

ARTICLE XVII

MISCELLANEOUS MATTERS

SECTION 1. Qualifications of officers.

No person shall be elected or appointed to any office in this State unless he possess the qualifications of an elector: Provided, The provisions of this Section shall not apply to the offices of State Librarian and Departmental Clerks, to either of which offices any woman, a resident of the State two years, who has attained the age of twenty-one years, shall be eligible.

Editor's Note

The present provisions of this section are somewhat similar to the first sentence of Section 1 of Article VI. For similar provisions in Constitution of 1868, see Const 1868, Art XIV, Section 1.

SECTION 1.A. Qualification for office; dual office holding.

Every qualified elector is eligible to any office to be voted for, unless disqualified by age, as prescribed in this Constitution. No person may hold two offices of honor or profit at the same time, but any person holding another office may at the same time be an officer in the militia, member of a lawfully and regularly organized fire department, constable, or a notary public. The limitation above set forth "No person may hold two offices of honor or profit at the same time," does not apply to the circuit judges of the State under the circumstances stated in this section, but whenever it appears that any or all of the Justices of the Supreme Court are disqualified or otherwise prevented from presiding in any cause for the reasons set forth in Section 6 of Article V of the Constitution, the Chief Justice or in his stead the Senior Associate Justice when available shall designate the requisite number of circuit judges for the hearing and determination of the hearing. The limitation above set forth does not prohibit any officeholder from being a delegate to a constitutional convention. (1930 (36) 1251; 1931 (37) 107; 1951 (47) 798; 1953 (48) 72; 1970 (56) 2691; 1971 (57) 319; 1989 Act No. 9.)

Editor's Note

This section was originally Section 2 of Article II. It was transferred to its present location by amendment ratified by 1971 Act No 277 (1971 (57) 319) which effected the revision of that article. The present provisions of the first sentence of this section are identical to the second sentence of Section 1 of Article VI. The present provisions of the second and third sentence of this section are somewhat similar to Section 3 of Article VI.

Former Section 6 of Article V, referred to in this section, existed prior to the revision of that article by the amendment ratified by 1973 Act No 132 (1973 (58) 161). Similar provisions dealing with the disqualification of justices and judges are now found in Section 15 of Article V. For similar provisions in Constitution of 1868, see former Art XIV, Section 1.

SECTION 1.B. Property qualifications; term of office; dueling.

No property qualification, unless prescribed in this Constitution, shall be necessary for an election to or the holding of any office. No person shall be elected or appointed to office in this State for life or during good behavior, but the terms of all officers shall be for some specified period, except Notaries Public and officers in the Militia. After the adoption of this Constitution any person who shall fight a duel or send or accept a challenge for that purpose, or be an aider or abettor in fighting a duel, shall be deprived of holding any office of honor or trust in this State, and shall be otherwise punished as the law shall prescribe. (1970 (56) 2684; 1971 (57) 315.)

Editor's Note

This section was originally Section 11 of Article I. It was transferred to its present location by the amendment ratified by 1971 Act No 276 (1971 (57) 315) which effected the revision of that article. The

present provisions of the second sentence of this section are similar to the third sentence of Section 1 of Article VI. For similar provisions in Constitution of 1868, see Const 1868, Art I, Section 32.

SECTION 2. Claims against State.

The General Assembly may direct, by law, in what manner claims against the State may be established and adjusted.

Editor's Note

For similar provisions in Constitution of 1868, see Const 1868, Art XIV, Section 4.

The provisions of this section are identical to Section 10 of Article X as it now reads following the 1977 revision of that article.

SECTION 3. Divorces.

Divorces from the bonds of matrimony shall be allowed on the grounds of adultery, desertion, physical cruelty, continuous separation for a period of at least one year or habitual drunkenness. (1947 (45) 725; 1949 (46) 137; 1968 (55) 3189; 1969 (56) 74; 1979 Act No. 2.)

