~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 10, 2013

**H. 3541**

Introduced by Reps. Harrell, J.E. Smith, Bales, Williams, Bannister, J.R. Smith, Patrick, Brannon, Erickson, Huggins, Kennedy, Ballentine, M.S. McLeod, Bernstein, Atwater, Cole, Funderburk, George, Hixon, Long, McCoy, W.J. McLeod, Pitts, Pope, G.R. Smith, Tallon, Taylor, Wood and Knight

S. Printed 4/10/13--S. [SEC 4/11/13 3:14 PM]

Read the first time March 21, 2013.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Joint Resolution (H. 3541) proposing an amendment to Section 7, Article VI of the Constitution of South Carolina, 1895, relating to the constitutional officers of this State, so as to delete the Adjutant, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the joint resolution, as and if amended, by striking the joint resolution in its entirety and inserting therein the following:

/ A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO SECTION 7, ARTICLE VI OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE CONSTITUTIONAL OFFICERS OF THIS STATE, TO PROVIDE THAT UPON THE EXPIRATION OF THE TERM OF THE ADJUTANT GENERAL SERVING IN OFFICE ON THE DATE OF THE RATIFICATION OF THIS PROVISION THE ADJUTANT GENERAL MUST BE APPOINTED BY THE GOVERNOR UPON THE ADVICE AND CONSENT OF THE SENATE FOR A TERM NOT COTERMINOUS WITH THE GOVERNOR, MAY BE REMOVED ONLY FOR CAUSE, AND THE GENERAL ASSEMBLY SHALL PROVIDE BY LAW FOR THE TERM, DUTIES, COMPENSATION, AND QUALIFICATIONS FOR OFFICE, THE PROCEDURES BY WHICH THE APPOINTMENT IS MADE, AND THE PROCEDURES BY WHICH THE ADJUTANT GENERAL MAY BE REMOVED FROM OFFICE; AND PROPOSING AN AMENDMENT TO SECTION 4, ARTICLE XIII, RELATING TO THE ADJUTANT GENERAL AND HIS STAFF OFFICERS, TO UPDATE REFERENCES TO HIS TITLE AND PROVIDE THAT THE ADJUTANT GENERAL’S MILITARY RANK IS MAJOR GENERAL AS OPPOSED TO BRIGADIER GENERAL, AND TO PROVIDE THAT UPON THE EXPIRATION OF THE TERM OF THE ADJUTANT GENERAL SERVING IN OFFICE ON THE DATE OF THE RATIFICATION OF THIS PROVISION, HE MUST BE APPOINTED BY THE GOVERNOR IN THE MANNER REQUIRED BY SECTION 7, ARTICLE VI.

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

SECTION 1. It is proposed that Section 7, Article VI of the Constitution of this State be amended by adding the following new paragraph at the end:

“Beginning upon the expiration of the term of the Adjutant General serving in office on the date of the ratification of the provisions of this paragraph, the Adjutant General must be appointed by the Governor, upon the advice and consent of the Senate. The appointed Adjutant General shall serve for a term not coterminous with the Governor and may be removed only for cause. The General Assembly shall provide by law for the term, duties, compensation, and qualifications for office, the procedures by which the appointment is made, and the procedures by which the Adjutant General may be removed from office.”

SECTION 2. It is proposed that Section 4, Article XIII of the Constitution of this State be amended to read:

“Section 4. There ~~shall~~ must be an Adjutant ~~and Inspector~~ General ~~elected by the qualified electors of the State at the same time and in the same manner as other state officers, who shall rank as Brigadier~~. The position of Adjutant General is recognized as holding the rank of Major General, and ~~whose~~ the Adjutant General’s duties and compensation ~~shall~~ must be prescribed by law. The Governor ~~shall~~, by and with the advice and consent of the Senate, shall appoint ~~such other~~ staff officers as the General Assembly may direct.

Beginning upon the expiration of the term of the Adjutant General serving in office on the date of the ratification of the provisions of this paragraph, the Adjutant General must be appointed by the Governor, with the advice and consent of the Senate, in the manner provided in Section 7, Article VI.”

SECTION 3. The proposed amendment in Sections 1 and 2 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 VI of the Constitution of this State relating to state constitutional officers and Section 4, Article XIII relating to the Adjutant General and his staff officers be amended so as to update references to his title; to provide that the position of Adjutant General is recognized as holding the rank of Major General, as opposed to Brigadier General; to provide that upon the expiration of the term of the Adjutant General serving in office on the date of the ratification of this provision, the Adjutant General must be appointed by the Governor, upon the advice and consent of the Senate; to provide that the appointed Adjutant General serve for a term not coterminous with the Governor and may be removed only for cause; and to require the General Assembly to provide by law for the term, duties, compensation, and qualifications for office, the procedures by which the appointment is made, and the procedures by which the Adjutant General may be removed from office?

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’.” /

Renumber sections to conform.

Amend title to conform.

