**South Carolina General Assembly**

118th Session, 2009-2010

**S. 1058**

**STATUS INFORMATION**

Joint Resolution

Sponsors: Senator L. Martin

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Introduced in the Senate on January 19, 2010

Currently residing in the Senate Committee on **Judiciary**

Summary: Constitutional amendment

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/19/2010 Senate Introduced and read first time [SJ](file:///h:\SJ%20Archive\2010\01-19-10.docx)‑5

1/19/2010 Senate Referred to Committee on **Judiciary** [SJ](file:///h:\SJ%20Archive\2010\01-19-10.docx)‑5

1/19/2010 Senate Referred to Subcommittee: L.Martin (ch), Knotts, Campbell, Coleman, Nicholson

**VERSIONS OF THIS BILL**

[1/19/2010](file:///p:\pprever\2009-10\1058_20100119.docx)

**A** **JOINT RESOLUTION**

PROPOSING AN AMENDMENT TO ARTICLE IV OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, TO REPEAL SECTION 8 AND AMEND SECTION 16 TO ABOLISH THE OFFICE OF LIEUTENANT GOVERNOR; BY PROPOSING AN AMENDMENT TO SECTION 11, ARTICLE IV, SO AS TO PROVIDE THAT IN THE CASE OF REMOVAL OF THE GOVERNOR FROM OFFICE BY IMPEACHMENT, DEATH, RESIGNATION, DISQUALIFICATION, DISABILITY, OR REMOVAL FROM THE STATE, THE PRESIDENT OF THE SENATE SHALL BE GOVERNOR UNTIL A SUCCESSOR IS ELECTED AT THE NEXT GENERAL ELECTION FOR REPRESENTATIVES IF THE REMOVAL OCCURS WITHIN THE FIRST EIGHTEEN CALENDAR MONTHS OF THE TERM, AND THE PRESIDENT OF THE SENATE SHALL BE GOVERNOR DURING THE UNEXPIRED TERM; PROPOSING AN AMENDMENT TO SECTION 9, ARTICLE IV, SO AS TO PROVIDE THAT THE SENATE MUST, AS SOON AS PRACTICABLE AFTER THE CONVENING OF THE GENERAL ASSEMBLY IN 2013, AND EVERY FOUR YEARS THEREAFTER, ELECT FROM ITS MEMBERS A PRESIDENT PRO TEMPORE OF THE SENATE; PROPOSING AN AMENDMENT TO SECTION 10, ARTICLE IV, SO AS TO PROVIDE THAT THE SENATE MUST, AS SOON AS PRACTICABLE AFTER THE CONVENING OF THE GENERAL ASSEMBLY IN 2013, AND EVERY FOUR YEARS THEREAFTER, ELECT FROM ITS MEMBERS A PRESIDENT TO PRESIDE OVER THE SENATE AND TO PERFORM OTHER DUTIES AS PROVIDED BY LAW; PROPOSING AN AMENDMENT TO SECTION 6, ARTICLE IV, SO AS TO PROVIDE THAT IF THE GOVERNOR‑ELECT DIES OR DECLINES TO SERVE, THE PRESIDENT OF THE SENATE SHALL BECOME GOVERNOR UNTIL THE NEXT GENERAL ELECTION FOR REPRESENTATIVES, AND TO PROVIDE THAT IF THE GOVERNOR‑ELECT FAILS TO TAKE THE OATH OF OFFICE AT THE COMMENCEMENT OF HIS TERM, THE PRESIDENT OF THE SENATE MUST ACT AS GOVERNOR UNTIL THE OATH IS ADMINISTERED; PROPOSING AN AMENDMENT TO SECTION 7, ARTICLE IV, SO AS TO provide that in the event that The Governor‑elect does not qualify, or if after the Governor takes the oath of office and neither the Governor Nor the President of the Senate is able to serve for any reason whatsoever, the office of Governor for the time being shall devolve upon the Speaker of the House of Representatives AND If the Speaker of the House of Representatives is unable to serve for any reason whatsoever, the office of Governor for the time being shall devolve upon such officers and in such order of succession as may be provided by law; AND PROPOSING AN AMENDMENT TO SECTION 12, ARTICLE IV, RELATING TO THE DISABILITY OF THE GOVERNOR, SO AS TO PROVIDE THAT whenever a majority of the Attorney General, the Secretary of State, the Comptroller General, and the State Treasurer, or of such other body as the General Assembly may provide, transmitS to the President of the Senate and the Speaker of the House of Representatives a written declaration that the Governor is unable to discharge the powers and duties of his office, the President of the Senate must assume the powers and duties of the office as acting Governor.

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

SECTION 1. A. It is proposed that Article IV of the Constitution of this State be amended by repealing Section 8, which reads:

“Section 8. A Lieutenant Governor shall be chosen at the same time, in the same manner, continue in office for the same period, and be possessed of the same qualifications as the Governor.”

B. It is further proposed that Section 16, Article IV of the Constitution of this State be amended to read:

“Section 16. The Governor ~~and Lieutenant Governor~~ shall receive for ~~their~~ his services compensation, which shall be neither increased nor diminished during the period for which ~~they shall have~~ he has been elected.”

