdays, Sundays, and legal public holidays) of the receipt to make this notification. This determination must constitute the final opinion of the public body as to the public availability of the requested public record, however, the determination is not required to include a final decision or express an opinion as to whether specific portions of the documents or information may be subject to redaction according to exemptions provided for by Section 30-4-40 or other state or federal laws. If the request is granted, the record must be furnished or made available for inspection or copying no later than thirty calendar days from the date on which the final determination was provided, unless the records are more than twenty-four months old, in which case the public body has no later than thirty-five calendar days from the date on which the final determination was provided. If a deposit as provided in subsection (B) is required by the public body, the record must be furnished or made available for inspection or copying no later than thirty calendar days from the date on which the deposit is received, unless the records are more than twenty-four months old, in which case the public body has no later than thirty-five calendar days from the date on which the deposit was received to fulfill the request. The full amount of the total cost must be paid at the time of the production of the request. If written notification of the determination of the public body as to the



availability of the requested public record is neither mailed, electronically transmitted, nor personally delivered to the person requesting the document within the time set forth by this section, the request must be considered approved as to nonexempt records or information. Exemptions from disclosure as set forth in Section 30-4-40 or by other state or federal laws are not waived by the public body's failure to respond as set forth in this subsection. The various response, determination, and production deadlines provided by this subsection are subject to extension by written mutual agreement of the public body and the requesting party at issue, and this agreement shall not be unreasonably withheld.

(D) The following records of a public body must be made available for public inspection and copying during the hours of operations of the public body, unless the record is exempt pursuant to Section 30-4-40 or other state or federal laws, without the requestor being required to make a written request to inspect or copy the records when the requestor appears in person:

- (1) minutes of the meetings of the public body for the preceding six months;
- (2) all reports identified in Section 30-4-50(A)(8) for at least the fourteen-day period before the current day;
- (3) documents identifying persons confined in a jail, detention center, or prison for the preceding three months; and
- (4) all documents produced by the public body or its agent that were distributed to or reviewed by a member of the public body during a public meeting for the preceding six-month period.

(E) A public body that places the records in a form that is both convenient and practical for use on a publicly available Internet website is deemed to be in compliance with the provisions of subsection (D), provided that the public body also shall produce documents pursuant to this section upon request.

HISTORY: 1978 Act No. 593, Section 4; 1987 Act No. 118, Section 4; 1990 Act No. 555, Section 1; 1998 Act No. 423, Section 1; 2017 Act No. 67 (H.3352), Section 1, eff May 19, 2017.

#### Effect of Amendment

2017 Act No. 67, Section 1, rewrote the section, providing that electronic transmissions are included among the record formats available for inspection, providing certain limitations applicable to prisoners, providing that public bodies are not required to create electronic versions of public records to fulfill records requests, revising requirements concerning records request fulfillment fees, permitting public bodies to charge certain deposits before searching and copying public records in response to records requests, and revising the time limits and manner for responding to records requests.

#### **SECTION 30-4-40.** Matters exempt from disclosure.

(a) A public body may but is not required to exempt from disclosure the following information:

(1) Trade secrets, which are defined as unpatented, secret, commercially valuable plans, appliances, formulas, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person and which are generally recognized as confidential and work products, in whole or in part collected or produced for sale or resale, and paid subscriber information. Trade secrets also include, for those public bodies who market services or products in competition with others, feasibility, planning, and marketing studies, marine terminal service and nontariff agreements, and evaluations and other materials which contain references to potential customers, competitive information, or evaluation.

(2) Information of a personal nature where the public disclosure thereof would constitute unreasonable invasion of personal privacy. Information of a personal nature shall include, but not be limited to, information as to gross receipts contained in applications for business licenses, information relating to public records which include the name, address, and telephone number or other such information of an individual or individuals who are handicapped or disabled when the information is requested for person-to-person commercial solicitation of handicapped persons solely by virtue of their handicap, and any audio recording of the final statements of a dying victim in a call to 911 emergency services. Any audio of the victim's statements

must be redacted prior to the release of the recording unless the privacy interest is waived by the victim's next of kin. This provision must not be interpreted to restrict access by the public and press to information contained in public records.

