**South Carolina General Assembly**

118th Session, 2009-2010

**H. 5041**

**STATUS INFORMATION**

Joint Resolution

Sponsors: Reps. Thompson and Kennedy

Document Path: l:\council\bills\ggs\22481sd10.docx

Introduced in the House on May 27, 2010

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

Summary: General Assembly

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

5/27/2010 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2010\05-27-10.docx)‑29

5/27/2010 House Referred to Committee on **Judiciary** [HJ](file:///h:\HJ%20Archive\2010\05-27-10.docx)‑29

**VERSIONS OF THIS BILL**

[5/27/2010](file:///p:\pprever\2009-10\5041_20100527.docx)

**A** **JOINT RESOLUTION**

PROPOSING AN AMENDMENT TO SECTION 1, ARTICLE III OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE LEGISLATIVE POWER OF THIS STATE VESTED IN TWO BRANCHES, SO AS TO PROVIDE THAT THE LEGISLATIVE POWER OF THIS STATE SHALL BE VESTED IN A UNICAMERAL GENERAL ASSEMBLY WITH ONE BRANCH STYLED THE HOUSE OF REPRESENTATIVES, AND TO PROVIDE THAT THE POWERS, DUTIES, AND FUNCTIONS OF THE HOUSE OF REPRESENTATIVES AS THE SINGLE BRANCH OF THE GENERAL ASSEMBLY SHALL BE PROVIDED BY LAW; AND PROPOSING AMENDMENTS TO Sections 7, 9, 10, 11, 12, 13, 14, 18, 20, 22, 23, and 25, Article III, and Section 12, Article IV, Section 26, Article V, Section 13, Article X, Section 4, Article XIII, Section 2, Article XV, and Section 1, Article XVI of the Constitution of this State, AND TO DELETE Sections 6 and 15, Article III, and Sections 9 and 10, Article IV, all relating to the General Assembly and its organization, operation, and procedures, so as to remove references to the “Senate”, “Senator”, or similar related terms.

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

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

“Section 1. The legislative power of this State shall be vested in ~~two distinct branches, the one~~ a unicameral General Assembly with one branch to be styled ~~the "Senate" and the other~~ the ‘House of Representatives~~,~~’ ~~and both together the "General Assembly of the State of South Carolina~~. The powers, duties, and functions of the House of Representatives as the single branch of the General Assembly shall be provided by law.”

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 1, Article III of the Constitution of this State be amended so as to provide that the legislative power of this State shall be vested in a unicameral General Assembly with one branch to be styled the ‘House of Representatives’, and to provide that the powers, duties, and functions of the House of Representatives as the single branch of the General Assembly shall be 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. (A) It is proposed that Section 6, Article III of the Constitution of this State be deleted.

(B) It is proposed that Section 7, Article III of the Constitution of this State be amended to read:

“Section 7. No person is eligible for a seat in the ~~Senate or~~ House of Representatives who, at the time of his election, is not a duly qualified elector under this Constitution in the district in which he may be chosen. ~~Senators must be at least twenty‑five and~~ Representatives must be at least twenty‑one years of age. A candidate for the ~~Senate or~~ House of Representatives must be a legal resident of the district in which he is a candidate at the time he files for the office. No person who has been convicted of a felony under state or federal law or convicted of tampering with a voting machine, fraudulent registration or voting, bribery at elections, procuring or offering to procure votes by bribery, voting more than once at elections, impersonating a voter, or swearing falsely at elections/taking oath in another’s name, or who has pled guilty or nolo contendere to these offenses, is eligible to serve as a member of ~~the Senate or~~ the House of Representatives. However, notwithstanding any other provision of this Constitution, this prohibition does not apply to a person who has been pardoned under state or federal law or to a person who files for public office fifteen years or more after the completion date of service of the sentence, including probation and parole time, nor shall any person, serving in office prior to the ratification of this provision, be required to vacate the office to which he is elected.”

(C) It is proposed that Section 9, Article III of the Constitution of this State be amended to read:

“Section 9. The annual session of the General Assembly shall convene at the State Capitol Building in the City of Columbia on the second Tuesday of January of each year. After the convening of the General Assembly, nothing in this section shall prohibit the ~~Senate or the~~ House of Representatives~~, or both,~~ from receding for a time period not to exceed thirty consecutive calendar days at a time by a majority vote of the members of the ~~body of the General Assembly seeking to recede for a time period not to exceed thirty consecutive calendar days,~~ House of Representatives or from receding for a time period of more than thirty consecutive calendar days at a time by a two‑thirds vote of the members of the ~~body of the General Assembly seeking to recede for more than thirty consecutive calendar days at a time~~ House of Representatives. ~~Each body~~ The House of Representatives shall sit in session at the State Capitol Building in the City of Columbia and may provide for meetings during the legislative session as it shall consider appropriate. Furthermore, ~~the Senate or~~ the House of Representatives~~, or both,~~ may meet on the first Tuesday following the certification of the election of its members for not more than three days following the general election in even‑numbered years for the purpose of organizing. If the casualties of war or contagious disease render it unsafe to meet at the seat of government, the Governor, by proclamation, may appoint a more secure and convenient place of meeting. Members of the General Assembly shall not receive any compensation for more than forty days of any one session.”

