

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE XV OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, BY ADDING SECTION 4 SO AS TO PROVIDE PROCEDURES FOR AN EMERGENCY RECALL VOTE TO REMOVE PERSONS HOLDING ELECTED PUBLIC OFFICES OF THE STATE IN THE EXECUTIVE AND LEGISLATIVE BRANCHES, INCLUDING STATE REPRESENTATIVES, STATE SENATORS, THE GOVERNOR, AND THE LIEUTENANT GOVERNOR.

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

SECTION 1. It is proposed that Article XV of the Constitution of this State be amended by adding at the end: "Section 4. Persons holding elected public office in the executive or legislative branch of state government may be subject to an emergency recall vote by the people as follows:

(1) As used in this section:

(a) 'Public office' means a position of duty, trust, or authority in the executive or legislative branch of state government created by this Constitution or the General Assembly, filled by a vote of qualified electors for a definite term of office fixed by law, including State Representatives, State Senators, the Governor, and the Lieutenant Governor.

(b) 'State-district' means a House of Representatives or Senatorial district.

(2)(a) Every person holding a public office of the State, filled by a vote of qualified electors, is subject to an emergency recall from the office.

(b) A public officer holding an elective office may be recalled by the qualified electors entitled to vote for his successor.

(3) The emergency recall is cumulative and additional to, rather than a substitute for, other methods for removal of public officers.

(4)(a) Every person who is a qualified elector of this State may sign a petition for emergency recall of a statewide officer.

(b) Every person who is a qualified elector of a district of the State from which a state-district officer is elected may sign a petition for emergency recall of a state-district officer of that district.

(5)(a) An emergency recall petition may not name more than one officer to be recalled.

(b) An emergency recall petition against an officer may not be approved for circulation until the officer has held office for six months.

(c) An emergency recall petition may not be filed against an officer for whom a recall election has been held for a period of two years during his term of office.

(6) Emergency recall petitions for statewide-elected officers, including the Governor and Lieutenant Governor, must contain the signatures of qualified electors equaling at least 25 percent of the number of persons registered to vote at the preceding state general election. A petition for the emergency recall of a state-district officer, including State Representatives and State Senators, must contain the signatures of qualified electors equaling at least 25 percent of the number of persons registered to vote in the last preceding election in that district.

(7)(a) Emergency recall petitions must be filed with the State Election Commission.

(b) If the State Election Commission refuses to accept and file a petition for emergency recall with the proper number of signatures of qualified electors, an elector may within ten days after the refusal apply to the circuit court for a writ of mandamus. If it is determined that the petition is sufficient, the circuit court shall order the petition to be filed with a certified copy of the writ attached as of the date when it was originally offered for filing. Upon a showing that a filed petition is not sufficient, the court may enjoin certification, printing, or the recall election.

(c) All suits or appeals must be advanced on the court docket and heard and decided by the court as expeditiously as possible.

(d) An aggrieved party may file an appeal within ten days after an adverse order or decision as provided by law.

(8)(a) The form of the emergency recall petition is substantially as follows:

'EMERGENCY RECALL PETITION To the Honorable State Election Commission:

We, the undersigned qualified electors of the State of South Carolina (or name of appropriate state-district) respectfully petition that an election be held as provided by law on the question of whether [name], holding the office of [office], should be recalled. By his signature each signer certifies: I have personally signed this petition; I am a qualified elector of the State of South Carolina and (name of appropriate district); and my residence and post-office address are correctly written after my name to the best of my knowledge and belief.'

(b) Numbered lines must follow the above heading. Each numbered line must contain spaces for the signature, post-office address, and printed last name of the signer. Each separate sheet of the petition must contain the heading for the proposed recall as prescribed above.

(9)(a) The signatures on each petition must be placed on sheets of paper known as circulation sheets. Each circulation sheet must be substantially 8 1/2 x 14 inches or a continuous sheet may be folded so as to meet this size limitation. The circulation sheets must be ruled with a horizontal line 1 1/2 inches from the top. The space above the line must remain blank and must be for the purpose of binding.

(b) The petition, for purposes of circulation, may be divided into sections, each section to contain not more than twenty-five circulation sheets.

(c) Before a petition may be circulated for signatures, a sample circulation sheet must be submitted to the State Election Commission in the form in which it must be circulated. The Commission shall review the petition for sufficiency as to form and approve or reject the form of the petition, stating its reasons, within one week of receiving the sheet.

(d) The State Election Commission serially shall number all approved petitions continuously from year to year.

