**South Carolina General Assembly**

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**S. 39**

**STATUS INFORMATION**

Joint Resolution

Sponsors: Senator Grooms

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Summary: S.C Constitutional amendments, initiative petition and referendum

**HISTORY OF LEGISLATIVE ACTIONS**

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**VERSIONS OF THIS BILL**

[12/9/2020](file:///p:\pprever\2021-22\39_20201209.docx)

**A** **JOINT RESOLUTION**

PROPOSING AN AMENDMENT TO ARTICLE XVII OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO MISCELLANEOUS MATTERS, BY ADDING SECTION 16, TO ESTABLISH A SPECIFIED PROCEDURE FOR THE ENACTMENT OR REPEAL OF LAWS AND CONSTITUTIONAL AMENDMENTS BY INITIATIVE PETITION AND REFERENDUM, AND TO PROVIDE EXCEPTIONS.

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

SECTION 1. It is proposed that Article XVII of the Constitution of this State be amended by adding:

“Section 16. (A) In addition to the provisions of Article III and Article XVI of this Constitution, relating to the enactment of laws and constitutional amendments, and in order to give meaning to the right of the people to petition their government for redress of grievances as guaranteed by Section 2, Article I of this Constitution, there is reserved by the people the power to repeal and enact laws and constitutional amendments by means of initiative petition. This section must be construed in a manner consistent with this Constitution and is an additional method of amending this Constitution and of enacting the general laws of the State.

(B)(1) An initiative petition and referendum is proposed by submitting an application containing the full text of a proposition with a one‑time fee of fifty dollars. The State Election Commission may periodically adjust this fee in an amount not to exceed increases in the consumer price index as calculated by the Bureau of Labor Statistics of the United States Department of Commerce, or its successor agency. The application must be signed by five qualified electors as sponsors and filed with the State Election Commission. The State Election Commission shall transmit a copy of the proposition to the Attorney General, Revenue and Fiscal Affairs Office, and Legislative Council for review and comment. Review and comment shall include suggested changes for compliance with the single-subject rule, pursuant to Section 17, Article III; the prevention of conflicts with existing law; language or drafting problems; and any other relevant comments. No later than four weeks after submission of the application, the State Election Commission shall present the official comments to the sponsors and to the public. Neither the General Assembly nor its committees or agencies has the power to require amendment or modification of the proposition. After review and comment, the sponsors may withdraw the application, modify and refile the application, or request that the State Election Commission prepare the standard initiative petition form. Upon request by the sponsors, the State Election Commission shall prepare the standard initiative petition form within seven days of notification, as provided by law, and send the initiative petition to the sponsors for signature collection.

(2) Legislative Council shall formulate a concise ballot title and official summary of the proposition for use in an initiative petition. The ballot title may not exceed ten words, and the official summary may not exceed seventy words. Both the title and summary must be true and impartial statements of the purpose of the proposition and shall not contain editorial comment likely to create bias for or against the measure. The Attorney General shall prepare a constitutional analysis of the proposition for use in the initiative petition. The constitutional analysis shall include an opinion as to whether the proposition complies with the single-subject rule. The Revenue and Fiscal Affairs Office shall prepare a fiscal analysis of the effect of the proposition on state finances for use in the initiative petition. If the Revenue and Fiscal Affairs Office projects that the proposition will require a substantial expenditure of state funds in excess of general administrative expenses, then the fiscal analysis shall include projected total increases or decreases in state revenues or expenditures. If a proposition reduces state revenues, then the proposition must specifically provide how the reduction in revenue will be implemented. The Revenue and Fiscal Affairs Office shall provide an opinion as to whether the proposed revenues will cover any expenditures required by the terms of the proposition. The fiscal analysis and constitutional analysis shall not exceed fifty words each. The constitutional and fiscal analyses must be fair and impartial statements concerning the effect of the proposition.

(C)(1) An initiative petition must be signed by each qualified elector in his own name and must include his street address; telephone number; voter registration number, if available; county of residence; and date of signature. Each initiative petition shall include an affidavit signed by a qualified elector stating that, to the best knowledge and belief of the affiant, each signature is the valid signature of the person whose name it purports to be and that each person signing the initiative petition is a registered voter. Signatures on initiative petitions with completed affidavits are presumed valid. Except as provided for in subsection (D)(2), signatures over two years old at the date of filing are invalid. Signatures may not be removed from initiative petitions.

(2) An initiative petition concerning a constitutional amendment or a general law must be signed by a number of qualified electors that is not fewer than ten percent of the qualified electors for the last statewide general election as determined by the State Election Commission.

(3) An initiative petition must contain qualified signatures geographically distributed so as to include a minimum of two percent of its signatures from each of at least two‑thirds of the counties, rounded to the next higher number, based on the number of qualified electors in each county for the last statewide general election.

(D)(1) Initiative petitions and referendums may be submitted to the State Election Commission at any time; however, an initiative petition must be submitted to the State Election Commission no later than June first of an odd‑numbered year to be certified and submitted to the voters in a referendum conducted in November of that year. The State Election Commission shall verify the signatures of the initiative petition using a method provided by law. Within sixty days of the filing of an initiative petition, the State Election Commission shall either certify the proposition as a ballot proposition or deny certification. Upon certification, the State Election Commission shall submit the proposition to the voters as provided for in subsection (E)(2), unless the General Assembly adopts a proposed general law as provided for in item (3). Upon certification of the proposition for ballot, the Attorney General shall defend the proposed law in the courts on behalf of the people of South Carolina.

