

S.C. election law commentary by Cindi Ross Scoppe

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Editorial: Legislators need to be less involved in running SC elections, not more

- BY THE EDITORIAL STAFF
- Feb 20, 2021



Votes are cast and counted a little differently in all 46 counties, because S.C. law leaves it to autonomous local election commissions interpret state election laws. Brad Nettles/Staff

Heading into the 2020 general election, nine S.C. counties had a process in place to verify the voter signature on absentee ballots — each a little different; the other counties either had no standard process or else did nothing to verify signatures. Likewise, election officials in some counties contacted voters to give them the opportunity to fix problems that would have caused their absentee ballots to be rejected; others didn't. And those were just the irregularities that were highlighted in lawsuits.

The problem wasn't that one way was right and the others were wrong; it was that there was no uniformity — meaning votes that would have been counted in one county were being thrown out in another.

The bigger problem: This wasn't unique to the 2020 election. It's baked into our system, the inevitable result of a state law that allows 46 autonomous county election commissions to decide for themselves how to implement laws that spell out the what without always explaining the how. Although the State Election Commission is empowered to ensure local compliance with its policies, that only works when it has applicable policies, and the process for enforcement is not straightforward.

[Scoppe: A legislative power grab? By Jay Lucas? Can this be real?](#)

[H.3444](#) aims to change that, by empowering the State Election Commission to “supervise and standardize the performance, conduct, and practices” of county election commissions, to ensure that votes are counted the same way in Greenville County as they're counted in Charleston County and the same way in Charleston County as Aiken County.

It's a long-overdue change.

It might make sense to allow every county election commission to interpret and enforce state election laws as it sees fit if only county council, sheriff, school board and other single-county elections were affected. But people in every county cast votes for president, governor and U.S. Senate. People in multiple counties vote in each race for U.S. House and solicitor and most legislative seats. Having different interpretations of what state law requires and allows — not to mention having vastly different degrees of competence among the commissions — makes absolutely no sense.

[Scoppe: Another SC legislative fix that won't fix anything](#)

Of course, if it doesn't make sense to let each county decide how votes are cast and counted, it also doesn't make sense to let the legislators from each county hand-pick their county election commissioners. Or to make county councils pay for the election commission offices over which they have no control. What would make sense is to get rid of the politically appointed county election commissions altogether and let the State Election Commission hire state employees — paid for by the state — to staff the county election offices.

If lawmakers aren't willing to go that far right now, they need to make that their next step in professionalizing and standardizing our elections — and make sure that next step comes soon.

What they don't need to do is inject themselves into the workings of the State Election Commission, as House Speaker Jay Lucas' bill also does. Under current law, the governor appoints the five members of the commission, but H.3444 would add four more commissioners, appointed by legislative leaders. That should be a non-starter.

[After expanding majority, Republicans look to take more control over SC elections](#)

The problem with this proposal isn't — as Democrats on the House Judiciary Committee bizarrely complained on Tuesday — that the bill allows the governor to appoint as many as four commissioners from his party; he can do that under current law. The legislation approved by the committee actually increases minority-party representation on the commission, by requiring that the Legislature's appointments be split 50-50 between Republicans and Democrats — changing the current 4-1 Republican edge to a 6-3 edge.

The problem is that allowing legislators to appoint election commissioners violates a central tenet of our system of representative democracy: dividing power among three branches of government, so they can then check and balance each other. The job of the Legislature is to write the laws. The job of the executive branch of government — headed by the governor — is to execute those laws.

If the Legislature doesn't like how the laws are being implemented, it has the power and duty to change the laws. It has no business changing the individuals who are carrying out those laws.

Editorial: Save SC tax dollars, voters' time with in-person and mail-in absentee for all

- BY THE EDITORIAL STAFF
- Apr 19, 2021



More than half of S.C. voters cast absentee ballots in the November election, either by mail, in person or, as with Felcia Lurry of North Augusta, a combination method. Here, she drops her mail-in ballot into the box at the Aiken County Government Center, with guidance from poll manager Melinda Bruder.