(10)(a) Signed circulation sheets or sections of a petition for emergency recall must be submitted to the officer responsible for registration of electors in the county in which the signatures were obtained within 180 days of the date the form of the petition was approved under item (9).

(b) An affidavit, in substantially the following form, must be attached to each circulation sheet or section submitted to the county officer: '[Name of person circulating petition], being first sworn, deposes and says: I circulated or assisted in circulating the petition to which this affidavit is attached, and I believe the signatures thereon are genuine, are the signatures of the persons whose names they purport to be and that the signers knew the contents of the petition before signing it. [Signature] Subscribed and sworn before me this ____ day of _____, 20____ [Person authorized to take oaths] [Title or notarial information] Seal.'

(11)(a) The county election commission in each county in which a petition is signed shall verify and compare the signatures of each person who has signed the petition to assure that he is an elector in that county and, if satisfied the signatures are genuine, certify that fact to the State Election Commission in substantially the following form: 'To the Honorable State Election Commission: I, _____, _____ (title) of _____ County certify that I have compared the signatures on _____ sheets (specifying number of sheets) of the petition for Recall No. _____ attached, in the manner prescribed by law, and I believe _____ (number) signatures are valid for the purpose of the petition. I further certify that the affidavit of the circulator of the (sheet) (section) of the petition is attached and that the post-office address is completed for each valid signature. [Date] [Signature] [Seal] [Title].'

(b) The certificate is prima facie evidence of the facts stated in it, and the State Election Commission may consider and count only the signatures as are certified. However, the Commission shall consider and count any remaining signatures of the registered voters which prove to be genuine, and those signatures must be considered and counted if they are attested to in the manner and form as provided contested ballots in general elections.

(c) The county election commission may not retain any portion of a petition for more than 60 days following the receipt of that portion. At the expiration of the 60-day period, the commission clerk shall certify the valid signatures on that portion of the petition and deliver it to the State Election Commission.

(12) Upon filing the petition or a portion of the petition containing the number of valid signatures required under item (6), the State Election Commission immediately shall give written notice to the officer named in the petition. The notice must state that an emergency recall petition has been filed.

(13)(a) If the officer named in the petition for emergency recall submits his resignation in writing, it must be accepted and becomes effective the day it is offered. The vacancy created by the resignation must be filled as provided by law, provided that the officer named in the petition for emergency recall may not be appointed to fill the vacancy. If the officer named in the petition for emergency recall refuses to resign or does not resign within five days after the petition is filed, a special emergency recall election must be called unless the filing is within

90 days of a general election, in which case the question must be placed on a separate ballot at the same time as the general election.

(b) The call of a special emergency recall election must be made by the Governor in the case of a statewide officer or by the State Election Commission in the case of a state-district officer.

(14) The notice of an emergency recall election must be in substantially the following form:

'NOTICE OF EMERGENCY RECALL ELECTION Notice is hereby given pursuant to law that an emergency recall election will be held on _____ (Date) for the purpose of voting upon the recall of [name] who holds the office of [office] dated at _____, ____ (Date).'

(15) A special emergency recall election must be conducted and the results canvassed and certified in the same manner that the law in effect at the time of the election for recall requires for an election to fill the office that is the subject of the recall petition, except as otherwise provided in this section. The powers and duties conferred or imposed by law upon election commissioners, registration officers, canvassing boards, and other public officials who conduct general elections are conferred and imposed upon similar officers conducting emergency recall elections under the provisions of this section together with the penalties prescribed for breach.

(16)(a) The question of whether the officer should be recalled must be placed on the ballot in a form similar to the following: 'Should _____ who holds the office of _____ be recalled? 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'.'

(b) The form of the ballot must be approved as provided in the election laws of this State.

(17) Expenses of an emergency recall election must be paid in the same manner as the expenses for any other election. If a recall election is called at the same time as another election, the canvass must be conducted at the time and in the manner provided in this section.

(18) If a majority of those voting on the question vote to remove the officer, the vacancy must be filled as provided by law. If a majority vote to retain the officer, a recall petition may not be filed against the same officer during the remainder of his term of office.

(19) The General Assembly shall provide by law for the implementation of this section, including procedures for verification of signatures, judicial review, and any other necessary provisions."

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 Article XV of the Constitution of this State be amended by adding Section 4 so as to provide procedures for an emergency recall vote to remove persons holding elected public offices of the State in the executive and legislative branches, including State Representatives, State Senators, the Governor, and the

Lieutenant 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'."

SECTION 3. This joint resolution takes effect upon approval by the Governor.