Editor's Note

For similar provisions in Constitution of 1868, see Const 1868, Art XIV, Section 5.

SECTION 4. Supreme Being.

No person who denies the existence of a Supreme Being shall hold any office under this Constitution.

Editor's Note

The present provisions of this section are similar to Section 2 of Article VI. For similar provisions in Constitution of 1868, see Const 1868, Art XIV, Section 6.

SECTION 5. Public printing.

The printing of the laws, journals, bills, legislative documents and papers for each branch of the General Assembly, with the printing required for the Executive and other departments of the State, shall be done as provided by law. (1922 (32) 1280; 1923 (33) 5.)

Editor's Note

For similar provisions in Constitution of 1868, see Const 1868, Art XIV, Section 7.

SECTION 6. Removal of causes.

The General Assembly shall provide for the removal of all causes which may be pending when this Constitution goes into effect to Courts created by the same.

Editor's Note

For similar provisions in Constitution of 1868, see Const 1868, Art XIV, Section 9.

SECTION 7. Lotteries; bingo; raffles.

Only the State may conduct lotteries, and these lotteries must be conducted in the manner that the General Assembly provides by law. The revenue derived from the lotteries must be used first to pay all operating expenses and prizes for the lotteries. The remaining lottery revenues must be credited to a separate fund in the state treasury styled the "Education Lottery Account", and the earnings on this account must be credited to it. Education Lottery Account proceeds may be used only for educational purposes as the General Assembly provides by law.

The game of bingo, when conducted by charitable, religious, or fraternal organizations exempt from federal income taxation or when conducted at recognized annual state and county fairs, is not considered a lottery prohibited by this section.

A raffle, if provided for by general law and conducted by a nonprofit organization for charitable, religious, fraternal, educational, or other eleemosynary purposes, is not a lottery prohibited by this section. The general law must define the type of nonprofit organization authorized to operate and conduct a raffle, provide standards for the operation and conduct of raffles, provide for the use of proceeds for religious, charitable, fraternal, educational, or other eleemosynary purposes, provide penalties for violations, and provide for other laws necessary to ensure the proper functioning, honesty, and integrity of the raffles. If a general law on the conduct and operation of a nonprofit raffle for charitable purposes, including the type of organization allowed to conduct raffles, is not enacted, then the raffle is a lottery prohibited by this section.

HISTORY: 1974 (58) 3006; 1975 (59) 45; 2001 Act No. 19; 2015 Act No. 3 (H.3519), Section 1, eff March 5, 2015.

Editor's Note

For similar provisions in Constitution of 1868, see Const 1868, Art XIV, Section 2.

2015 Act No. 3, Section 1, provides in part as follows:

“SECTION 1. The amendment to Article XVII of the Constitution of South Carolina, 1895, prepared under the terms of Joint Resolution 102 of 2013, having been submitted to the qualified electors at the General Election of 2014 as prescribed in Section 1, Article XVI of the Constitution of South Carolina, 1895, and a favorable vote having been received on the amendment, is ratified and declared to be a part of the Constitution so that Section 7 of Article XVII is amended to read: [text of amendment follows].”

Effect of Amendment

2015 Act No. 3, Section 1, in the first paragraph, substituted “educational purposes” for “education purposes”, and added the third paragraph, related to raffles.

SECTION 7.B. Special election for bonding municipality.

In authorizing a special election in any incorporated city or town in this State for the purpose of bonding the same, the General Assembly shall prescribe as a condition precedent to the holding of said election a petition from a majority of the freeholders of said city or town as shown by its tax books, and at such elections all electors of such city or town who are duly qualified for voting under Section 12 of this Article, and who have paid all taxes, State, County and municipal, for the previous year, shall be allowed to vote; and the vote of a majority of those voting in said election shall be necessary to authorize the issue of said bonds.

