~~Indicates Matter Stricken~~

Indicates New Matter

AS PASSED BY THE SENATE

May 2, 2019

**H. 3951**

Introduced by Reps. Clary, McCoy, Tallon, Bryant, Elliott, Martin, Gagnon, Thayer, McCravy, B. Newton, Jefferson and R. Williams

S. Printed 5/2/19--S.

Read the first time April 3, 2019.

**A** **BILL**

TO AMEND SECTION 23‑11‑110, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE QUALIFICATIONS THAT A SHERIFF MUST POSSESS, SO AS TO PROVIDE THAT THESE QUALIFICATIONS ALSO APPLY TO CANDIDATES WHO WISH TO SERVE AS SHERIFFS, TO MAKE A TECHNICAL CHANGE AND TO PROVIDE ADDITIONAL QUALIFICATIONS.

Amend Title To Conform

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

SECTION 1. Section 23‑11‑110(A) of the 1976 Code is amended to read:

“(A) All sheriffs and candidates for sheriff in this State must have the following qualifications:

(1) be a citizen of the United States;

(2) be a resident of the county in which he seeks the office of sheriff for at least one year immediately preceding the date of the election for sheriff;

(3) be a registered voter;

(4) have attained the age of at least twenty‑one years prior to the date of his qualifying for election to the office;

(5) have:

(a) obtained a high school diploma, its recognized equivalent in educational training as established by the State Department of Education, and have at least five years experience as a Class 1 certified law enforcement officer; or

(b) obtained a two‑year associate degree and three years experience as a Class 1 certified law enforcement officer; or

(c) obtained a four‑year baccalaureate degree and one year~~s~~ experience as a Class 1 certified law enforcement officer; or

(d) served as a summary court judge for at least ten years.

For purposes of this section, a ‘Class 1 certified law enforcement officer’ is a person who has been issued a certificate as a Class 1 law enforcement officer ~~pursuant to Section 23‑23‑10~~ by the South Carolina Law Enforcement Training Council. A sheriff holding office on the effective date of this section is not required to have obtained the necessary experience as a certified law enforcement officer in this State;

(6) have not been convicted of or pled guilty to a violation of Section 56‑1‑460 or 56‑5‑2930, or both, within the past ten years or a felony in this State or another state; ~~and~~

(7) have not been convicted of or pled guilty to a felony or a crime of moral turpitude in this State or another state;

(8) be fingerprinted and have the State Law Enforcement Division make a search of local, state, and federal fingerprint files for any criminal record. Fingerprints are to be taken under the direction of any law enforcement agency and must be made available to SLED no later than one hundred thirty days prior to the general election. The results of the records search are to be filed with the county executive committee of the person’s political party. A person seeking nomination by petition must file the records search with the county election commission in the county of his residence; and

(9) be eligible to be issued a certificate as a Class 1 law enforcement officer by the South Carolina Law Enforcement Training Council upon the commencement of the term of office. A sheriff holding office on the effective date of this section is exempt from the provisions in this subsection.”

SECTION 2. Section 23-11-40 of the 1976 Code is amended to read:

“Section 23-11-40. (A) If any vacancy occurs in the office of sheriff in any county of this State less than one year prior to the next general election for county sheriffs, the Governor may appoint some suitable person who must be an elector of the county and who, upon qualifying and upon the advice and consent of the Senate, according to law, is entitled to enter upon and hold the office until a sheriff is elected and qualifies in the election and is subject to all the duties and liabilities incident to the officer during the term of his service in the office.

(B) If any vacancy occurs in the office more than one year prior to the next general election for county sheriffs, the Governor shall appoint some suitable person as provided in subsection (A) until a special election is held to elect a sheriff to hold the office until a sheriff is elected and qualifies in the next general election for county sheriffs.

(C) If any vacancy occurs in the office at any time and is created by suspension by the Governor upon any sheriff’s indictment, the Governor shall appoint some suitable person, as provided for in subsection (A), to hold the office until the suspended sheriff is acquitted, or the indictment is otherwise disposed of, or until a sheriff is elected and qualifies in the next general election for county sheriffs, whichever event occurs first.

(D) The chief deputy or second‑in‑command of the sheriff’s office shall act as sheriff until the vacancy is filled, except in the case when a vacancy occurs as a result of an indictment, where the vacancy will be filled as provided in Section 23‑11‑50. While acting as sheriff, the chief deputy or second‑in‑command is subject to the duties and liabilities incident to the office of sheriff.

(E) In the event that a vacancy occurs in the office of sheriff in any county of this State during the interim period between legislative sessions, the office may be filled by an interim appointment pursuant to Section 1-3-210.”

SECTION 3. Section 1-3-210 of the 1976 Code is amended to read:

“Section 1-3-210. (A)(1) ~~During the recess of the Senate, vacancy which occurs in an~~ If an office filled by an appointment of the Governor with the advice and consent of the Senate becomes vacant during the interim period between regular legislative sessions, then the office may be filled by an interim appointment of the Governor only if the Governor acts to fill the office during the same interim period during which the office became vacant. The Governor must report the interim appointment to the Senate and must forward a formal appointment at its next ensuing regular session. If the Senate votes to reject an interim appointee’s formal appointment during the next ensuing regular session then the office is immediately vacant and may not be filled by another interim appointment.

(2) If the Senate does not advise and consent ~~thereto~~ to the formal appointment prior to ~~sine die adjournment~~ the second Thursday in May following the interim period during which the interim appointment was made ~~of the next ensuing regular session~~, the office shall be vacant and the interim appointment shall not serve in hold over status notwithstanding any other provision of law to the contrary. The Governor may not make a subsequent interim appointment for the same vacancy. ~~A subsequent interim appointment of a different person to a vacancy created by a failure of the Senate to grant confirmation to the original interim appointment shall expire on the second Tuesday in January following the date of such subsequent interim appointment and the office shall be vacant.~~

(B) The Governor’s authority to make an interim appointment pursuant to subsection (A) terminates when the General Assembly convenes the regular legislative session following the interim period between regular legislative sessions during which the office became vacant.”

SECTION 4. This act takes effect upon approval by the Governor.

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