We aren't convinced that people should be able to vote over the internet or that our state should mail ballots to voters who haven't asked for them — or even mail applications to people who haven't asked for them, although some counties do make requesting an absentee ballot more

cumbersome than it needs to be. We haven't heard a good reason to change state law to let people vote the day they register to vote.

But there's no good reason to make most voters under age 65 stand in long lines on Election Day in order to participate in our democratic republic. And there's no good reason to squander our valuable tax dollars buying enough voting machines and hiring enough poll workers to eliminate long lines.

Editorial: Why South Carolina should allow limited early voting

Not when we have such a safe and easy alternative, which has worked without significant problems for decades for everyone 65 and older, along with people who are sick, out of town or meet one of a handful of other special exceptions for casting an absentee ballot.

Indeed, we have a hard time defending a system that allows people to cast an absentee ballot because they decide to go on vacation on Election Day while denying that option to people who could risk losing their job if they wait too long in line to vote — or who have to give up their right to vote because the line is so long that they have to leave to pick up their kids before their child-care center closes.

Editorial: SC needs one election law, not 46. Senate should pass House bill.

For years now, the S.C. House and Senate have agreed that we need to allow all registered voters to cast absentee ballots, and they've been passing bills to allow that. It just wasn't enough of a priority for the two bodies to agree on the details.

The pandemic changed that, at least temporarily, as the Legislature opened absentee voting to all registered voters and not just those who were old, sick or out of town on Election Day.

Editorial: Legislators need to be less involved in running SC elections, not more

And it worked spectacularly: No one alleged, even without evidence, that South Carolina's voting was tinged by fraud. Expanded absentee voting didn't cause massive technical problems. South Carolinians clearly liked the idea, with half of all the votes cast before Election Day. And that meant polling places were less crowded and waits were much shorter for those who preferred to cast their ballots in person on Election Day.

The great absentee voting experiment of 2020 also demonstrated that making voting easier isn't the gift to Democrats that some Republicans feared — at least not in South Carolina. The GOP picked up seats in both the House and the Senate, and in Congress, and throughout much of the state.

So it should be no surprise that the Legislature is once again considering bills to expand early voting opportunities. Last week, the House Election Laws Subcommittee took testimony on [H.3822](#), by Rep. Gilda Cobb-Hunter, which would allow all registered voters to cast absentee ballots by mail or in person. [This Wednesday](#), the panel will hear testimony on another early voting bill, [H.4150](#), by Rep. Weston Newton.

Neither bill is perfect.

[Editorial: SC absentee voting experiment was a success. Time to make it permanent.](#)

H.3822 includes some of those provisions we aren't convinced are necessary, such as allowing same-day registration and requiring the state to mail out ballots to all registered voters. H.4150 is less generous than it should be about how many absentee voting sites some counties could operate, and it greatly reduces the allowable reasons for casting mail-in absentee ballots, which means people aged 65 to 74 or who are caring for sick relatives or attending funerals or who have to be out of town on Election Day could only cast in-person absentee ballots.

Letting people vote on any of 14 days certainly is better than limiting them to one particular day. But there have not even been allegations of organized absentee ballot fraud in our state in decades (we know lots of people commit fraud, by saying they qualify to vote absentee when in fact they don't), so there's no good reason to require absentee ballots to be cast in person — and certainly not to reduce the number of people currently allowed to mail in their ballots.

[Editorial: SC witness requirement does nothing to prevent vote fraud. Repeal it](#)

The good news is that between them, the two bills contain all the elements we need for a voting law that removes unnecessary restrictions to voting, holds down the cost of elections and provides reasonable protections against fraud. Rep. Cobb-Hunter made it clear at Thursday's hearing that she doesn't expect her bill to survive intact, and Rep. Newton told Columbia's State newspaper that he was open to compromise on his bill.

The House panel would do well to amend one the bills to allow no-excuses absentee voting by mail or in person, just like we had in the 2020 elections, and to allow counties to open multiple (although not unlimited) in-person voting sites. We've spent too long arguing over the details while South Carolinians waste time waiting in too-long lines to exercise their most important civic duty.