(3) Records, video or audio recordings, or other information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(A) would interfere with a prospective law enforcement proceeding;

(B) would deprive a person of a right to a fair trial or an impartial adjudication;

(C) would constitute an unreasonable invasion of personal privacy;

(D) would disclose the identity of a confidential source, including a state, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation, by an agency conducting a lawful security intelligence investigation, or information furnished by a confidential source;

(E) would disclose current techniques and procedures for law enforcement investigations or prosecutions, or would disclose current guidelines for law enforcement investigations or prosecutions if such disclosure would risk circumvention of the law;

(F) would endanger the life or physical safety of any individual;

(G) would disclose any contents of intercepted wire, oral, or electronic communications not otherwise disclosed during a trial.

(4) Matters specifically exempted from disclosure by statute or law.

(5) Documents of and documents incidental to proposed contractual arrangements and documents of and documents incidental to proposed sales or purchases of property; however:

(a) these documents are not exempt from disclosure once a contract is entered into or the property is sold or purchased except as otherwise provided in this section;

(b) a contract for the sale or purchase of real estate shall remain exempt from disclosure until the deed is executed, but this exemption applies only to those contracts of sale or purchase where the execution of the deed occurs within twelve months from the date of sale or purchase;

(c) confidential proprietary information provided to a public body for economic development or contract negotiations purposes is not required to be disclosed.

(6) All compensation paid by public bodies except as follows:

(A) For those persons receiving compensation of fifty thousand dollars or more annually, for all part-time employees, for any other persons who are paid honoraria or other compensation for special appearances, performances, or the like, and for employees at the level of agency or department head, the exact compensation of each person or employee;

(B) For classified and unclassified employees, including contract instructional employees, not subject to item (A) above who receive compensation between, but not including, thirty thousand dollars and fifty thousand dollars annually, the compensation level within a range of four thousand dollars, such ranges to commence at thirty thousand dollars and increase in increments of four thousand dollars;

(C) For classified employees not subject to item (A) above who receive compensation of thirty thousand dollars or less annually, the salary schedule showing the compensation range for that classification including longevity steps, where applicable;

(D) For unclassified employees, including contract instructional employees, not subject to item (A) above who receive compensation of thirty thousand dollars or less annually, the compensation level within a range of four thousand dollars, such ranges to commence at two thousand dollars and increase in increments of four thousand dollars.

(E) For purposes of this subsection (6), "agency head" or "department head" means any person who has authority and responsibility for any department of any institution, board, commission, council, division, bureau, center, school, hospital, or other facility that is a unit of a public body.

(7) Correspondence or work products of legal counsel for a public body and any other material that would violate attorney-client relationships.

(8) Memoranda, correspondence, and working papers in the possession of individual members of the General Assembly or their immediate staffs; however, nothing herein may be construed as limiting or restricting public access to source documents or records, factual data or summaries of factual data, papers, minutes, or reports otherwise considered to be public information under the provisions of this chapter and not specifically exempted by any other provisions of this chapter.

(9) Memoranda, correspondence, documents, and working papers relative to efforts or activities of a public body and of a person or entity employed by or authorized to act for or on behalf of a public body to attract business or industry to invest within South Carolina; however, an incentive agreement made with an industry or business: (1) requiring the expenditure of public funds or the transfer of anything of value, (2) reducing the rate or altering the method of taxation of the business or industry, or (3) otherwise impacting the offeror fiscally, is not exempt from disclosure after:

(a) the offer to attract an industry or business to invest or locate in the offeror's jurisdiction is accepted by the industry or business to whom the offer was made; and

(b) the public announcement of the project or finalization of any incentive agreement, whichever occurs later.

