**South Carolina General Assembly**

123rd Session, 2019-2020

**H. 3941**

**STATUS INFORMATION**

Joint Resolution

Sponsors: Reps. King, McDaniel and Henegan

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Companion/Similar bill(s): 560, 3942, 4031

Introduced in the House on February 12, 2019

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

Summary: Judge vacancies

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/12/2019 House Introduced and read first time ([House Journal‑page 5](file:///h:\hj\20190212.docx))

2/12/2019 House Referred to Committee on **Judiciary** ([House Journal‑page 5](file:///h:\hj\20190212.docx))

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=3941&session=123&summary=B) at the website

**VERSIONS OF THIS BILL**

[2/12/2019](file:///p:\pprever\2019-20\3941_20190212.docx)

**A** **JOINT RESOLUTION**

PROPOSING AN AMENDMENT TO SECTION 3, ARTICLE V OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE ELECTION OF MEMBERS OF THE SUPREME COURT, SO AS TO PROVIDE THAT MEMBERS OF THE SUPREME COURT MUST BE POPULARLY ELECTED FROM THE STATE AT LARGE BY THE QUALIFIED VOTERS OF THE STATE IN A PARTISAN ELECTION, AND TO ESTABLISH QUALIFICATIONS FOR THE OFFICE OF SUPREME COURT JUSTICE; TO AMEND SECTION 8, ARTICLE V OF THE CONSTITUTION OF THIS STATE, RELATING TO THE ELECTION OF MEMBERS OF THE COURT OF APPEALS, SO AS TO PROVIDE THAT JUDGES OF THE COURT OF APPEALS MUST BE POPULARLY ELECTED FROM THE STATE AT LARGE BY THE QUALIFIED VOTERS OF THE STATE IN A PARTISAN ELECTION, AND TO ESTABLISH QUALIFICATIONS FOR MEMBERS OF THE COURT OF APPEALS; TO AMEND SECTION 13, ARTICLE V OF THE CONSTITUTION OF THIS STATE, RELATING TO JUDICIAL CIRCUIT JUDGES, SO AS TO PROVIDE THAT CIRCUIT COURT JUDGES MUST BE POPULARLY ELECTED EITHER FROM THE STATE AT LARGE IN A PARTISAN ELECTION WHEN RESIDENCE IN A PARTICULAR COUNTY OR CIRCUIT IS NOT A QUALIFICATION FOR OFFICE, OR FROM THE JUDICIAL CIRCUITS DIVIDED BY THE GENERAL ASSEMBLY BY THE QUALIFIED VOTERS OF EACH CIRCUIT IN A PARTISAN ELECTION, AND TO ESTABLISH QUALIFICATIONS FOR THE OFFICE OF CIRCUIT COURT JUDGE; TO AMEND SECTION 18, ARTICLE V OF THE CONSTITUTION OF THIS STATE, RELATING TO THE FILLING OF VACANCIES ON THE SUPREME COURT, COURT OF APPEALS AND CIRCUIT COURT, SO AS TO PROVIDE THAT ALL VACANCIES MUST BE FILLED BY APPOINTMENT BY THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE SENATE, FOR THE UNEXPIRED TERM OF THE PREDECESSOR; AND TO DELETE SECTION 27, ARTICLE V OF THE CONSTITUTION OF THIS STATE RELATING TO THE JUDICIAL MERIT SELECTION COMMISSION.

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

SECTION 1. A. It is proposed that Section 3, Article V of the Constitution of this State be amended to read:

“Section 3. The members of the Supreme Court ~~shall~~ must be elected from the state at large by a ~~joint public~~ popular vote of the ~~General Assembly~~ qualified voters of the State in a partisan election for a term of ~~ten~~ six years, and shall continue in office until their successors ~~shall be~~ are elected and ~~qualified~~ qualify, and ~~shall~~ must be classified so that the term of one of them shall expire every two years. ~~In any contested election, the vote of each member of the General Assembly present and voting shall be recorded.~~ A person is not eligible for the office of Supreme Court Justice who is not at the time of his assuming the duties of that office a member in good standing with the South Carolina Bar, a citizen of the United States and of this State, and has neither attained the age of thirty‑two years nor exceeded the age of seventy‑two years, has not been a licensed attorney at law in this State for at least ten years, and has not been a resident of this State for ten years next preceding his election. When the term of each justice who was elected by the General Assembly expires, his successor must be elected in the manner provided in this section. The term of a justice who was elected by the General Assembly whose term expires in an odd‑numbered year is hereby extended until December thirty‑first of the next even‑numbered year. The General Assembly shall provide by law for the manner in which a candidate for the Supreme Court is elected.”