Editorial: SC voters shouldn't have to pass an attention test to have their ballots counted

Scoppe: Voting law debates aren't mainly about stopping fraud, or protecting voting rights

- By Cindi Ross Scoppe
- Oct 23, 2021



Some Republican legislation would in fact reduce the risk of fraud, and some Democratic bills would in fact protect voting rights, but this year's legislative and congressional battles over voting laws is first and foremost about party power — on both sides. AP photos

The U.S. Senate reminded us again this week how simple voting issues are for partisans: If you're a Democrat, any restrictions are an un-American effort at voter suppression. If you're a Republican, anything that makes voting easier is an un-American invitation to fraud.

The proposed Freedom to Vote Act would make sweeping changes to U.S. election law, campaign finance law and redistricting law, all devil's-in-the-details topics, and the bill includes some elements for any reasonable person to love and also to hate. After Democrats failed to break a GOP filibuster on Wednesday, the president declared the legislation essential to “protect the sacred constitutional right to vote.” And Republicans denounced it as a partisan power grab and dubbed it the Freedom to Cheat Act.

[Editorial: SC government should stop encouraging one-size-fits-all voting](#)

While some Republican efforts in state legislatures would in fact reduce the risk of fraud and some provisions of Freedom to Vote would in fact protect voting rights, this whole debate is first and foremost about party power — on both sides. As one [congressional reporter](#) explained about another Democratic effort to pass federal legislation in June: “This is an existential issue for both parties. Republicans feel that almost anything that increases voter access is bad for them. Democrats think anything that restricts voter access is bad for them.”



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You don't have to be a political scientist to recognize what's missing from both calculations: anything that has anything to do with what's good for America, or that protects and advances the democratic principles on which our republic is built. Or that reflects the nuanced reality of the congressional and state voting measures.

There are few topics about which partisans are completely right or completely wrong ... except their belief that the world is black and white, which is demonstrably and dangerously wrong. On most issues — taxes, education, the environment and yes, election laws — Republicans have good and bad ideas, and Democrats have good and bad ideas.

I'm not taking sides on the Freedom to Vote Act. My interest is in the politics that have driven debate over recent voting law changes, because that debate will return to Columbia in January, and we — by which I mean all of us, and especially our legislators — need to be thinking about it the right way well before that happens.

[Scoppe: This quirky little voting tweak could change how candidates behave. And how we behave.](#)

Let's start with a couple of simple ideas: Losing an election doesn't mean it was stolen, particularly when the "evidence" of fraud is ridiculous; it probably means — as it did for Donald Trump — that you lost. The fact that election procedures were changed to reduce dangerous crowds in the middle of a pandemic doesn't mean anyone should have the right to those accommodations in perpetuity; it also doesn't mean that we're disenfranchising people if we take them away.

Who, for instance, would have imagined drive-thru voting, or 24-hour voting, before last year? Yet many Democrats were outraged when the Texas legislature voted this summer to ban those practices.

Editorial: Save SC tax dollars, voters' time with in-person and mail-in absentee for all

And yes, I know there were real problems with the Texas voting bill — the clearest one, best as I can tell, being how it criminalizes simple mistakes — but many advocates complained that measures to restrict voting to only 16 hours a day and require people to either mail in their ballot or walk inside a polling place amounted to a return to Jim Crow.

Try to say that out loud with a straight face.

Editorial: SC witness requirement does nothing to prevent vote fraud. Repeal it

I think South Carolina ought to let everybody vote absentee, like our Legislature did last year, rather than restricting that right to senior citizens and people who can demonstrate they can't get to the polls. But outside a pandemic, the failure to allow that doesn't take away anyone's voting rights; it simply squanders taxpayers' money by forcing the state to buy more voting machines and pay more poll workers and rent more polling places to accommodate more voters on Election Day.

I think it's a bad idea to mail out ballots to people who don't request them, because I don't want people voting if they aren't engaged enough to bother to ask for a ballot. But with reasonable protections, that's no more susceptible to fraud than the absentee procedures that S.C. Republicans have used to their advantage for decades.

Scoppe: A legislative power grab? By Jay Lucas? Can this be real?

