**South Carolina General Assembly**

118th Session, 2009-2010

**H. 3954**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. McEachern, J.E. Smith, Allen, Dillard and Weeks

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Introduced in the House on April 23, 2009

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

Summary: Nonpartisan elections

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

4/23/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\04-23-09.docx)‑227

4/23/2009 House Referred to Committee on **Judiciary** [HJ](file:///h:\HJ%20Archive\2009\04-23-09.docx)‑227

**VERSIONS OF THIS BILL**

[4/23/2009](file:///p:\pprever\2009-10\3954_20090423.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 15 TO CHAPTER 9, TITLE 4 SO AS TO PROVIDE A PROCEDURE BY WHICH CERTAIN COUNTY OFFICES AND THE GOVERNING BODY OF A COUNTY MAY BE ELECTED IN NONPARTISAN ELECTIONS.

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

SECTION 1. Chapter 9, Title 4 of the 1976 Code is amended by adding:

“Article 15

Nonpartisan County Elections

Section 4‑9‑1410. (A)(1) The provisions of this article only apply to the election of members of the governing body of a county and the following county offices:

(a) auditor;

(b) treasurer;

(c) clerk of court;

(d) probate judge;

(e) sheriff;

(f) coroner; and

(g) register of mesne conveyance.

(2) A county may choose to elect some of the officers enumerated in item (1) of this subsection in nonpartisan elections and others in partisan elections as provided in subsection (D).

(B) A county may choose to elect the members of its governing body and any of the county officers enumerated in item (1) of subsection (A) in a nonpartisan election by one of the following methods:

(1) the governing body of each county in this State may adopt by ordinance one of the alternative methods of nominating candidates for and determining the results of its nonpartisan elections as provided in subsection (C) of this section; or

(2) a referendum requesting that one of the three methods of nominating a candidate in a nonpartisan election be implemented in the county as provided in subsection (C) of this section may be called by a petition of not less than five percent of the registered electors of the county. A petition must be certified as valid or rejected by the county board of registration within sixty days after it has been delivered to the board and, if certified, must be filed with the governing body which shall provide for a referendum not more than ninety days after it has been received. A referendum must be conducted by the county election commission and may be held in a general election or in a special election as determined by the governing body if the conditions of this section are met. A change from the current method of electing council members does not become effective unless the proposed method receives a favorable vote of a majority of those persons voting in a referendum. After a referendum has been held and whether or not a change in the form results from it, no additional referendums may be held for a period of four years.

(C) The three alternative methods of nominating candidates for and determining the results of its nonpartisan elections are:

(1) the nonpartisan plurality method prescribed in Section 4‑9‑1420;

(2) the nonpartisan election and runoff election method prescribed in Section 4‑9‑1430;

(3) the nonpartisan primary election and general election method prescribed in Section 4‑9‑1440.

(D) If nonpartisan elections are not provided for, nomination of candidates for county offices may be by party primary, party convention, or by petition in accordance with the applicable provisions of the state election laws and the rules of county political party organizations not in conflict with this method.

Section 4‑9‑1420. In conducting nonpartisan elections and using the plurality method, election results must be determined in accordance with the following rules:

(1) If more than one person is seeking election to a single office, the candidate who receives the highest number of votes must be declared elected.

(2) If more persons are seeking election to two or more offices (constituting a group) than there are offices to be filled, those candidates receiving the highest number of votes, equal in number to the number of offices to be filled, must be declared elected.

Section 4‑9‑1430. (A) Except as otherwise provided in this section, results in nonpartisan county elections in counties using the election and runoff election method must be determined by a majority of the votes cast. A majority within the meaning of this section must be determined as follows:

(1) If more than one person is seeking election to a single office, the majority must be ascertained by dividing the total votes cast for all candidates by two. Any excess of the sum so ascertained must be a majority and the candidate who obtains a majority must be declared elected.

(2) If more persons are seeking election to two or more offices (constituting a group) than there are offices to be filled, the majority must be ascertained by dividing the total votes cast for all candidates by the number of offices to be filled and by dividing the result by two. Any excess of the sum so ascertained must be a majority and the candidates who obtain a majority must be declared elected. If more candidates obtain a majority than there are offices to be filled, those having the highest vote (equal to the number of offices to be filled) must be declared elected.

(B) If no candidate for a single office receives a majority of the votes cast in the first election or if an insufficient number of candidates receives a majority of the votes cast for a group of offices, a runoff election must be held as provided in this subsection:

(1) If no candidate for a single office receives a majority of the votes cast in the first election, a second election must be conducted two weeks later between the two candidates receiving the highest number of votes in the first election who do not withdraw. The candidate receiving a majority of the votes cast in the runoff election must be declared elected.

(2) If candidates for two or more offices (constituting a group) are to be selected and aspirants for some or all of the positions within the group do not receive a majority of the votes cast in the first election, a second election must be conducted two weeks later between one more than the number of candidates necessary to fill the vacant offices. The candidates receiving the highest number of the votes cast in the second election, equal in number to the number to be elected, must be declared elected.

Section 4‑9‑1440. (A) In counties whose elections are nonpartisan and which use the nonpartisan primary election and general election method, there must be a primary election to reduce the field of candidates to two candidates for each position to be filled, if when the filing period closes there are more than two candidates for a single office or the number of candidates for a group of offices exceeds twice the number of positions to be filled. If only one or two candidates file for a single office, no primary election may be held for that office and the candidates must be declared nominated.

(B) In the primary election, the two candidates for a single office receiving the highest number of votes and those candidates for a group of offices receiving the highest number of votes, equal to twice the number of positions to be filled, must be declared nominated.

(C) In the general election, the names of those candidates declared nominated without a primary election and those candidates nominated in the primary election must be placed on the ballot. The candidate for a single office receiving the highest number of votes must be elected. Those candidates for a group of offices receiving the highest number of votes, equal in number to the number of positions to be filled, must be declared elected.

Section 4‑9‑1450. The county governing body may determine by ordinance that either filing a statement of candidacy or a petition with the county election commission is required to place the name of the candidate on the ballot in nonpartisan elections. If a petition initiates the nonpartisan election method, the petition must state that a statement of candidacy or a petition is required to place the name of the candidate on the ballot. However, a candidate’s name may not be placed on the ballot by petition in a general election conducted in accordance with the provisions of Section 4‑9‑1440. If the county council determines, or if the petition states that the petition method be used, the percentage of electors required on these petitions may not be less than five percent of the qualified electors of the geographical area of the office for which he offers as a candidate.

Section 4‑9‑1460. If a nonpartisan county election results in a tie, the county election commission shall conduct a runoff election to break the tie two weeks following that election. In the tie‑breaking runoff, the laws of this State apply, mutatis mutandis. If the date for the tie‑breaking runoff election falls on a legal holiday, it must be set for the same day of the first week following which is not a legal holiday. If a tie‑breaking runoff election is required, any remaining county elections required are postponed for two weeks. If the date of a postponed election falls on a legal holiday, it must be set for the same day of the first week following which is not a legal holiday.”

SECTION 2. This act takes effect upon approval by the Governor and applies to those counties that elect the members of their governing bodies beginning with the general election of 2010.

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