~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

January 27, 2010

**H. 3231**

Introduced by Reps. E.H. Pitts, T.R. Young, Ballentine, Haley, Harrison, J.E. Smith, Sellers, Govan, Bannister, G.M. Smith, Funderburk, Bedingfield and Hart

S. Printed 1/27/10--S. [SEC 1/28/10 12:34 PM]

Read the first time April 30, 2009.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Joint Resolution (H. 3231) proposing an amendment to Section 8, Article IV of the Constitution of South Carolina, 1895, relating to the election, qualifications, and term of the Lieutenant Governor, 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 ARTICLE III OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, BY ADDING SECTION 37, SO AS TO PROVIDE THAT THE SENATE MUST ELECT FROM AMONG ITS MEMBERS A PRESIDENT OF THE SENATE TO PRESIDE OVER THE SENATE AND TO PERFORM OTHER DUTIES AS PROVIDED BY LAW; PROPOSING AN AMENDMENT TO SECTION 8, ARTICLE IV, RELATING TO THE ELECTION, QUALIFICATIONS, AND TERM OF THE LIEUTENANT GOVERNOR, SO AS TO PROVIDE FOR THE JOINT ELECTION OF THE GOVERNOR AND LIEUTENANT GOVERNOR; PROPOSING AN AMENDMENT TO ARTICLE IV, RELATING TO THE PRESIDENT PRO TEMPORE OF THE SENATE, SO AS TO DELETE SECTION 9, WHICH PROVIDES THAT THE SENATE MUST CHOOSE A PRESIDENT PRO TEMPORE AND WHICH ALSO PROVIDES THAT A MEMBER OF THE SENATE ACTING AS LIEUTENANT GOVERNOR VACATES HIS SEAT AND ANOTHER PERSON IS ELECTED IN HIS STEAD; PROPOSING AN AMENDMENT TO ARTICLE IV, RELATING TO THE LIEUTENANT GOVERNOR AS PRESIDENT OF THE SENATE, BY DELETING SECTION 10, WHICH PROVIDES THAT THE LIEUTENANT GOVERNOR IS THE PRESIDENT OF THE SENATE; PROPOSING AN AMENDMENT TO SECTION 12, ARTICLE IV, RELATING TO THE DISABILITY OF THE GOVERNOR, SO AS TO PROVIDE THAT IF BOTH THE ATTORNEY GENERAL AND THE STATE TREASURER TRANSMIT 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 LIEUTENANT GOVERNOR 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. It is proposed that Article III of the Constitution of this State be amended by adding:

“Section 37. The Senate shall, as soon as practicable after the convening of the General Assembly in 2013 and every four years thereafter, elect from among the members thereof a president to preside over the Senate and to perform other duties as provided by law.”

SECTION 2. The proposed amendment 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 III of the Constitution of this State be amended so as to provide that the Senate shall, as soon as practicable after the convening of the General Assembly in 2013 and every four years thereafter, elect from among the members thereof 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 3. It is proposed that Section 8, Article IV of the Constitution of this State be amended to read:

“Section 8. (A) A Lieutenant Governor ~~shall~~ must 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) Beginning with the General Election of 2014, a person seeking the office of Governor in any manner that a person’s name may appear on the ballot as a candidate for that office, before taking the first step required by law for his name to appear on the ballot, shall select a qualified person to serve as Lieutenant Governor.

(C) In any nominating process and in the general election, all candidates for the offices of Governor and Lieutenant Governor must be nominated or elected jointly in a manner prescribed by law so that each voter casts a single vote to nominate or elect a candidate for the office of Governor and Lieutenant Governor.

(D) The General Assembly shall provide by law the manner in which a candidate for Lieutenant Governor is selected.”

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 8, Article IV of the Constitution of the State be amended by adding a provision to provide that the Lieutenant Governor must be elected jointly with the Governor in a manner prescribed by law so that each voter shall cast a single vote for a candidate for Governor and a candidate for Lieutenant Governor running together?

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 Article IV of the Constitution of this State be amended by deleting Section 9 which reads:

“Section 9. The Senate shall as soon as practicable after the convening of the General Assembly choose a President Pro Tempore to act in the absence of the Lieutenant Governor. 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 Article IV of the Constitution of this State be amended so as to delete Section 9, which requires the Senate to choose a President Pro Tempore to act in the absence of the Lieutenant Governor as soon as practicable after the convening of the General Assembly and which requires a member of the Senate acting as Lieutenant Governor vacate his seat and another person elected in his stead?

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 Article IV of the Constitution of this State be amended by deleting Section 10, which reads:

“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.”

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 Article IV of the Constitution of this State be amended by deleting Section 10 which provides that the Lieutenant Governor is President of the Senate, ex officio, and while presiding in the Senate, has no vote, unless the Senate is equally divided?

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 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 as acting Governor.

(2) Whenever ~~a majority of~~ both the Attorney General, ~~the Secretary of State, the Comptroller General~~ and the State Treasurer, or a majority 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~~ must forthwith 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 the Attorney General and the State Treasurer, or 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~~ must continue to discharge the same as acting Governor; otherwise, the Governor shall resume the powers and duties of his office.”

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 12, Article IV of the Constitution of this State be amended so that, if both the Attorney General and the State Treasurer transmit 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 Lieutenant Governor 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’.” /

Renumber sections to conform.

Amend title to conform.

LARRY A. MARTIN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

See Below

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 there would be a cost for the referendum to be placed on the ballot. However, funding received for statewide elections should be sufficient to cover the cost. There is no fiscal impact on federal and/or other funds.

**SPECIAL NOTES:**

Election Commission recurring appropriations are not sufficient to cover statewide general or primary elections. In any given fiscal year either a statewide general or a primary election will be conducted.

*Approved By:*

Harry Bell

Office of State Budget

**A** **JOINT RESOLUTION**

PROPOSING AN AMENDMENT TO SECTION 8, ARTICLE IV OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE ELECTION, QUALIFICATIONS, AND TERM OF THE LIEUTENANT GOVERNOR, SO AS TO PROVIDE FOR THE JOINT ELECTION OF GOVERNOR AND LIEUTENANT GOVERNOR BEGINNING WITH THE GENERAL ELECTION OF 2014.

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

SECTION 1. It is proposed that Section 8, Article IV of the Constitution of this State be amended to read:

“Section 8. (A) A Lieutenant Governor ~~shall~~ must 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) Beginning with the general election of 2014, a person seeking the office of Governor in any manner that a person’s name may appear on the ballot as a candidate for that office, and before that person’s name is certified to appear on the ballot, shall select a qualified elector to serve as Lieutenant Governor.

(C) In the general election, candidates for the office of Governor and the person selected by each gubernatorial candidate to serve as Lieutenant Governor must be elected jointly in a manner prescribed by law so that each voter casts a single vote to fill the offices of Governor and Lieutenant Governor.

(D) The General Assembly shall provide by law the manner in which a candidate for Lieutenant Governor is selected.”

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 8, Article IV of the Constitution of the State be amended by adding a provision to provide that the Lieutenant Governor must be elected jointly with the Governor in a manner prescribed by law so that each voter shall cast a single vote for a candidate for Governor and a candidate for Lieutenant Governor running together beginning with the general election of 2014?

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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