I also think it makes sense to let people deposit their ballots in secure boxes at designated government buildings, but you're not anti-American just because you disagree. Nor are you anti-American just because you oppose my idea of borrowing a modified page from the Texas law and

requiring mail-in ballots to include the last four digits of the voter's Social Security number; that would add a level of security and also protect against arbitrary determinations that signatures don't match.

One last topic in the lead-up to our state's debates: News coverage routinely describes this year's raft of state GOP voting bills as making it harder to vote and easier for Republicans to interfere with the administration of elections.

Scoppe: Another SC legislative fix that won't fix anything

Clearly, some bills do invite partisan interference, and I feel certain that's the motivation behind some S.C. Republicans' support for efforts to give the State Election Commission more control over county election offices. I feel equally certain that some Democrats oppose those efforts because they want local officials in Democratic counties to do things state law doesn't clearly allow.

But the reality is that the election commission in one of South Carolina's most populous counties has been plagued for years by gross incompetence. The reality too is that letting small groups of legislators control how voting is managed in their county is just inviting partisan interference, by whichever party controls that county. Changing that system is necessary and overdue.

Editorial: Legislators need to be less involved in running SC elections, not more

Editorial: Let Richland voting debacle be a warning; extend absentee for all to November

Editorial: Why South Carolina should allow limited early voting

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Editorial: SC early voting bill is much improved. Here's how to make it better.

- BY THE EDITORIAL STAFF
- Feb 28, 2022



The more people who vote before Election Day, the shorter the lines on Election Day. Lauren Petracca/Staff

Aside from COVID, few issues are as divisive these days as election law, a once-obscure province of policy wonks that now elicits heated claims of stolen elections on one side and Jim Crow disenfranchisement of minorities on the other.

So it was encouraging — and a bit surprising — to see the S.C. House Judiciary Committee come to near unanimity in support of legislation that deals with some of the thorniest of election law questions: absentee ballot security and early voting.

SC House panel considers bill to establish early voting

The resulting measure, a heavily amended version of the bill introduced less than a month ago by Speaker Jay Lucas and the rest of the House's top leadership, could clear the full House this week.

H.4919 creates a two-week early voting period, adds reasonable security provisions to absentee ballots and gives county election officials the tools they need to process the pre-Election Day ballots quickly enough to mostly satisfy our instant-gratification demands.

Scope: Tricks and traps for reading bills in the SC Legislature

It's not a perfect bill. Most significantly, it takes the more expensive and less convenient route to expanding pre-Election Day voting. This is not insignificant because, contrary to the idea you'd get if you listened to some on the left, who can be a bit too promiscuous about throwing out claims of voter suppression, the two legitimate justifications for the change are cutting costs and making voting more convenient.

Frankly, except in the midst of a pre-vaccine pandemic, we'd prefer for everybody who is physically able to vote on Election Day, because we believe there is societal value in this one communal act of our nation, our state and our local communities. But we've never required that (see the absentee allowance for everyone age 65 or older, no matter how healthy and mobile they are).

Scope: Voting law debates aren't mainly about stopping fraud, or protecting voting rights

And in order to accommodate all that in-person voting without requiring people to wait in hours-long lines, at the risk of losing their jobs or missing their child-care pickup deadlines, taxpayers would have to spend an extraordinary amount of money to purchase additional voting equipment and pay additional poll workers — assuming we could even find additional poll workers.

The cheapest and most convenient way to reduce the number of voting machines we need to buy to use a couple of times a year and the number of poll workers we need to hire is to allow everybody

to cast an absentee ballot — preferably by mail — like we did for the 2020 primaries and general election. Lawmakers should save tax dollars and voters' time by allowing that.

Editorial: Save SC tax dollars, voters' time with in-person and mail-in absentee for all

It's true that mail-in voting poses a greater danger of fraud than in-person voting. It's also true that the chance of fraud in either case is minuscule — and becomes even smaller when you include protections South Carolina already takes, such as requiring each individual to go through a cumbersome process to request a mail-in ballot (which includes a unique code). H.4919 adds more protections, requiring voters to include the last four digits of their Social Security number with their request and further reducing the chance of ballot harvesting, by limiting to 10 the number of absentee ballots anyone can request on behalf of others.