(10) Any standards used or to be used by the South Carolina Department of Revenue for the selection of returns for examination, or data used or to be used for determining such standards, if the commission determines that such disclosure would seriously impair assessment, collection, or enforcement under the tax laws of this State.

(11) Information relative to the identity of the maker of a gift to a public body if the maker specifies that his making of the gift must be anonymous and that his identity must not be revealed as a condition of making the gift. For the purposes of this item, "gift to a public body" includes, but is not limited to, gifts to any of the state-supported colleges or universities and museums. With respect to the gifts, only information which identifies the maker may be exempt from disclosure. If the maker of any gift or any member of his immediate family has any business transaction with the recipient of the gift within three years before or after the gift is made, the identity of the maker is not exempt from disclosure.

(12) Records exempt pursuant to Section 9-16-80(B) and 9-16-320(D).

(13) All materials, regardless of form, gathered by a public body during a search to fill an employment position, except that materials relating to not fewer than the final three applicants under consideration for a position must be made available for public inspection and copying. In addition to making available for public inspection and copying the materials described in this item, the public body must disclose, upon request, the number of applicants considered for a position. For the purpose of this item "materials relating to not fewer than the final three applicants" do not include an applicant's income tax returns, medical records, social security number, or information otherwise exempt from disclosure by this section.

(14)(A) Data, records, or information of a proprietary nature, produced or collected by or for faculty or staff of state institutions of higher education in the conduct of or as a result of study or research on commercial, scientific, technical, or scholarly issues, whether sponsored by the institution alone or in conjunction with a governmental body or private concern, where the data, records, or information has not been publicly released, published, copyrighted, or patented.

(B) Any data, records, or information developed, collected, or received by or on behalf of faculty, staff, employees, or students of a state institution of higher education or any public or private entity supporting or participating in the activities of a state institution of higher education in the conduct of or as a result of study or research on medical, scientific, technical, scholarly, or artistic issues, whether sponsored by the institution alone or in conjunction with a governmental body or private entity until the information is published, patented, otherwise publicly disseminated, or released to an agency whereupon the request must be made to the agency. This item applies to, but is not limited to, information provided by participants in research, research notes and data, discoveries, research projects, proposals, methodologies, protocols, and creative works.

(C) The exemptions in this item do not extend to the institution's financial or administrative records.

(15) The identity, or information tending to reveal the identity, of any individual who in good faith makes a complaint or otherwise discloses information, which alleges a violation or potential violation of law or regulation, to a state regulatory agency.

(16) Records exempt pursuant to Sections 59-153-80(B) and 59-153-320(D).

(17) Structural bridge plans or designs unless: (a) the release is necessary for procurement purposes; or (b) the plans or designs are the subject of a negligence action, an action set forth in Section 15-3-530, or an action brought pursuant to Chapter 78 of Title 15, and the request is made pursuant to a judicial order.

(18) Photographs, videos, and other visual images, and audio recordings of and related to the performance of an autopsy, except that the photographs, videos, images, or recordings may be viewed and used by the persons identified in Section 17-5-535 for the purposes contemplated or provided for in that section.

(19) Private investment and other proprietary financial data provided to the Venture Capital Authority by a designated investor group or an investor as those terms are defined by Section 11-45-30.

(b) If any public record contains material which is not exempt under subsection (a) of this section, the public body shall separate the exempt and nonexempt material and make the nonexempt material available in accordance with the requirements of this chapter.

(c) Information identified in accordance with the provisions of Section 30-4-45 is exempt from disclosure except as provided therein and pursuant to regulations promulgated in accordance with this chapter. Sections 30-4-30, 30-4-50, and 30-4-100 notwithstanding, no custodian of information subject to the provisions of Section 30-4-45 shall release the information except as provided therein and pursuant to regulations promulgated in accordance with this chapter.

(d) A public body may not disclose a "privileged communication", "protected information", or a "protected identity", as defined in Section 23-50-15 pursuant to a request under the South Carolina Freedom of Information Act. These matters may only be disclosed pursuant to the procedures set forth in Section 23-50-45.

