**South Carolina General Assembly**

119th Session, 2011-2012

**S. 67**

**STATUS INFORMATION**

Joint Resolution

Sponsors: Senator Thomas

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Companion/Similar bill(s): 74, 97, 181, 544, 4244

Introduced in the Senate on January 11, 2011

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

Summary: Constitutional amendments

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/1/2010 Senate Prefiled

12/1/2010 Senate Referred to Committee on **Judiciary**

1/11/2011 Senate Introduced and read first time ([Senate Journal‑page 34](file:///h:\sj%20archive\2011\01-11-11.docx))

1/11/2011 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 34](file:///h:\sj%20archive\2011\01-11-11.docx))

1/21/2011 Senate Referred to Subcommittee: L.Martin (ch), Rankin, Hutto, Bright, Davis

3/9/2011 Senate Referred to Subcommittee: Campsen (ch), Malloy, Sheheen, Massey, Shoopman

3/14/2011 Senate Referred to Subcommittee: S.Martin (ch), Hutto, Bright, Rose, Scott

**VERSIONS OF THIS BILL**

[12/1/2010](file:///p:\pprever\2011-12\67_20101201.docx)

**A** **JOINT RESOLUTION**

PROPOSING AN AMENDMENT TO ARTICLE XVII, CONSTITUTION OF SOUTH CAROLINA, 1895, BY ADDING SECTION 16 SO AS TO ESTABLISH A SPECIFIED PROCEDURE FOR THE ENACTMENT OR REPEAL OF LAWS AND CONSTITUTIONAL AMENDMENTS BY INITIATIVE PETITION AND REFERENDUM AND TO PROVIDE EXCEPTIONS.

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

SECTION 1.It is proposed that Article XVII of the Constitution of this State be amended by adding:

“Section 16. (A) In addition to the provisions of Article III and Article XVI of this Constitution, relating to the enactment of laws and constitutional amendments and in order to give meaning to the right of the people to petition their government for redress of grievances as guaranteed by Section 2, Article I of this Constitution, there is reserved in the people the power to repeal and enact laws and constitutional amendments by means of initiative petition. This amendment must be construed consistent with this Constitution and is an additional method of amending this Constitution, and of enacting general laws of the State.

(B)(1) Initiative and referendum powers may be invoked by presenting a petition to the State Election Commission.

(2) An initiative petition must contain a full and correct copy of the title and text of the proposed law or constitutional amendment.

(3) A petition concerning a constitutional amendment or a general law must be signed by a number of qualified electors, not fewer than ten percent of the qualified electors for the last statewide general election as determined by the State Election Commission.

(4) A petition must contain qualified signatures geographically distributed so as to include a minimum of two percent of its signatures from each of at least two‑thirds of the counties, rounded to the next higher number, based on the number of qualified electors in each county for the last statewide general election.

(C)(1) A proposition submitted to the voters becomes law or part of the Constitution, when a majority of the votes cast on it are cast in favor of the proposition. A proposition enacted by the General Assembly as provided for in item (3) of subsection (E) becomes law upon delivery to the Secretary of State. All propositions take effect according to the terms of the proposition or upon proclamation by the Governor, which shall take place within thirty days after the votes have been canvassed. If provisions of two or more propositions approved at the same election conflict, the provisions of the proposition receiving the highest affirmative votes prevail to the extent of the conflict.

(2) All propositions concerning constitutional amendments or the general law must be submitted to the voters in a statewide election to be conducted on the first Tuesday following the first Monday of November of the odd‑numbered year. If a proposition is certified by the State Election Commission no later than August first of an odd‑numbered year, the referendum on that proposition must be conducted in November of that year; otherwise, the referendum must be conducted in the next odd‑numbered year.

(3) The veto power of the Governor does not extend to initiative and referendum measures enacted by the people pursuant to the provisions of this section. Initiative and referendum measures must not be sent to the Governor for his signature and become law without his signature.

(4) The style of all general laws enacted by the initiative is, ‘Be It Enacted by the People of the State of South Carolina’. The style of all constitutional amendments enacted by the initiative is, ‘Be It Resolved by the People of the State of South Carolina that the Constitution of South Carolina be Amended’.

(D)(1) An initiative and referendum is proposed by submitting an application containing the full text of the proposed measure with a one‑time fee of fifty dollars. The State Election Commission may periodically adjust this fee in an amount not to exceed increases in the consumer price index as calculated by the Bureau of Labor Statistics of the United States Department of Commerce, or its successor agency. The application must be signed by five qualified electors as sponsors and filed with the commission. The commission shall send a copy of the proposed measure to the Attorney General, State Budget Office, and the Legislative Council for review and comment. Review and comment shall include suggestions about compliance with the single subject rule, preventing conflicts with existing law, language or drafting problems, and any other relevant comments. No later than four weeks after submission of the application, the State Election Commission shall present the official comments to the sponsors and to the public. Neither the General Assembly, nor its committees or agencies, has the power to require amendment or modification of the proposed measure. After review and comment, the sponsors may withdraw the application, or modify and refile the application, or request that the State Election Commission prepare the final petition form. Upon request by the sponsors, the State Election Commission shall prepare the standard petition form within seven days of notification, as provided by law, and send the petition to the sponsors for signature collection.