(2) If the State Election Commission denies certification, then the State Election Commission shall notify the sponsors of its reasons for denying certification. If certification is denied due to insufficient valid signatures, then the State Election Commission shall grant the sponsors a one‑time thirty‑day period to file supplemental initiative petitions needed to meet the signature requirements. Verified valid signatures shall remain valid during any extension period. Denial of certification for the ballot is subject to review by the courts.

(3) When a legislative session convenes more than thirty days before a ballot proposition is voted on, the State Election Commission shall send ballot propositions proposing general laws to the General Assembly for consideration at that legislative session. If there is a prefiling procedure, then the clerk of each body shall prefile the proposition in his respective body. On the first day of the session, the proposition must be introduced by the President of the Senate and the Speaker of the House of Representatives. The proposition must be presented in bill form and treated as any other bill for a general law except as otherwise provided by this section. The General Assembly may not amend or alter the proposition. Upon enactment of the proposition by the General Assembly, the act must be delivered to the Secretary of State within ten days. ‘Enact’ as used in this section means that the joint resolution or bill received three readings in each body and was voted upon by each body of the General Assembly, in its original form as proposed, before adjournment. Ballot propositions submitted to special legislative sessions may be enacted by majority vote. If the General Assembly does not enact the proposition, then the State Election Commission shall put the proposition on the ballot as provided for in subsection (E)(2). Legislative enactment waives any defect in the signature or initiative petition requirements.

(E)(1) A proposition submitted to voters becomes law or part of this Constitution if a majority of the votes cast with regard to the proposition are cast in favor of it. A proposition enacted by the General Assembly as provided for in subsection (D)(3) becomes law upon delivery to the Secretary of State. All propositions take effect according to the terms of the proposition or upon proclamation by the Governor, which shall take place within thirty days after votes have been canvassed. If the provisions of two or more propositions that are approved at the same election conflict, then the provisions of the proposition receiving the highest number of affirmative votes shall prevail to the extent of the conflict.

(2) All propositions concerning constitutional amendments or the general law must be submitted to voters in a statewide election to be conducted on the first Tuesday following the first Monday of November of an odd‑numbered year. If a proposition is certified by the State Election Commission no later than August first of an odd‑numbered year, then the referendum on that proposition must be conducted in November of that year; otherwise, the referendum must be conducted in the next odd‑numbered year.

(3) The veto power of the Governor does not extend to initiative petition and referendum measures enacted by the people pursuant to the provisions of this section. Initiative petition and referendum measures must not be sent to the Governor for his signature and must become law without his signature.

(4) The style of all general laws enacted by initiative petition and referendum is, ‘Be It Enacted by the People of the State of South Carolina.’ The style of all constitutional amendments enacted by initiative petition and referendum is, ‘Be It Resolved by the People of the State of South Carolina that the Constitution of South Carolina, 1895, be Amended.’

(F) Propositions must be numbered consecutively and put on the ballot in the order of the initiative petitions’ certification with the State Election Commission. No more than fifteen propositions may be put on the ballot at each election. Any remaining propositions must be put on the ballot at the next election as provided for in subsection (E)(2). Propositions must be put on the ballot in a nonpartisan manner and without any indication of endorsement by any organization. Only the ballot title and the official summary may be printed on the ballot. Each ballot question must be worded so that a ‘yes’ vote on the proposition is a vote to enact the proposed law and a ‘no’ vote would result in no change to current law. Referendum ballot questions that seek only to repeal a general law must be worded so that a ‘yes’ vote is a vote to repeal the law and a ‘no’ vote would result in the law remaining in effect.

(G)(1) Except as provided by this section, any constitutional or technical processes that limit the General Assembly shall also limit any proposition proposed and enacted pursuant to this amendment. Any proposition that requires expenditure of an amount greater than two‑tenths of one percent of the general fund budget in the immediately preceding fiscal year shall provide the funding necessary to cover the cost required from the State.

(2) Initiative petition and referendums may not be used to enact laws relating to the following:

(a) creating courts, prescribing court rules, or altering the tenure of, qualifications of, compensation for, or removal from judicial office; or

(b) naming or designating a person to hold a public office.

(H) A general law or constitutional amendment enacted by an initiative petition under this section may not be repealed or amended except by a vote of the people, unless the measure provides otherwise.

(I) The initiative petition and referendum provisions are self‑executing and mandatory. The General Assembly may enact legislation to facilitate the operation of an enacted proposition.”

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 on the ballot:

“Must Article XVII of the Constitution of this State be amended by adding Section 16 so as to establish a specified procedure for the enactment or repeal of laws and constitutional amendments by initiative petition and referendum, in which qualified electors must sign an initiative petition for a proposed law or constitutional amendment to be considered by the General Assembly, and if the General Assembly does not act on the initiative, then it is placed on the ballot in a statewide election to be conducted in an odd‑numbered year and takes effect if a majority of the qualified electors vote in favor of it, and to provide exceptions?

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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