We would prefer that the bill eliminated the witness signature requirement for absentee ballots, which election officials don't check and thus serve no practical purpose. But outside a pre-vaccine pandemic when some people could reasonably believe it was dangerous to be in the same room with another person, that unnecessary requirement does no harm.

Goldberg: How an enduring myth about voter turnout distorts our politics

Similarly, we think it would make sense, given that mail delivery is not completely reliable, to allow an option for absentee voters to drop off their ballots after hours, in a truly secure depository at their county election office.

But lawmaking is the art of compromise. And a great deal of encouraging compromise has gone into the legislation.

Editorial: This smart change to SC election law could get session off to good start

For example, the Judiciary Committee adopted that Social Security provision after critics complained that requiring voters to include the number from their driver's license, passport or other authorized photo ID card was similar to a new Texas law that has resulted in numerous voters being denied absentee ballots because they guessed wrong about which photo ID was associated with their voter registration card.

That was an excellent example of lawmakers working together to find a better way to achieve a policy goal when there were practical problems with their initial approach — and it's the type of thing we need to see more of, in all sorts of legislation.

Editorial: SC deserves better than House ploy on election law changes

What we don't need to see in H.4919 is a repeat of what House leaders pulled [with another election bill](#) last month, when they pushed through an unvetted rewrite of the legislation that included several provisions that had never been debated. Some lawmakers suggest there will be an effort to add a provision to require voters to swear a blood-oath to a party in order to vote in a primary.

Even if that were a good idea — and it's not — it should be considered in separate legislation. Legislators should reject any attempt to add that poison pill to this legislation.

Scoppe: SC House refused to limit voters' choices. Now let's expand them.

- **By Cindi Ross Scoppe**
- Mar 5, 2022



The S.C. House rejected a measure Wednesday that would have required voters to register by party in order to participate in the primaries, where most elections are determined. Brad Nettles/Staff

I don't want to overstate the importance of the S.C. House's 88-27 smackdown of a plan to make us all swear an oath of allegiance to a political party.

After all, some Republicans were simply heeding Democrats' warning that they would work to kill the early voting bill in the Senate if the closed-primary provision was added. It's a lot easier for the

minority to kill a bill in the Senate than in the House, where it's impossible, and in addition to the in-person early voting many Republicans support, [H.4919](#) also includes some smart security measures that will play well with their base.

[South Carolina voting changes unite Democrats, Republicans](#)

Even House Republican Whip Brandon Newton, the GOP's point man on what Democrats describe as voter disenfranchisement, spoke against the addition, noting that the poorly written amendment underscored why significant changes to the law need to be vetted by a committee rather than being [sprung on the House floor](#).



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Still, this was a huge victory for the large minority of think-for-ourselves voters in South Carolina as well as partisans who live in lopsided districts controlled by the other side, who want to have some say in who represents them. Which they can't have if they aren't allowed to participate in the primaries where more and more of our elections are won and lost.

Closed-primary advocates Reps. RJ May and Rep. Adam Morgan argued that open primaries encourage partisans to vote in the other side's primary to pick the worst nominee. They overstate the problem — most voters are honest, and understand that the dumbest thing they can do is vote for the worst candidate, who might end up winning the general election — but they were right to argue that, as Rep. Morgan put it, “it's morally wrong to do that.”

The closed-primary supporters were also right to note that there are Democrats as well as Republicans who support limiting primaries to card-carrying party members, although the Democrats tend to be in other states. Mr. Morgan was more on point than he probably realized when he said, “This is not a partisan issue; this is a political party organization issue.”

Indeed. As in: Many Republican and Democratic operatives oppose allowing voters maximum choice because that interferes with their quest for the ideological purity that is poisoning our elections and our electorate and making governing increasingly difficult.

[Scoppe: Tricks and traps for reading bills in the SC Legislature](#)

The supporters were wrong to assume that their fellow House Republicans wanted to limit voters' choices.