SECTION 2. The proposed amendments in Section 1 must be submitted to the qualified electors at the next general election for representatives. Ballots must be provided at the various voting precincts with the following words printed or written on the ballot:

“Must Article IV of the Constitution of this State be amended so as to provide that the office of the Lieutenant Governor be abolished?

Yes 

No 

Those voting in favor of the question shall deposit a ballot with a check or cross mark in the square after the word ‘Yes’, and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word ‘No’.”

SECTION 3. It is proposed that Section 11, Article IV, of the Constitution of this State be amended to read:

“Section 11. In the case of the removal of the Governor from office by impeachment, death, resignation, disqualification, disability, or removal from the State, the ~~Lieutenant Governor~~ President of the Senate shall be Governor. In case the Governor be impeached, the ~~Lieutenant Governor~~ President of the Senate shall act in his stead and have his powers until judgment in the case shall have been pronounced. In the case of the temporary disability of the Governor and in the event of the temporary absence of the Governor from the State, the ~~Lieutenant Governor~~ President of the Senate shall have full authority to act in an emergency. The President, while acting as Governor, shall not participate in the Senate’s consideration of articles of impeachment.

If the President of the Senate succeeds to the office of Governor due to the removal of the Governor by impeachment, death, resignation, disqualification, disability, or removal from the State during the first eighteen calendar months of the term of office, he shall hold office until a successor is elected for the unexpired term at the next general election for representatives and qualified pursuant to this Constitution. While exercising the powers of the Governor for the time being under this provision, the President shall not be subject to the dual office‑holding provision of this Constitution. If he succeeds to the office vacated after the first eighteen calendar months of the term, then he shall continue to hold office for the remainder of the unexpired term and he must vacate his Senate seat and another person shall be elected in his stead.”

SECTION 4. The proposed amendment in Section 3 must be submitted to the qualified electors at the next general election for representatives. Ballots must be provided at the various voting precincts with the following words printed or written on the ballot:

“Must Section 11, Article IV of the Constitution of this State be amended so as to provide that in the case of removal of the Governor from office by impeachment, death, resignation, disqualification, disability, or removal from the State, the President of the Senate shall be Governor until a successor is elected at the next general election for representatives and qualified if the removal occurs within the first eighteen calendar months of the term, and the President of the Senate shall be Governor for the unexpired term if the office is vacated after the first eighteen calendar months of the term?

Yes 

No 

Those voting in favor of the question shall deposit a ballot with a check or cross mark in the square after the word ‘Yes’, and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word ‘No’.”

SECTION 5. It is proposed that Section 9, Article IV of the Constitution of this State be amended to read:

“Section 9. The Senate shall as soon as practicable after the convening of the General Assembly in 2013, and every four years thereafter, ~~choose~~ elect from among its members a President Pro Tempore to act in the absence of the ~~Lieutenant Governor~~ President of the Senate. ~~A member of the Senate acting as Lieutenant Governor shall thereupon vacate his seat and another person shall be elected in his stead.~~”

SECTION 6. The proposed amendment in Section 5 must be submitted to the qualified electors at the next general election for representatives. Ballots must be provided at the various voting precincts with the following words printed or written on the ballot:

“Must Section 9, Article IV of the Constitution of this State be amended so as to require the Senate, as soon as practicable after the convening of the General Assembly in 2013, and every four years thereafter, to elect from among its members a President Pro Tempore to act in the absence of the President of the Senate?

Yes 

No 

Those voting in favor of the question shall deposit a ballot with a check or cross mark in the square after the word ‘Yes’, and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word ‘No’.”

SECTION 7. It is proposed that Section 10, Article IV of the Constitution of this State be amended to read:

“Section 10. The ~~Lieutenant Governor shall be President of the Senate, ex officio, and while presiding in the Senate, shall have no vote, unless the Senate be equally divided~~ Senate shall, as soon as practicable after the convening of the General Assembly in 2013, and every four years thereafter, elect from among its members a President to preside over the Senate and to perform other duties as provided by law.”

SECTION 8. The proposed amendment in Section 7 must be submitted to the qualified electors at the next general election for representatives. Ballots must be provided at the various voting precincts with the following words printed or written on the ballot:

“Must Section 10, Article IV of the Constitution of this State be amended so as to provide the Senate shall, as soon as practicable after the convening of the General Assembly in 2013, and every four years thereafter, elect from among its members a President to preside over the Senate and to perform other duties as provided by law?

Yes 

No 

Those voting in favor of the question shall deposit a ballot with a check or cross mark in the square after the word ‘Yes’, and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word ‘No’.”

SECTION 9. It is proposed that Section 6, Article IV of the Constitution of this State be amended to read:

“Section 6. If the Governor‑elect dies or declines to serve, the ~~Lieutenant Governor‑elect~~ President of the Senate shall become Governor ~~for a full term~~ until the next general election for representatives. If the Governor‑elect fails to take the oath of office at the commencement of his term, the ~~Lieutenant Governor~~ President of the Senate shall act as Governor until the oath is administered. While exercising the powers of the Governor for the time being under this provision, the President shall not be subject to the dual office‑holding provision of this Constitution.”