Provided, That the General Assembly need not prescribe any such petition as a condition precedent to the holding of any such election in the City of Columbia, where the proceeds of the bonds are authorized to be used solely for the purpose of enlarging, extending and repairing a sewerage system and plant or a waterworks system and plant, or for the purchase, building and maintenance of fire stations, fire alarm systems and fire equipment, or for any one or more of said purposes. (1930 (36) 1209; 1931 (37) 109.)

Provided, further, That the limitations imposed by this Section and by Section 5 of Article X of the Constitution shall not apply to any bonded indebtedness incurred by the City of Columbia, where the bonded indebtedness is authorized to be incurred for the purpose of enlarging and maintaining its fire department or for purchase, building and maintenance of fire stations, fire alarm systems or fire equipment, or for any one or more of said purposes and when the question of incurring such bonded indebtedness is submitted to the qualified electors of said City at an election or elections to be called by the City Council of said City, and a majority of those voting thereon shall vote in favor thereof; and the General Assembly need not prescribe as a condition precedent to the holding of any such election a petition from the freeholders as provided in Section 13 of Article II of the Constitution. (1930 (36) 1207; 1931 (37) 110.)

Provided, That the General Assembly need not prescribe any such petition as a condition precedent to the holding of any such election in the City of Myrtle Beach where the proceeds of the bonds are authorized

to be used solely for the purpose of enlarging, extending and improving the waterworks system or the sewage disposal system. (1960 (51) 2551; 1961 (52) 23.)

Provided, that the General Assembly need not prescribe any such petition of freeholders as a condition precedent to the holding of any such election in the City of Columbia where the proceeds of the bonds to be authorized are used for any corporate purpose of the City of Columbia. It is intended that the term "City of Columbia" as used in this amendment shall mean the City of Columbia with corporate limits as now constituted or as hereafter altered following merger, annexation, or modification of corporate limits. (1964 (53) 3231; 1965 (54) 45.)

Provided, that the General Assembly need not prescribe any such petition of freeholders as a condition precedent to the holding of any such election in the City of Charleston where the proceeds of the bonds to be authorized are used for any corporate purpose of the City of Charleston. It is intended that the term "City of Charleston" as used in this amendment shall mean the City of Charleston with corporate limits as now constituted or as hereafter altered following merger, annexation, or modification of corporate limits. (1964 (53) 2668; 1965 (54) 51.)

Provided, that the General Assembly need not prescribe any such petition of freeholders as a condition precedent to the holding of any such election in the City of Greenville where the proceeds of the bonds to be authorized are used for any corporate purpose of the City of Greenville. It is intended that the term "City of Greenville" as used in this amendment shall mean the City of Greenville with corporate limits as now constituted or as hereafter altered following merger, annexation, or modification of corporate limits. (1964 (53) 2873; 1965 (54) 83.)

Provided, that provisions of this section prescribing the petition of freeholders as a condition precedent to the holding of any such election shall not apply to the City of Spartanburg where the proceeds of the bonds to be authorized are used for any corporate purpose of the City of Spartanburg. It is intended that the term "City of Spartanburg" as used in this amendment shall mean the City of Spartanburg with corporate limits as now constituted or as hereafter altered following merger, annexation, or modification of corporate limits. (1966 (54) 3704; 1967 (55) 12.)

Provided, that the provisions of this section requiring a petition of the freeholders and the holding of an election shall not apply to any obligation incurred by the City of Florence to Florence County or to any agency of Florence County resulting from a long-term lease of a portion of a multistoried office building to be erected by Florence County for the purpose of providing courthouse, jail, city hall, office and related facilities for Florence County and for the City of Florence and for other governmental agencies, pursuant to which the full faith and credit of the City of Florence is pledged to the payment of rent and other obligations under such lease. (1966 (54) 3203; 1967 (55) 136.)