HISTORY: 1978 Act No. 593, Section 5; 1980 Act No. 495, Section 1; 1987 Act No. 118, Section 5; 1993 Act No. 181, Section 489; 1994 Act No. 404, Section 1; 1995 Act No. 1, Section 11; 1996 Act No. 458, Part II, Section 31D; 1998 Act No. 371, Section 7A; 1998 Act No. 423, Sections 2, 3, 4, 5, 6; 1999 Act No. 122, Section 4; 2002 Act No. 339, Sections 18, 19, 29; 2002 Act No. 350, Section 1; 2003 Act No. 34, Section 2; 2003 Act No. 86, Sections 4, 5; 2005 Act No. 125, Section 2; 2006 Act No. 380, Section 2, eff upon approval (became law without the Governor's signature on June 14, 2006); 2017 Act No. 67 (H.3352), Section 2, eff May 19, 2017.

#### Effect of Amendment

The 2006 amendment added subsection (d) relating to certain disclosures by a public body.

2017 Act No. 67, Section 2, amended (a)(2) and (a)(3), revising provisions concerning law enforcement records.

**SECTION 30-4-45.** Information concerning safeguards and off-site consequence analyses; regulation of access; vulnerable zone defined.

(A) The director of each agency that is the custodian of information subject to the provisions of 42 U.S.C. 7412(r)(7)(H), 40 CFR 1400 "Distribution of Off-site Consequence Analysis Information", or 10 CFR 73.21 "Requirements for the protection of safeguards information", must establish procedures to ensure that the information is released only in accordance with the applicable federal provisions.

(B) The director of each agency that is the custodian of information, the unrestricted release of which could increase the risk of acts of terrorism, may identify the information or compilations of information by notifying the Attorney General in writing, and shall promulgate regulations in accordance with the Administrative Procedures Act, Sections 1-23-110 through 1-23-120(a) and Section 1-23-130, to regulate access to the information in accordance with the provisions of this section.

(C) Regulations to govern access to information subject to subsections (A) and (B) must at a minimum provide for:

- (1) disclosure of information to state, federal, and local authorities as required to carry out governmental functions; and
- (2) disclosure of information to persons who live or work within a vulnerable zone.

For purposes of this section, "vulnerable zone" is defined as a circle, the center of which is within the boundaries of a facility possessing hazardous, toxic, flammable, radioactive, or infectious materials subject to this section, and the radius of which is that distance a hazardous, toxic, flammable, radioactive, or infectious cloud, overpressure, radiation, or radiant heat would travel before dissipating to the point it no longer threatens serious short-term harm to people or the environment.

Disclosure of information pursuant to this subsection must be by means that will prevent its removal or mechanical reproduction. Disclosure of information pursuant to this subsection must be made only after the custodian has ascertained the person's identity by viewing photo identification issued by a federal, state, or local government agency to the person and after the person has signed a register kept for the purpose.

HISTORY: 2002 Act No. 339, Section 30.

**SECTION 30-4-50.** Certain matters declared public information; use of information for commercial solicitation prohibited.

(A) Without limiting the meaning of other sections of this chapter, the following categories of information are specifically made public information subject to the restrictions and limitations of Sections 30-4-20, 30-4-40, and 30-4-70 of this chapter:

- (1) the names, sex, race, title, and dates of employment of all employees and officers of public bodies;
- (2) administrative staff manuals and instructions to staff that affect a member of the public;
- (3) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;
- (4) those statements of policy and interpretations of policy, statute, and the Constitution which have been adopted by the public body;
- (5) written planning policies and goals and final planning decisions;
- (6) information in or taken from any account, voucher, or contract dealing with the receipt or expenditure of public or other funds by public bodies;
- (7) the minutes of all proceedings of all public bodies and all votes at such proceedings, with the exception of all such minutes and votes taken at meetings closed to the public pursuant to Section 30-4-70;

(8) reports which disclose the nature, substance, and location of any crime or alleged crime reported as having been committed. Where a report contains information exempt as otherwise provided by law, the law enforcement agency may delete that information from the report;

(9) notwithstanding any other provision of the law, data from a video or audio recording made by a law enforcement vehicle-mounted recording device or dashboard camera that involves an officer involved incident resulting in death, injury, property damage, or the use of deadly force.