(D) It is proposed that Section 10, Article III of the Constitution of this State be amended to read:

“Section 10. The terms of office of the ~~Senators and~~ Representatives chosen at a general election shall begin on the Monday following such election.”

(E) It is proposed that Section 11, Article III of the Constitution of this State be amended to read:

“Section 11. ~~Each house~~ The House of Representatives shall judge ~~of~~ the election returns and qualifications of its own members, and a majority of ~~each~~ the House shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in ~~such~~ the manner and under ~~such~~ the penalties as may be provided by law or rule.”

(F) It is proposed that Section 12, Article III of the Constitution of this State be amended to read:

“Section 12. ~~Each~~ The House shall choose its own officers, determine its rules of procedure, punish its members for disorderly behavior, and, with the concurrence of two‑thirds, expel a member, but not a second time for the same cause.”

(G) It is proposed that Section 13, Article III of the Constitution of this State be amended to read:

“Section 13. ~~Each~~ The House may punish by imprisonment during its sitting any person not a member who shall be guilty of disrespect to the House by any disorderly or contemptuous behavior in its presence, or who, during the time of its sitting, shall threaten harm to the body or estate of any member for anything said or done in ~~either~~ the House, or who shall assault any of them therefor, or who shall assault or arrest any witness or other person ordered to attend the House in his going thereto or returning therefrom, or who shall rescue any person arrested by order of the House: Provided, that such time of imprisonment shall not in any case extend beyond the session of the General Assembly.”

(H) It is proposed that Section 14, Article III of the Constitution of this State be amended to read:

“Section 14. The members of ~~both houses~~ the House shall be protected in their persons and estates during their attendance on, going to and returning from the General Assembly, and ten days previous to the sitting and ten days after the adjournment thereof. But these privileges shall not protect any member who shall be charged with treason, felony or breach of the peace.”

(I) It is proposed that Section 15, Article III of the Constitution of this State be deleted.

(J) It is proposed that Section 18, Article III of the Constitution of this State be amended to read:

“Section 18. No Bill or Joint Resolution shall have the force of law until it shall have been read three times and on three several days in ~~each~~ the House, has had the Great Seal of the State affixed to it, and has been signed by the ~~President of the Senate and the~~ Speaker of the House of Representatives: Provided, that ~~either branch of~~ the General Assembly may provide by rule for a first and third reading of any Bill or Joint Resolution by its title only.”

(K) It is proposed that Section 20, Article III of the Constitution of this State be amended to read:

“Section 20. In all elections by the General Assembly ~~or either House thereof~~, the members shall vote ‘viva voce’, except by unanimous consent, and their votes thus given shall be entered upon the Journal of the House ~~to which they respectively belong~~.”

(L) It is proposed that Section 22, Article III of the Constitution of this State be amended to read:

“Section 22. ~~Each~~ The House shall keep a journal of its own proceedings, and cause the same to be published immediately after its adjournment, excepting such parts as, in its judgment, may require secrecy; and the yeas and nays of the members of ~~either~~ the House, on any question, shall, at the desire of ten members of the House ~~or five members of the Senate~~, respectively, be entered on the journal. Any member of ~~either~~ the House shall have liberty to dissent from and protest against any Act or resolution which he may think injurious to the public or to an individual, and have the reasons of his dissent entered on the journal.”

(M) It is proposed that Section 23, Article III of the Constitution of this State be amended to read:

“Section 23. The doors of ~~each~~ the House shall be open, except on such occasions as in the opinion of the House may require secrecy.”

(N) It is proposed that Section 25, Article III of the Constitution of this State be amended to read:

“Section 25. If any election district shall neglect to choose a member or members on the day of election, or if any person chosen a member of ~~either~~ the House shall refuse to qualify and take his seat, or shall resign, die, depart the State, accept any disqualifying office or position, or become otherwise disqualified to hold his seat, a writ of election shall be issued by the ~~President of the Senate or~~ Speaker of the House of Representatives~~, as the case may be,~~ for the purpose of filling the vacancy thereby occasioned for the remainder of the term for which the person so refusing to qualify, resigning, dying, departing the State, or becoming disqualified, was elected to serve, or the defaulting election district ought to have chosen a member or members.”