(2) The Legislative Council shall formulate a concise ballot title and official summary of the proposed measure for use in the petition. The ballot title may not exceed ten words and the official summary may not exceed seventy words. Both the title and summary must be true and impartial statements of the purpose of the proposed measure and shall not contain editorial comment likely to create bias for or against the measure. The Attorney General shall prepare a constitutional analysis of the proposed measure for use in the petition. The constitutional analysis shall include an opinion as to whether the proposed measure complies with the single subject rule. The State Budget Office shall prepare a fiscal analysis of the effect of the proposed measure on the state finances for use in the petition. If the State Budget Office projects that the proposed measure will require substantial expenditure of state funds in excess of general administrative expenses, the fiscal analysis shall include projected total increases or decreases in state revenues or expenditures. If an initiative measure reduces state revenues, the measure must provide specifically how the reduction in revenue will be implemented. The State Budget Office shall provide an opinion as to whether the proposed revenues will cover any expenditures required by the terms of the initiative. The fiscal analysis and constitutional analysis shall not exceed fifty words each. The constitutional and fiscal analysis must be a fair and impartial statement concerning the effect of the proposed measure.

(3) The petition must be signed by qualified electors in their own name, and include street address, telephone number, voter registration number (if available), county, and date of signature. Each petition shall include an affidavit signed by a qualified elector stating that, to the best knowledge and belief of the affiant, each signature is a valid signature of the person whose name it purports to be and that each person signing the petition is a registered voter. Signatures on petitions with completed affidavits are presumed valid. Except as provided for in item (2) of subsection (E), signatures over two years old at the date of filing are invalid. Signatures may not be removed from petitions.

(E)(1) Initiative and referendum petitions may be submitted with the State Election Commission at any time; however, a petition must be submitted to the commission no later than June first of an odd‑numbered year to be certified and submitted to the voters in a referendum conducted in November of that year. The commission shall verify the signatures of the petition using a method provided by law. Within sixty days of the filing of the petition, the commission shall either certify the proposed measure as a ballot proposition or deny certification. Upon certification, the commission shall submit the proposition to the voters as provided in item (2) of subsection (C), unless the General Assembly adopts a proposed general law as provided for in item (3) of this subsection. Upon certification of the proposition for ballot, the Attorney General shall defend the proposed law in the courts on behalf of the people of South Carolina.

(2) The State Election Commission shall notify the sponsors of the reasons for denying certification. If certification is denied due to insufficient valid signatures, the commission shall grant the sponsors a one‑time thirty‑day period to file supplemental petitions needed to meet the signature requirements. Verified valid signatures shall remain valid during any extension period. Denial of certification for the ballot is subject to review by the courts.

(3) When a legislative session convenes more than thirty days before a ballot proposition is voted on, the State Election Commission shall send ballot propositions proposing general laws to the General Assembly for consideration at that legislative session. If there is a prefiling procedure, the clerk of each House shall prefile the proposition in their respective House. On the first day of the session the proposition must be introduced by the President Pro Tempore of the Senate and the Speaker of the House. The proposition must be presented in bill form and treated as any other bill for a general law except as otherwise provided by this amendment. The General Assembly may not amend or alter the proposition. Upon enactment of the proposition by the General Assembly, the act must be delivered to the Secretary of State within ten days. ‘Enact’ as used in this section means the joint resolution or bill has received three readings in each body and is voted upon by each house of the General Assembly, in its original form as proposed, before adjournment. Ballot propositions submitted to special legislative sessions may be enacted by majority vote. If the General Assembly does not enact the proposition, the State Election Commission shall put the proposition on the ballot as provided in item (2) of subsection (C). Legislative enactment waives any defect in the signature or petition requirements.

(F) Propositions must be numbered consecutively and put on the ballot in the order of the petition certification with the State Election Commission. No more than fifteen propositions may be put on the ballot at each election. Any remaining propositions must be put on the ballot at the next election as provided in item (2) of subsection (C). Propositions must be put on the ballot in a nonpartisan manner and without any indication of endorsement by any organization. Only the ballot title and the official summary may be printed on the ballot. Each ballot question must be worded so that a ‘yes’ vote on the proposition is a vote to enact the proposed law and a ‘no’ vote would result in no change to current law. Referendum ballot questions that seek only to repeal a general law must be worded so that a ‘yes’ vote is a vote to repeal the law and a ‘no’ vote would result in the law remaining in effect.

(G)(1) Except as provided by this section, any constitutional or technical processes which limit the General Assembly also shall limit any measure proposed and enacted pursuant to this amendment. Any initiative measure that requires expenditure of an amount greater than two‑tenths of one percent of the general fund budget in the immediately preceding fiscal year, shall provide the funding necessary to cover the cost required from the State.

(2) Initiative powers may not be used to enact laws relating to the following:

(a) creating courts, prescribing court rules, or altering the tenure, qualifications of, compensation for, or removal from judicial office;

(b) naming or designating any person to hold a public office.

(H) Any general law or constitutional amendment enacted by the initiative power under this section may not be repealed or amended except by a vote of the people, unless the measure provides otherwise.

(I) The initiative and referendum provisions are self‑executing and mandatory. The General Assembly may enact legislation to facilitate operation of the measure enacted.”

SECTION 2. The proposed amendment 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 on the ballot:

“Must Article XVII of the Constitution of this State be amended by adding Section 16 so as to establish a specified procedure for the enactment or repeal of laws and constitutional amendments by initiative petition and referendum where qualified electors must sign the petition for the proposed law or constitutional amendment to be considered by the General Assembly, and if the General Assembly does not act on the initiative, it is placed on the ballot in a statewide election to be conducted in the odd‑numbered year and takes effect if a majority of the qualified electors vote in favor of it, and provide exceptions?

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’.”

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