(a) A law enforcement or public safety agency may apply to the circuit court for an order to prevent the disclosure of the video or audio recording data. Notice of the request and of the hearing must be provided to the person seeking the record. A hearing must be requested within fifteen days (excepting Saturdays, Sundays, and legal public holidays) of the receipt of the request for disclosure and the hearing shall be held in-camera.

(b) The court may order the recording data not be disclosed upon a showing by clear and convincing evidence that the recording is exempt from disclosure as specified in Section 30-4-40(a)(3) and that the reason for the exemption outweighs the public interest in disclosure. A court may order the recording data be edited to redact specific portions of the data and then released, upon a showing by clear and convincing evidence that portions of the recording are not exempt from disclosure as specified in Section 30-4-40(a)(3).

(c) A court order to withhold the release of recording data under this section must specify a definite time period for the withholding of the release of the recording data and must include the court's findings.

(d) A copy of the order shall be made available to the person requesting the release of the recording data.

(10) statistical and other empirical findings considered by the Legislative Audit Council in the development of an audit report.

(B) No information contained in a police incident report or in an employee salary schedule revealed in response to a request pursuant to this chapter may be utilized for commercial solicitation. Also, the home addresses and home telephone numbers of employees and officers of public bodies revealed in response to a request pursuant to this chapter may not be utilized for commercial solicitation. However, this provision must not be interpreted to restrict access by the public and press to information contained in public records.

HISTORY: 1978 Act No. 593, Section 6; 1982 Act No. 370, Section 1; 1992 Act No. 269, Section 1; 1993 Act No. 44, Section 1; 1998 Act No. 423, Section 7; 2017 Act No. 67 (H.3352), Section 3, eff May 19, 2017.

#### Effect of Amendment

2017 Act No. 67, Section 3, inserted (A)(9), providing for the inclusion of law enforcement vehicle-mounted videos and audio recordings of certain incidents involving law enforcement officers as a category of information made public, providing procedures through which enforcement may seek exemption of disclosure of the recordings, and providing requirements for related court orders, and redesignated (A)(9) as (A)(10).

**SECTION 30-4-55.** Disclosure of fiscal impact on public bodies offering economic incentives to business; cost-benefit analysis required.

A public body as defined by Section 30-4-20(a), or a person or entity employed by or authorized to act for or on behalf of a public body, that undertakes to attract business or industry to invest or locate in South Carolina by offering incentives that require the expenditure of public funds or the transfer of anything of value or that reduce the rate or alter the method of taxation of the business or industry or that otherwise impact the offeror fiscally, must disclose, upon request, the fiscal impact of the offer on the public body and a governmental entity affected by the offer after:

(a) the offered incentive or expenditure is accepted, and

(b) the project has been publicly announced or any incentive agreement has been finalized, whichever occurs later.

The fiscal impact disclosure must include a cost-benefit analysis that compares the anticipated public cost of the commitments with the anticipated public benefits. Notwithstanding the requirements of this section, information that is otherwise exempt from disclosure under Section 30-4-40(a)(1), (a)(5)(c), and (a)(9) remains exempt from disclosure.

HISTORY: 2003 Act No. 86, Section 3.

**SECTION 30-4-60.** Meetings of public bodies shall be open.

Every meeting of all public bodies shall be open to the public unless closed pursuant to Section 30-4-70 of this chapter.

HISTORY: 1978 Act No. 593, Section 7.