(O) It is proposed that Section 9, Article IV of the Constitution of this State be deleted.

(P) It is proposed that Section 10, Article IV of the Constitution of this State be deleted.

(Q) 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 be discharged by the Lieutenant Governor as acting Governor.

(2) Whenever a majority of the Attorney General, the Secretary of State, the Comptroller General and the State Treasurer, or 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 forthwith assume the powers and duties of the office as acting Governor.

Thereafter, if the Governor transmits 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 resume the powers and duties of his office unless 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 consider and decide the issue, and if not in session it shall assemble within forty‑eight hours for the sole purpose of deciding such 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 continue to discharge the same as acting Governor; otherwise, the Governor shall resume the powers and duties of his office.”

(R) It is proposed that Section 26, Article V of the Constitution of this State be amended to read:

“Section 26. The Governor, by and with the advice and consent of the ~~Senate~~ House of Representatives, shall appoint a number of magistrates for each county as provided by law. The General Assembly shall provide for their terms of office and their civil and criminal jurisdiction. The terms of office must be uniform throughout the State.”

(S) It is proposed that Section 13, Article X of the Constitution of this State be amended to read:

“Section 13. (1) Subject to the conditions and limitations in this section, the State shall have power to incur indebtedness in the following categories and in no others:

(a) general obligation debt; and

(b) indebtedness payable only from a revenue‑producing project or from a special source as provided in subsection (9) hereof.

(2) ‘General obligation debt’ shall mean any indebtedness of the State which shall be secured in whole or in part by a pledge of the full faith, credit and taxing power of the State.

(3) General obligation debt may not be incurred except for a public purpose and all general obligation debt shall mature not later than thirty years from the time such indebtedness shall be incurred.

(4) In each act authorizing the incurring of general obligation debt the General Assembly shall allocate on an annual basis sufficient tax revenues to provide for the punctual payment of the principal of and interest on such general obligation debt. If at any time any payment due as the principal of or interest on any general obligation debt shall not be paid as and when the same become due and payable, the State Comptroller General shall forthwith levy and the State Treasurer shall collect an ad valorem tax without limit as to rate or amount upon all taxable property in the State sufficient to meet the payment of the principal and interest of such general obligation debt then due.

(5) If general obligation debt be authorized by:

(a) two‑thirds of the members of ~~each~~ the House of ~~the General Assembly~~ Representatives; or

(b) by a majority vote of the qualified electors of the State voting in a referendum called by the General Assembly there shall be no conditions or restrictions limiting the incurring of such indebtedness except (i) those restrictions and limitations imposed in the authorization to incur such indebtedness, and (ii) the provisions of subsection (3) hereof.

(6) General obligation debt may be also incurred on such terms and conditions as the General Assembly may by law prescribe under the following limitations:

(a) General obligation bonds for highway purposes (highway bonds) may be issued if such bonds shall be additionally secured by a pledge of the revenues derived from the ‘sources of revenue’ as such term is defined in this subsection; provided, that the maximum annual debt service on all highway bonds so additionally secured which shall thereafter be outstanding shall not exceed fifteen percent of the proceeds received from the sources of revenue for the fiscal year next preceding.

For the purpose of this subsection, the term ‘sources of revenue’ shall mean so much of the revenues as may be made applicable by the General Assembly for state highway purposes from any and all taxes or licenses imposed upon individuals or vehicles for the privilege of using the public highways of the State.

(b) General obligation bonds for any state institution of higher learning designated by the General Assembly (state institution bonds) may be issued, if such bonds shall be additionally secured by a pledge of the revenues derived from the tuition fees received by the particular institution of higher learning for which such state institution bonds are issued; provided, that the maximum annual debt service on all state institution bonds so additionally secured issued for such state institution thereafter to be outstanding shall not exceed ninety percent of the sums received by such state institution of higher learning from tuition fees for the fiscal year next preceding.

(c) General obligation bonds for any public purpose including those purposes set forth in (a) and (b) may be issued; provided, that the maximum annual debt service on all general obligation bonds of the State thereafter to be outstanding (excluding highway bonds, state institution bonds, tax anticipation notes, and bond anticipation notes) must not exceed five percent of the general revenues of the State for the fiscal year next preceding (excluding revenues which are authorized to be pledged for state highway bonds and state institution bonds).