Provided, that the General Assembly need not prescribe any such petition of freeholders as a condition precedent to the holding of any such election in the City of Greer where the proceeds of the bonds to be authorized are used for any corporate purpose of the City of Greer. It is intended that the term "City of Greer" as used in this amendment shall mean the City of Greer with corporate limits as now constituted or as hereafter altered following merger, annexation, or modification of corporate limits. (1966 (54) 3694; 1967 (55) 233.)

Provided, that provisions of this section prescribing the petition of freeholders as a condition precedent to the holding of any such election shall not apply to any incorporated municipality located in York County where the proceeds of the bonds to be authorized are used for any corporate purpose of such municipality. It is intended that the term "Incorporated municipality in York County" as used in this amendment shall mean all incorporated municipalities now existing or hereafter created, and as originally constituted or as afterwards altered following merger, annexation, or modification of corporate limits. (1968 (55) 3973; 1969 (56) 20; 1970 (56) 2691; 1971 (57) 319.)

Editor's Note

This section was originally Section 13 of Article II. It was transferred to its present location by the amendment ratified by 1971 Act No 277 (1971 (57) 319) which effected the revision of that article.

The reference to "Section 12 of this Article" in the first paragraph of this section is to former Section 12 of Article II as it existed prior to the revision of that article by 1971 Act No 277 (1971 (57) 319). The present provisions of Section 5 of Article II are somewhat similar to those of Section 12 of that article as it existed prior to the 1971 revision.

The reference to "Section 13 of Article II" in the third paragraph of this section is to this section as it now exists following the revision of Article II by the amendment ratified by 1971 Act No 277 (1971 (57) 319).

SECTION 8. Officers gambling and betting.

It shall be unlawful for any person holding an office of honor, trust or profit to engage in gambling or betting on games of chance; and any such officer, upon conviction thereof, shall become thereby disqualified from the further exercise of the functions of his office, and the office of said person shall become vacant, as in the case of resignation or death.

SECTION 9. Property of married women.

The real and personal property of a woman held at the time of her marriage, or that which she may thereafter acquire, either by gift, grant, inheritance, devise or otherwise, shall be her separate property, and she shall have all the rights incident to the same to which an unmarried woman or a man is entitled. She shall have the power to contract and be contracted with in the same manner as if she were unmarried.

Editor's Note

For similar provisions in Constitution of 1868, see Const 1868, Art XIV, Section 8.

SECTION 10. Laws now in force.

All laws now in force in this State and not repugnant to this Constitution shall remain and be enforced until altered or repealed by the General Assembly, or shall expire by their own limitations.

SECTION 11. Schedule.

That no inconvenience may arise from the change in the Constitution of this State, and in order to carry this Constitution into complete operation, it is hereby declared:

Laws now of force; ordinances. —First. That all laws in force in this State, at the time of the adoption of this Constitution, not inconsistent therewith, and constitutional when enacted shall remain in full force until altered or repealed by the General Assembly or expire by their own limitation. All ordinances passed and ratified at this Convention shall have the same force and effect as if included in and constituting a part of this Constitution.

Writs, actions, etc. —Second. All writs, actions, causes of action, proceedings, prosecutions and rights of individuals, of bodies corporate and of the State, when not inconsistent with this Constitution, shall continue as valid.

Laws inconsistent with Constitution. —Third. The provisions of all laws which are inconsistent with this Constitution shall cease upon its adoption, except that all laws which are inconsistent with such provisions of this Constitution as require legislation to enforce them shall remain in force until such legislation is had.

Fines, etc., accruing. —Fourth. All fines, penalties, forfeitures and escheats accruing to the State of South Carolina under the Constitution and laws heretofore in force shall accrue to the use of the State of South Carolina under this Constitution, except as herein otherwise provided.