**SECTION 30-4-65.** Cabinet meetings subject to chapter provisions; cabinet defined.

(A) The Governor's cabinet meetings are subject to the provisions of this chapter only when the Governor's cabinet is convened to discuss or act upon a matter over which the Governor has granted to the cabinet, by executive order, supervision, control, jurisdiction, or advisory power.

(B) For purposes of this chapter, "cabinet" means the directors of the departments of the executive branch of state government appointed by the Governor pursuant to the provisions of Section 1-30-10(B)(1)(i) when they meet as a group and a quorum is present.

HISTORY: 2003 Act No. 86, Section 6.

**SECTION 30-4-70.** Meetings which may be closed; procedure; circumvention of chapter; disruption of meeting; executive sessions of General Assembly.

(a) A public body may hold a meeting closed to the public for one or more of the following reasons:

(1) Discussion of employment, appointment, compensation, promotion, demotion, discipline, or release of an employee, a student, or a person regulated by a public body or the appointment of a person to a public body; however, if an adversary hearing involving the employee or client is held, the employee or client has the right to demand that the hearing be conducted publicly. Nothing contained in this item shall prevent the public body, in its discretion, from deleting the names of the other employees or clients whose records are submitted for use at the hearing.

(2) Discussion of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property, the receipt of legal advice where the legal advice relates to a pending, threatened, or potential claim or other matters covered by the attorney-client privilege, settlement of legal claims, or the position of the public agency in other adversary situations involving the assertion against the agency of a claim.

(3) Discussion regarding the development of security personnel or devices.

(4) Investigative proceedings regarding allegations of criminal misconduct.

(5) Discussion of matters relating to the proposed location, expansion, or the provision of services encouraging location or expansion of industries or other businesses in the area served by the public body.

(6) The Retirement System Investment Commission, if the meeting is in executive session specifically pursuant to Section 9-16-80(A) or 9-16-320(C).

(b) Before going into executive session the public agency shall vote in public on the question and when the vote is favorable,

the presiding officer shall announce the specific purpose of the executive session. As used in this subsection, "specific purpose" means a description of the matter to be discussed as identified in items (1) through (5) of subsection (a) of this section. However, when the executive session is held pursuant to Sections 30-4-70(a)(1) or 30-4-70(a)(5), the identity of the individual or entity being discussed is not required to be disclosed to satisfy the requirement that the specific purpose of the executive session be stated. No action may be taken in executive session except to (a) adjourn or (b) return to public session. The members of a public body may not commit the public body to a course of action by a polling of members in executive session.

(c) No chance meeting, social meeting, or electronic communication may be used in circumvention of the spirit of requirements of this chapter to act upon a matter over which the public body has supervision, control, jurisdiction, or advisory power.

(d) This chapter does not prohibit the removal of any person who wilfully disrupts a meeting to the extent that orderly conduct of the meeting is seriously compromised.

(e) Sessions of the General Assembly may enter into executive sessions authorized by the Constitution of this State and rules adopted pursuant thereto.

(f) The Board of Trustees of the respective institution of higher learning, while meeting as the trustee of its endowment funds, if the meeting is in executive session specifically pursuant to Sections 59-153-80(A) or 59-153-320(C).

HISTORY: 1978 Act No. 593, Section 8; 1987 Act No. 118, Section 6; 1998 Act No. 371, Section 7B; 1998 Act No. 423, Section 8; 1999 Act No. 122, Section 4; 2005 Act No. 153, Pt IV, Section 5.