Upon implementation of the provisions of this item by law, the percentage rate of general revenues may be reduced to four or increased to seven percent by legislative enactment passed by a two‑thirds vote of the total membership of the ~~Senate and a two‑thirds vote of the total membership of the~~ House of Representatives.

During the regular session of the General Assembly in 1990 and during every fifth annual regular session thereafter, the General Assembly shall conduct and complete a review of the law implementing this item. Unless during such session that review results in an amendment to or repeal of the law implementing this item, which must be accomplished by legislative enactment passed by a two‑thirds vote of the total membership of the ~~Senate and a two‑thirds vote of the total membership of the~~ House of Representatives.

(7) General obligation indebtedness may be incurred in anticipation of state tax collections (tax anticipation notes) under such terms and conditions as the General Assembly may prescribe by law. Such tax anticipation notes shall be secured by a pledge of such taxes and by a pledge of the full faith, credit and taxing power of the State. All tax anticipation notes shall be expressed to mature not later than ninety days from the end of the fiscal year in which such notes are issued.

(8) General obligation notes may be issued in anticipation of the proceeds of general obligation bonds which may be lawfully issued (bond anticipation notes) under terms and conditions which the General Assembly may prescribe by law. Such bond anticipation notes shall be secured by a pledge of the proceeds of the bonds in anticipation of which such bond anticipation notes are issued and by a pledge of the full faith, credit and taxing power of the State.

Bond anticipation notes shall be expressed to mature not later than one year following the date of issuance, but if

the General Assembly shall so authorize by law, bond anticipation notes may be refunded or renewed.

(9) The General Assembly may authorize the State or any of its agencies, authorities or institutions to incur indebtedness for any public purpose payable solely from a revenue‑producing project or from a special source, which source does not involve revenues from any tax but may include fees paid for the use of any toll bridge, toll road or tunnel. Such indebtedness may be incurred upon such terms and conditions as the General Assembly may prescribe by law. All indebtedness incurred pursuant to the provisions of this subsection shall contain a statement on the face thereof specifying the sources from which payment is to be made.”

(T) It is proposed that Section 4, Article XIII of the Constitution of this State be amended to read:

“Section 4. There shall 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 General, and whose duties and compensation shall be prescribed by law. The Governor shall, by and with the advice and consent of the ~~Senate~~ House of Representatives, appoint such other staff officers as the General Assembly may direct.”

(U) It is proposed that Section 2, Article XV of the Constitution of this State be amended to read:

“Section 2. All impeachments shall be tried by the ~~Senate~~ House of Representatives, and when sitting for that purpose ~~Senators~~ Representatives shall be under oath or affirmation. No person shall be convicted except by a vote of two‑thirds of all members elected. Judgment in such case shall be limited to removal from office. Impeachment proceedings, whether or not resulting in conviction, shall not be a bar to criminal prosecution and punishment according to law.

When the Governor is impeached, the Chief Justice of the Supreme Court, or, if he be disqualified, the Senior Justice, shall preside, with a casting vote in all preliminary questions.”

(V) It is proposed that Section 1, Article XVI of the Constitution of this State be amended to read:

“Section 1. Any amendment or amendments to this Constitution may be proposed in the ~~Senate or~~ House of Representatives. However, for the general election in 1990, revision of an entire article or the addition of a new article may be proposed as a single amendment with only one question being required to be submitted to the electors. The amendment may delete, revise, and transpose provisions from other articles of the Constitution provided the provisions are germane to the subject matter of the article being revised or being proposed. If it is agreed to by two‑thirds of the members elected to each House, the amendment or amendments must be entered on the Journals respectively, with the yeas and nays taken on it and must be submitted to the qualified electors of the State at the next general election for Representatives. If a majority of the electors qualified to vote for members of the General Assembly voting on the question vote in favor of the amendment or amendments and a majority of each branch of the next General Assembly, after the election and before another, ratify the amendment or amendments, by yeas and nays, they become part of the Constitution. The amendment or amendments must be read three times, on three several days, in ~~each~~ the House.”

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 Sections 7, 9, 10, 11, 12, 13, 14, 18, 20, 22, 23, and 25, Article III, and Section 12, Article IV, Section 26, Article V, Section 13, Article X, Section 4, Article XIII, Section 2, Article XV, and Section 1, Article XVI of the Constitution of this State be amended, and Sections 6 and 15, Article III, and Sections 9 and 10, Article IV, be deleted, all relating to the General Assembly and its organization, operation, ~~or~~ and procedures, so as to remove references to the ‘Senate’, ‘Senator’, or similar related terms?

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’.”

‑‑‑‑XX‑‑‑‑