The [closed-primaries amendment](#) wasn't defeated by Democrats with the help of a handful of Republicans. It was defeated by Republicans. More Republicans voted against it than for it. More Republicans than Democrats voted against it

The amendment wasn't defeated because Democrats made such compelling arguments against it — although Rep. John King did score an easy layup when he noted that any party that was worried about sabotage had the option of holding a convention rather than a primary.

[Scoppe: Voting law debates aren't mainly about stopping fraud, or protecting voting rights](#)

It was defeated because Republicans such as Rep. Kirkman Finlay made such compelling arguments against it, telling his colleagues that the amendment would force his Democratic mother to register as a Republican to vote for her son. Closing primaries, he said, is “more about inconveniencing the people who want to vote for who they want to vote for and less about the dirty tricks of politics.”

It was defeated because of Republicans such as Rep. Micah Caskey, who had a similar story about his father, as well as a little pragmatic perspective. “Let me just remind you: Republicans are doing real good right now in this state; have since 1994,” he said. “So as a Republican, by the way, for those of you who do want to insist on thinking in partisan terms, *we're winning*. We have a supermajority in both chambers. We hold every statewide elected office. Six out of seven of our congressmen are Republicans. What does success look like?”

[Editorial: Partisan school boards? You think school governance isn't divisive enough?](#)

The then-Democratic Legislature privatized South Carolina's primaries in the 1940s, not so the Democratic Party could bar Republicans and independents from voting but so it could keep out black voters, after the U.S. Supreme Court ruled that states couldn't do that. That effort at racial segregation didn't survive court challenges, and by the time the state resumed running primaries in 1991, both parties were happy to have any primary voters they could get.

Republicans were using open primaries masterfully to grow into the state's dominant party. And Democratic lawmakers, who were still hanging onto control of the Legislature, feared that if they

forced voters to register by party, the ones who supported them in down-ballot races but Republicans for governor and president would abandon them.

Editorial: SC government should stop encouraging one-size-fits-all voting

They were so worried about this that the Senate voted to create [blanket primaries](#), where voters could vote for a Republican candidate in, say, the primary race for governor and a Democrat in their legislative district.

Unfortunately, the chairmen of the state Republican and Democratic parties joined forces to defeat that effort at considering what's best for voters rather than what's best for political parties.

Scope: Why SC should run all elections like the ones coming up Tuesday

Fortunately, lawmakers have been able to hold off the party apparatchiki's efforts since then to limit our ability to vote in whichever primary we want — something far too few of us take advantage of, which is why Democratic candidates keep getting so much more liberal and Republican candidates keep getting so much more reactionary.

But not making things worse isn't the same as making them better. And the accelerating race to the extremes isn't going to get better until voters reclaim the primaries. Legislators could help us by stripping political parties of their guaranteed access to the November ballot and switching to a system like we use for municipal elections, where all the candidates are listed on a single ballot, and the top vote-getters advance to a runoff — whether that's two Republicans, two Democrats, one of each or nonpartisan candidates.

Scope: Why SC had all those uncontested elections on Tuesday, and why I'm grateful

Editorial: SC early voting bill is much improved. Here's how to make it better.

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Scoppe: SC Election Commission spat exposes misplaced priorities of ... everyone

• **By Cindi Ross Scoppe**

• Apr 23, 2022



Legislation to let all S.C. voters cast early ballots rather than waiting in line on Election Day is imperiled by a disagreement over Senate confirmation of state election commissioners.

You'd think it would have been a great kumbaya moment Wednesday when the S.C. Senate voted unanimously to pass the early voting bill ... at the behest of the governor ... as the House had done last month.

Instead, Gov. Henry McMaster made a [thinly veiled threat](#) to veto the bill, and House Speaker Jay Lucas suggested that the governor won't get the chance because he [might just kill it himself](#).

[Republican fight over power threatens SC early voting bill](#)

The problem is a Senate-added provision to require Senate advice and consent of the governor's appointees to the State Election Commission.



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Frankly, it's bizarre that confirmation isn't already required, as it is for most of the thousands of appointments the governor makes. And notwithstanding the hair-on-fire opposition from the governor and Mr. Lucas, and the perhaps bad-faith motivation of some senators, it's not an unreasonable requirement.

What's unreasonable is the requirement everybody apparently agrees to: Senate confirmation of the director the commission hires.