**SECTION 30-4-80.** Notice of meetings of public bodies.

(A) All public bodies, except as provided in subsections (B) and (C) of this section, must give written public notice of their regular meetings at the beginning of each calendar year. The notice must include the dates, times, and places of such meetings. An agenda for regularly scheduled or special meetings must be posted on a bulletin board in a publicly accessible place at the office or meeting place of the public body and on a public website maintained by the body, if any, at least twenty-four hours prior to such meetings. All public bodies must post on such bulletin board or website, if any, public notice for any called, special, or rescheduled meetings. Such notice must include the agenda, date, time, and place of the meeting, and must be posted as early as is practicable but not later than twenty-four hours before the meeting. This requirement does not apply to emergency meetings of public bodies. Once an agenda for a regular, called, special, or rescheduled meeting is posted pursuant to this subsection, no items may be added to the agenda without an additional twenty-four hours notice to the public, which must be made in the same manner as the original posting. After the meeting begins, an item upon which action can be taken only may be added to the agenda by a two-thirds vote of the members present and voting; however, if the item is one upon which final action can be taken at the meeting or if the item is one in which there has not been and will not be an opportunity for public comment with prior public notice given in accordance with this section, it only may be added to the agenda by a two-thirds vote of the members present and voting and upon a finding by the body that an emergency or an exigent circumstance exists if the item is not added to the agenda. Nothing herein relieves a public body of any notice requirement with regard to any statutorily required public hearing.

(B) Legislative committees must post their meeting times during weeks of the regular session of the General Assembly and must comply with the provisions for notice of special meetings during those weeks when the General Assembly is not in session. Subcommittees of standing legislative committees must give notice during weeks of the legislative session only if it is practicable to do so.

(C) Subcommittees, other than legislative subcommittees, of committees required to give notice under subsection (A), must make reasonable and timely efforts to give notice of their meetings.

(D) Written public notice must include but need not be limited to posting a copy of the notice at the principal office of the public body holding the meeting or, if no such office exists, at the building in which the meeting is to be held.

(E) All public bodies shall notify persons or organizations, local news media, or such other news media as may request



notification of the times, dates, places, and agenda of all public meetings, whether scheduled, rescheduled, or called, and the efforts made to comply with this requirement must be noted in the minutes of the meetings.

HISTORY: 1978 Act No. 593, Section 9; 1987 Act No. 118, Section 7; 2015 Act No. 70 (S.11), Section 1, eff June 8, 2015.

Effect of Amendment

2015 Act No. 70, Section 1, changed the paragraph designators to upper case; in (A), substituted "An agenda for regularly scheduled or special meetings" for "Agenda, if any, for regularly scheduled meetings" in the third sentence, added references to websites, and added the text beginning with "Once an agenda for a regular .."; and made other nonsubstantive changes.

**SECTION 30-4-90.** Minutes of meetings of public bodies.

(a) All public bodies shall keep written minutes of all of their public meetings. Such minutes shall include but need not be limited to:

- (1) The date, time and place of the meeting.
  - (2) The members of the public body recorded as either present or absent.
  - (3) The substance of all matters proposed, discussed or decided and, at the request of any member, a record, by an individual member, of any votes taken.
  - (4) Any other information that any member of the public body requests be included or reflected in the minutes.
- (b) The minutes shall be public records and shall be available within a reasonable time after the meeting except where such disclosures would be inconsistent with Section 30-4-70 of this chapter.
- (c) All or any part of a meeting of a public body may be recorded by any person in attendance by means of a tape recorder or any other means of sonic or video reproduction, except when a meeting is closed pursuant to Section 30-4-70 of this chapter, provided that in so recording there is no active interference with the conduct of the meeting. Provided, further, that the public body is not required to furnish recording facilities or equipment.

HISTORY: 1978 Act No. 593, Section 10; 2001 Act No. 13, Section 1.

**SECTION 30-4-100.** Injunctive relief; costs and attorney's fees.

(A) A citizen of the State may apply to the circuit court for a declaratory judgment, injunctive relief, or both, to enforce the provisions of this chapter in appropriate cases if the application is made no later than one year after the date of the alleged violation or one year after a public vote in public session, whichever comes later. Upon the filing of the request for declaratory judgment or injunctive relief related to provisions of this chapter, the chief administrative judge of the circuit court must schedule an initial hearing within ten days of the service on all parties. If the hearing court is unable to make a final ruling at the initial hearing, the court shall establish a scheduling order to conclude actions brought pursuant to this chapter within six months of initial filing. The court may extend this time period upon a showing of good cause. The court may order equitable relief as it considers appropriate, and a violation of this chapter must be considered to be an irreparable injury for which no adequate remedy at law exists.