Recognizances, etc.; indictments. —Fifth. All recognizances, obligations and all other instruments entered into or executed before the adoption of this Constitution to the State, or to any County, township, city or town therein, and all fines, taxes, penalties and forfeitures due or owing to this State, or to any County, township, city or town therein, and all writs, prosecutions, actions and proceedings, except as herein otherwise provided, shall continue and remain unaffected by the adoption of this Constitution. All indictments which shall have been found, or may hereafter be found, for any crime or offence committed before the adoption of this Constitution may be prosecuted as if no change had been made, except as otherwise provided herein.

All officers hold over; compensation.—Sixth. All officers, State, executive, legislative, judicial, circuit, district, County, township and municipal, who may be in office at the adoption of this Constitution, or who may be elected before the election of their successors as herein provided, shall hold their respective offices until their terms have expired and until their successors are elected or appointed and qualified as provided in this Constitution, unless sooner removed as may be provided by law; and shall receive the compensation now fixed by the Statute Laws in force at the adoption of this Constitution.

Elections.—Seventh. At all elections held for members of the General Assembly in case of a vacancy, or for any other office, State, County or municipal, the qualifications of electors shall remain as they were under the Constitution of Eighteen hundred and Sixty-eight until the first day of November, in the year Eighteen hundred and Ninety-six.

Takes effect.—Eighth. This Constitution, adopted by the people of South Carolina in Convention assembled, shall be in force and effect from and after the Thirty-first day of December, in the year Eighteen hundred and Ninety-five.

Constitution of 1868 repealed.—Ninth. The provisions of the Constitution of Eighteen hundred and Sixty-eight and amendments thereto are repealed by this Constitution, except when re-ordained and declared herein.

SECTION 12. Continuity of governmental operations during enemy attack.

The General Assembly, in order to insure continuity of state and local governmental operations in periods of emergency resulting from disasters caused by enemy attack, shall have the power and the immediate duty (1) to provide for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices, and (2) to adopt such other measures as may be necessary and proper for insuring the continuity of governmental operations. In the exercise of the powers hereby conferred, the General Assembly shall in all respects conform to the requirements of this Constitution, except to the extent that in the judgment of the General Assembly so to do would be impracticable or would admit of undue delay. (1960 (51) 2043; 1961 (52) 664.)

SECTION 13. Use of funds realized by Greenwood County from sale of electric properties and system.

Funds realized by Greenwood County from the sale of its electric properties and system shall be held intact as an investment fund. Only investments in securities permitted by law may be made and then only by the governing body of the county. No portion of the principal amount of the fund shall be used for any other purpose. (1966 (54) 3299; 1967 (55) 97.)

SECTION 14. Citizens deemed *sui juris*; restrictions as to sale of alcoholic beverages.

Every citizen who is eighteen years of age or older, not laboring under disabilities prescribed in this Constitution or otherwise established by law, shall be deemed *sui juris* and endowed with full legal rights and responsibilities, provided, that the General Assembly may restrict the sale of alcoholic beverages to persons until age twenty-one. (1973 (58) 864; 1975 (59) 13.)

SECTION 15. Lawful domestic unions recognizable in State; domestic unions created in another jurisdiction.

A marriage between one man and one woman is the only lawful domestic union that shall be valid or recognized in this State. This State and its political subdivisions shall not create a legal status, right, or claim respecting any other domestic union, however denominated. This State and its political subdivisions shall not recognize or give effect to a legal status, right, or claim created by another jurisdiction respecting any other domestic union, however denominated. Nothing in this section shall impair any right or benefit extended by the State or its political subdivisions other than a right or benefit arising from a domestic union that is not valid or recognized in this State. This section shall not prohibit or limit parties, other than the State or its political subdivisions, from entering into contracts or other legal instruments. (2007 Act No. 7.) Validity

For validity of this section, see Obergefell v. Hodges, 135 S.Ct. 2584 (U.S. 2015); Condon v. Haley, 21 F.Supp.3d 572 (D. S.C. 2014); Bradacs v. Haley, 58 F.Supp.3d 514 (D. S.C. 2014).