The legitimate reason to even have a board instead of just letting the governor appoint the director is to provide a layer of insulation between the person who runs our elections and the people whose names are on the ballot. Letting legislators veto that person's appointment doesn't precisely defeat the purpose, but it certainly lowers the R-value of the insulation.

[Editorial: Early voting, security add-ons, standardization a smart combination for SC](#)

Senate Republican Leader Shane Massey told his colleagues that the Senate needed to be able to reject appointments because Mr. McMaster didn't do anything to rein in his commissioners after they didn't do anything to rein in then-Director Marci Andino in 2020 when she asked legislators to legalize drop boxes and agreed in court to eliminate the requirement for witness signatures on absentee ballots.

That's a strange complaint since state law only allows the governor to remove election commissioners for "malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity." And no, there's not a serious case to be made that the commissioners could be removed under those provisions just because senators didn't like the policy decisions they made about how to handle lawsuits.

Scoppe: This spat between the Senate and governor could do lasting damage

Senators never have liked the idea of governors having power over ... well, anything. Indeed, the main driver behind the advice-and-consent fight seemed to be the idea that they should be able to control how the election director does his job, which isn't the Senate's job — or the governor's job, for that matter. Insulation by design, after all.

Senators dug in their heels on confirmations in 2019, when Mr. McMaster named Charlie Condon interim chairman of Santee Cooper after the Senate spent an entire session refusing to vote on his appointment, and then named Stephen Morris as interim director of the Department on Aging after the Senate rejected him. State law allowed that, but good judgment didn't, and although the governor hasn't made interim appointments since then, the Senate hasn't gotten over it. As we were reminded on Wednesday.

Scoppe: Tricks and traps for reading bills in the SC Legislature

Mr. McMaster's staff says language the Senate inserted into H.4919 encourages senators to block the governor's appointments by running the clock *a la Condon*, which they say could leave the commission unable to do its job while the Senate is out of session — during prime election season. That language limits how long a commissioner or director could serve in interim status without Senate confirmation.

There's nothing wrong with that. The problem is that such limits aren't universal.

5 troubled USC trustees keeping their seats despite legislative panel's harsh criticism

We were reminded of that on Monday, when The Post and Courier's Andy Shain reported that the five USC trustees a screening panel refused to find qualified because the board has been such a mess for the past few years will nevertheless remain on the board once their terms expire at the end of June.

That's because USC trustees — like just about all public officials who are appointed for fixed terms — remain in those positions until a successor is appointed and confirmed.

Editorial: SC asks governor to appoint 6,600 board members. This is the result

That makes some sense from a pragmatic perspective, and in most cases, it doesn't matter a lot. Yes, it can encourage stagnation, but so can reappointing the same people over and over.

Where it matters a lot is with people who serve in [protected positions](#) and can be removed only for cause. Leaving those people in office after their term ends effectively turns them into at-will appointees. That means whoever appoints them can hold the threat of removal over their heads. Think election commissioners under the current law, ethics commissioners, the SLED chief, Santee Cooper board members, workers compensation commissioners. And magistrates. Oh my, magistrates.

Editorial: Courts can't fix SC magistrate problem. That's the Legislature's job.

Magistrates can put you in jail or let you out on bail. They can find you guilty of a crime and make you pay huge fines and fees. And they don't have to be lawyers.

The state constitution says the governor appoints magistrates. The reality is that individual senators pick the magistrates in their individual Senate districts. Governors don't even bother appointing anyone who isn't recommended by the local senator, because that senator would block confirmation, and the other senators would allow that — like the governor fears they would do with election commissioners.

The other reality is that a lot of magistrates have at best a tenuous understanding of the law and an even more tenuous appreciation for the ethical standards we expect judges to meet. Being a magistrate is probably the best-paid position they could ever dream of having, and when a single senator has the power to take away that job at the snap of the fingers, many are going to go out of their way to handle cases the way that senator wants them to.

This is the worst threat we have to judicial integrity, and it is a constant. It would do our state a lot more good for senators to put an end to this than to try to put their thumb on the State Election Commission.

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