(B) If a person or entity seeking relief under this section prevails, he may be awarded reasonable attorney's fees and other costs of litigation specific to the request. If the person or entity prevails in part, the court may in its discretion award him reasonable attorney's fees or an appropriate portion of those attorney's fees.

HISTORY: 1978 Act No. 593, Section 11; 1987 Act No. 118, Section 8; 2017 Act No. 67 (H.3352), Section 4, eff May 19, 2017.

Effect of Amendment

2017 Act No. 67, Section 4, amended the section, providing time constraints within which determinative hearings on the requests for relief must be made.

**SECTION 30-4-110.** Hearings regarding disclosure; appropriate relief; civil fine for violation.

(A) A public body may file a request for hearing with the circuit court to seek relief from unduly burdensome, overly broad, vague, repetitive, or otherwise improper requests, or where it has received a request but it is unable to make a good faith determination as to whether the information is exempt from disclosure.

(B) If a request for disclosure may result in the release of records or information exempt from disclosure under Section 30-4-40(a)(1), (2), (4), (5), (9), (14), (15), or (19), a person or entity with a specific interest in the underlying records or information shall have the right to request a hearing with the court or to intervene in an action previously filed.

(C) If a person or entity seeking relief under this section prevails, the court may order:

(1) equitable relief as he considers appropriate;

(2) actual or compensatory damages; or

(3) reasonable attorney's fees and other costs of litigation specific to the request, unless there is a finding of good faith. The finding of good faith is a bar to the award of attorney's fees and costs.

(D) If a court determines that records are not subject to disclosure, the determination constitutes a finding of good faith on the part of the public body or public official, and acts as a complete bar against the award of attorney's fees or other costs to the prevailing party should the court's determination be reversed on appeal.

(E) If the person or entity prevails in part, he may be awarded reasonable attorney's fees or other costs of litigation specific to the request, or an appropriate portion thereof, unless otherwise barred.

(F) If the court finds that the public body has arbitrarily and capriciously violated the provisions of this chapter by refusal or delay in disclosing or providing copies of a public record, it may, in addition to actual or compensatory damages or equitable relief, impose a civil fine of five hundred dollars.

HISTORY: 1978 Act No. 593, Section 12; 2017 Act No. 67 (H.3352), Section 5, eff May 19, 2017.

Effect of Amendment

2017 Act No. 67, Section 5, rewrote the section, removing criminal penalties, and providing rights and remedies of public bodies from whom requests are made and persons with specific interests in exempt information for which disclosure is sought.

**SECTION 30-4-160.** Sale of Social Security number or driver's license photograph or signature.

(A) This chapter does not allow the Department of Motor Vehicles to sell, provide, or otherwise furnish to a private party Social Security numbers in its records, copies of photographs, or signatures, whether digitized or not, taken for the purpose of a driver's license or personal identification card.

(B) Photographs, signatures, and digitized images from a driver's license or personal identification card are not public records.

HISTORY: 1999 Act No. 100, Part II, Section 53.

**SECTION 30-4-165.** Privacy of driver's license information.

(A) The Department of Motor Vehicles may not sell, provide, or furnish to a private party a person's height, weight, race, social security number, photograph, or signature in any form that has been compiled for the purpose of issuing the person a driver's license or special identification card. The department shall not release to a private party any part of the record of a person under fifteen years of age who has applied for or has been issued a special identification card.

(B) A person's height, weight, race, photograph, signature, and digitized image contained in his driver's license or special identification card record are not public records.

(C) Notwithstanding another provision of law, a private person or private entity shall not use an electronically-stored version of a person's photograph, social security number, height, weight, race, or signature for any purpose, when the electronically-stored information was obtained from a driver's license record.

HISTORY: 1999 Act No. 33, Section 1.