SECTION 10. The proposed amendment in Section 9 must be submitted to the qualified electors at the next general election for representatives. Ballots must be provided at the various voting precincts with the following words printed or written on the ballot:

“Must Section 6, Article IV of the Constitution of this State be amended so as to provide that if the Governor‑elect dies or declines to serve, the President of the Senate shall become Governor until the next general election for representatives and if the Governor‑elect fails to take the oath of office at the commencement of his term, the President of the Senate shall act as Governor until the oath is administered?

Yes 

No 

Those voting in favor of the question shall deposit a ballot with a check or cross mark in the square after the word ‘Yes’, and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word ‘No’.”

SECTION 11. It is proposed that Section 7, Article IV of the Constitution of this State be amended to read:

“Section 7. In the event that ~~neither~~ the Governor‑elect ~~nor the Lieutenant Governor‑elect shall qualify~~ does not qualify, or if after ~~taking~~ the Governor takes the oath of office and neither the Governor nor the President of the Senate ~~shall be~~ is able to serve for any reason whatsoever, the office of Governor for the time being shall devolve upon the Speaker of the House of Representatives. If the Speaker of the House of Representatives is unable to serve for any reason whatsoever, the office of Governor for the time being shall devolve upon such officers and in such order of succession as may be provided by law. Any such officers while exercising the powers of the Governor for the time being under this provision shall not be subject to the dual office‑holding provision of this Constitution.”

SECTION 12. The proposed amendment in Section 11 must be submitted to the qualified electors at the next general election for representatives. Ballots must be provided at the various voting precincts with the following words printed or written on the ballot:

“Must Section 7, Article IV of the Constitution of this State be amended so as to provide that in the event that the Governor‑elect does not qualify, or if after the Governor takes the oath of office and neither the Governor nor the President of the Senate is able to serve for any reason whatsoever, the office of Governor for the time being shall devolve upon the Speaker of the House of Representatives and if the Speaker is unable to serve for any reason whatsoever, the office of Governor for the time being shall devolve upon such officers and in such order of succession as may be provided by law?

Yes 

No 

Those voting in favor of the question shall deposit a ballot with a check or cross mark in the square after the word ‘Yes’, and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word ‘No’.”

SECTION 13. It is proposed that Section 12, Article IV of the Constitution of this State be amended to read:

“Section 12. (1) Whenever the Governor transmits to the President ~~Pro Tempore~~ of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties ~~shall~~ must be discharged by the ~~Lieutenant Governor~~ President of the Senate as acting Governor.

(2) Whenever a majority of the Attorney General, ~~t~~he Secretary of State, the Comptroller General, and the State Treasurer, or of such other body as the General Assembly may provide, transmits to the President ~~Pro Tempore~~ of the Senate and the Speaker of the House of Representatives a written declaration that the Governor is unable to discharge the powers and duties of his office, the ~~Lieutenant Governor shall forthwith~~ President of the Senate must immediately assume the powers and duties of the office as acting Governor. Thereafter, if the Governor transmits a written declaration to the President ~~Pro Tempore~~ of the Senate and the Speaker of the House of Representatives ~~his written declaration~~ that no such inability exists, he shall ~~forthwith~~ immediately resume the powers and duties of his office unless a majority of the above members or of such other body, whichever the case may be, transmits within four days to the President ~~Pro Tempore~~ of the Senate and the Speaker of the House of Representatives their written declaration that the Governor is unable to discharge the powers and duties of his office. Thereupon, the General Assembly shall ~~forthwith~~ immediately consider and decide the issue~~, and if~~. If the General Assembly is not in session, it ~~shall~~ must assemble within forty‑eight hours for the sole purpose of deciding ~~such~~ the issue. If the General Assembly, within twenty‑one days, excluding Sundays, after the first day it meets to decide the issue, determines by two‑thirds vote of each House that the Governor is unable to discharge the powers and duties of his office, the ~~Lieutenant Governor shall~~ President of the Senate must continue to discharge the same as acting Governor; otherwise, the Governor shall resume the powers and duties of his office.”

SECTION 14. The proposed amendment in Section 13 must be submitted to the qualified electors at the next general election for representatives. Ballots must be provided at the various voting precincts with the following words printed or written on the ballot:

“Must Section 12, Article IV of the Constitution of this State be amended so that, if whenever a majority of the Attorney General, the Secretary of State, the Comptroller General, and the State Treasurer, or of such other body as the General Assembly may provide, transmits to the President of the Senate and the Speaker of the House of Representatives a written declaration that the Governor is unable to discharge the powers and duties of his office, the President of the Senate must assume the powers and duties of the office as acting Governor?

Yes 

No 

Those voting in favor of the question shall deposit a ballot with a check or cross mark in the square after the word ‘Yes’, and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word ‘No’.”

SECTION 15. This joint resolution takes effect upon approval by the Governor.

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