GEORGE E. CAMPSEN III for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The State Election Commission indicates that this bill would require a referendum on the ballot which would be a minimal cost that could be covered by current election funding.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **JOINT RESOLUTION**

PROPOSING AN AMENDMENT TO SECTION 7, ARTICLE VI OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE CONSTITUTIONAL OFFICERS OF THIS STATE, SO AS TO DELETE THE ADJUTANT GENERAL FROM THE LIST OF STATE OFFICERS WHICH THE CONSTITUTION REQUIRES TO BE ELECTED; AND TO AMEND SECTION 4, ARTICLE XIII, RELATING TO THE ADJUTANT AND INSPECTOR GENERAL, SO AS TO DELETE AN OBSOLETE REFERENCE TO INSPECTOR GENERAL, TO MAKE A CONFORMING CHANGE TO THE RANK OF THE ADJUTANT GENERAL, TO PROVIDE THAT BEGINNING UPON THE EXPIRATION OF THE TERM OF THE ADJUTANT GENERAL SERVING IN OFFICE ON THE DATE OF THE RATIFICATION OF THIS AMENDMENT, THE ADJUTANT GENERAL MUST BE APPOINTED BY THE GOVERNOR UPON THE ADVICE AND CONSENT OF THE SENATE FOR A FOUR‑YEAR TERM COMMENCING ON THE FIRST WEDNESDAY FOLLOWING THE SECOND TUESDAY IN JANUARY FOLLOWING THE GENERAL ELECTION, WHICH MARKS THE MIDTERM OF THE GOVERNOR, EXCEPT THAT THE INITIAL TERM OF THE FIRST ADJUTANT GENERAL APPOINTED PURSUANT TO THIS AMENDMENT MUST BE FOR TWO YEARS SO AS TO ALLOW SUBSEQUENT TERMS TO BE STAGGERED WITH THAT OF THE GOVERNOR, AND TO PROVIDE THAT THE GENERAL ASSEMBLY SHALL PROVIDE BY LAW FOR THE DUTIES, COMPENSATION, AND QUALIFICATIONS FOR THE OFFICE, THE PROCEDURES BY WHICH THE APPOINTMENT IS MADE, AND THE PROCEDURES BY WHICH THE ADJUTANT GENERAL MAY BE REMOVED FROM OFFICE.

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

SECTION 1. It is proposed that Section 7, Article VI of the Constitution of this State be amended to read:

“Section 7. There ~~shall~~must be elected by the qualified voters of the State a Secretary of State, an Attorney General, a Treasurer, a Superintendent of Education, a Comptroller General, and a Commissioner of Agriculture~~, and an Adjutant General~~ who shall hold their respective offices for a term of four years, coterminous with that of the Governor. The duties and compensation of ~~such~~these offices ~~shall~~must be prescribed by law and their compensation ~~shall~~must be neither increased nor diminished during the period for which they ~~shall have been~~are elected.”

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 or written on the ballot:

“Must Section 7, Article VI of the Constitution of this State relating to state constitutional officers be amended so as to delete the Adjutant General from the list of state officers which the Constitution requires to be elected?

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 4, Article XIII of the Constitution of this State be amended to read:

“Section 4. (A) There ~~shall~~must be an Adjutant ~~and Inspector~~ General ~~elected by the qualified electors of the State at the same time and in the same manner as other State officers~~ appointed by the Governor upon the advice and consent of the Senate, who shall rank as ~~Brigadier~~ Major General, and whose duties and compensation ~~shall~~must be prescribed by law. The Governor ~~shall~~, by and with the advice and consent of the Senate, shall appoint ~~such~~ other staff officers as the General Assembly may direct.

(B) Beginning with the expiration of the term of the Adjutant General serving in office on the date of the ratification of the provisions of this paragraph, the Governor, acting in his capacity as commander‑in‑chief, shall appoint the Adjutant General with the advice and consent of the Senate. The Adjutant General is the commander of all military forces within the South Carolina Military Department, and he is responsible to the Governor in his role as commander-in-chief for the proper performance of his duties. The Adjutant General’s term of office must be for four years and shall commence on the first Wednesday following the second Tuesday in January following the general election which marks the mid‑term of the Governor, except that the initial term of the first Adjutant General appointed pursuant to the provisions of this paragraph must be for two years so as to allow subsequent terms to be staggered with that of the Governor. The General Assembly shall provide by law for the duties, compensation, and qualifications for the office, the procedures by which the appointment is made, and the procedures by which the Adjutant General may be removed from office.”

SECTION 4. 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 or written on the ballot:

“Must Section 4, Article XIII of the Constitution of this State, relating to state constitutional officers, be amended so as to delete an obsolete reference to the Inspector General; to make a conforming change to the rank of the Adjutant General; to provide that upon the expiration of the term of the Adjutant General serving in office on the date of the ratification of this provision, the Adjutant General must be appointed by the Governor, upon the advice and consent of the Senate for a four‑year term commencing on the first Wednesday following the second Tuesday in January following the general election which marks the midterm of the Governor, except that the initial term of the first Adjutant General appointed pursuant to the provisions of this amendment must be for two years so as to allow subsequent terms to be staggered with that of the Governor; and to require the General Assembly to provide by law for the duties, compensation, and qualifications for the office, the procedures by which the appointment is made, and the procedures by which the Adjutant General may be removed from office?

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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