B. It is proposed that Section 8, Article V of the Constitution of this State be amended to read:

“Section 8. The members of the Court of Appeals ~~shall~~ must be elected from the state at large by a ~~joint public~~ popular vote of the ~~General Assembly~~ qualified voters of the State in a partisan election for a term of ~~six~~ four years and shall continue in office until their successors ~~shall be~~ are elected and qualify. ~~In any contested election, the vote of each member of the General Assembly present and voting shall be recorded.~~ Provided, that for the first election of members of the Court of Appeals, the General Assembly shall by law provide for staggered terms. A person is not eligible for the office of Court of Appeals Judge who is not at the time of his assuming the duties of that office a member in good standing with the South Carolina Bar, a citizen of the United States and of this State, and has neither attained the age of thirty‑two years nor exceeded the age of seventy‑two years, has not been a licensed attorney at law in this State for at least ten years, and has not been a resident of this State for ten years next preceding his election. When the term of each judge who was elected by the General Assembly expires, his successor must be elected in the manner provided in this section. The term of a judge who was elected by the General Assembly whose term expires in an odd‑numbered year is hereby extended until December thirty‑first of the next even‑numbered year. The General Assembly shall provide by law for the manner in which a candidate for the Court of Appeals is elected.”

C. It is proposed that Section 13, Article V of the Constitution of this State be amended to read:

“Section 13. The General Assembly shall divide the State into judicial circuits of compact and contiguous territory. ~~For each circuit a judge or judges shall be elected by a joint public vote of the General Assembly; provided, that in any contested election, the vote of each member of the General Assembly present and voting shall be recorded.~~ Circuit Court judges must be elected from the judicial circuits divided by the General Assembly. One or more judges must be elected from each judicial circuit by popular vote of the qualified voters of the circuit in a partisan election. When the term of each judge who was elected by the General Assembly expires, his successor must be elected in the manner provided in this section. The term of a judge who was elected by the General Assembly whose term expires in an odd‑numbered year is hereby extended until December thirty‑first of the next even‑numbered year. ~~He~~ Each Circuit Court judge shall hold office for a term of ~~six~~ four years, and at the time of his election he ~~shall~~ must be an elector of a county of, and during his continuance in office he shall reside in, the circuit of which he is a judge.

The General Assembly may by law provide for additional circuit judges, to be assigned by the Chief Justice. ~~Such~~ These additional circuit judges ~~shall~~ must be elected ~~in the same manner~~ from the state at large by a popular vote of the qualified voters of the State in a partisan election and for the same term as provided in the preceding paragraph of this section for other circuit judges, except that residence in a particular county or circuit ~~shall~~ must not be a qualification for office*.*

A person is not eligible for the office of Circuit Court Judge who is not at the time of his assuming the duties of that office a member in good standing with the South Carolina Bar, a citizen of the United States and of this State, and has neither attained the age of thirty‑two years nor exceeded the age of seventy‑two years, has not been a licensed attorney at law in this State for at least eight years, and has not been a resident of this State for five years next preceding his election. The General Assembly shall provide by law for the manner in which a candidate for the Circuit Court is elected.”

D. It is proposed that Section 18, Article V of the Constitution of this State be amended to read:

“Section 18. All vacancies in the Supreme Court, Court of Appeals, or Circuit Court ~~shall~~ must be filled by ~~elections as prescribed in Sections 3, 8, and 13 of this article; provided, that if the unexpired term does not exceed one year such vacancy may be filled by~~ the Governor with the advice and consent of the Senate. When a vacancy is filled ~~by either appointment or election~~, the incumbent shall hold office only for the unexpired term of his predecessor.”

E. It is proposed that Section 27, Article V of the Constitution of this State, relating to the Judicial Merit Selection Commission, be deleted which reads:

“Section 27. In addition to the qualifications for circuit court and court of appeals judges and Supreme Court justices contained in this article, the General Assembly by law shall establish a Judicial Merit Selection Commission to consider the qualifications and fitness of candidates for all judicial positions on these courts and on other courts of this State which are filled by election of the General Assembly. The General Assembly must elect the judges and justices from among the nominees of the commission to fill a vacancy on these courts.

No person may be elected to these judicial positions unless he or she has been found qualified by the commission. Before a sitting member of the General Assembly may submit an application with the commission for his nomination to a judicial office, and before the commission may accept or consider such an application, the member of the General Assembly must first resign his office and have been out of office for a period established by law. Before a member of the commission may submit an application with the commission for his nomination to a judicial office, and before the commission may accept or consider such an application, the member of the commission must not have been a member of the commission for a period to be established 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 3, Article V of the Constitution of this State be amended so as to provide that the members of the Supreme Court must be elected from the state at large by a popular vote of the qualified voters of the State, and to establish qualifications for the members of the Supreme Court; must Section 8, Article V of the Constitution of this State be amended so as to provide that members of the Court of Appeals must be elected from the state at large by a popular vote of the qualified voters of the State, and to establish qualifications for members of the Court of Appeals; must Section 13, Article V of the Constitution of this State be amended so as to provide that circuit court judges must be elected either from the judicial circuits divided by the General Assembly by popular vote of the qualified voters of each circuit, or from the state at large when residence in a particular county or circuit is not a qualification for office, and to establish qualifications for Circuit Court Judges; must Section, 18 Article V of the Constitution of this State be amended so as to provide that all vacancies on the Supreme Court, Court of Appeals and Circuit Court must be filled by appointment by the Governor, with the advice and consent of the Senate, for the unexpired term of the predecessor; and to delete Section 27, Article V of the Constitution of this State containing inconsistent provisions relating to the Judicial Merit Selection Commission?

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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