**South Carolina General Assembly**

120th Session, 2013-2014

**A224, R249, H3540**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Harrell, J.E. Smith, Bales, Hosey, Cobb‑Hunter, Bannister, J.R. Smith, Patrick, Brannon, Erickson, Taylor, Huggins, Kennedy, Ballentine, Bernstein, Sellers, Williams, Jefferson, M.S. McLeod, Atwater, Bowers, R.L. Brown, Cole, Douglas, George, Hixon, Long, McCoy, Mitchell, Pitts, Pope, G.R. Smith, Tallon, Wood, Weeks, Knight and Hart

Document Path: l:\council\bills\ggs\22523zw13.docx

Companion/Similar bill(s): 445, 466

Introduced in the House on February 19, 2013

Introduced in the Senate on March 21, 2013

Last Amended on April 24, 2013

Passed by the General Assembly on May 27, 2014

Governor's Action: June 3, 2014, Signed

Summary: Removal of officers by the Governor

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/19/2013 House Introduced and read first time ([House Journal‑page 21](file:///H:\HJ%20Archive\2013\02-19-13.docx))

2/19/2013 House Referred to Committee on **Judiciary** ([House Journal‑page 21](file:///H:\HJ%20Archive\2013\02-19-13.docx))

3/6/2013 House Committee report: Favorable **Judiciary** ([House Journal‑page 41](file:///H:\HJ%20Archive\2013\03-06-13.docx))

3/7/2013 House Member(s) request name added as sponsor: Weeks, Knight

3/19/2013 House Requests for debate‑Rep(s). Bedingfield, Bannister, Hiott, Owens, JR Smith, Tallon, Bales, Finlay, JE Smith ([House Journal‑page 52](file:///H:\HJ%20Archive\2013\03-19-13.docx))

3/20/2013 House Read second time ([House Journal‑page 42](file:///H:\HJ%20Archive\2013\03-20-13.docx))

3/20/2013 House Roll call Yeas‑110 Nays‑2 ([House Journal‑page 43](file:///H:\HJ%20Archive\2013\03-20-13.docx))

3/20/2013 House Member(s) request name added as sponsor: Hart

3/21/2013 House Read third time and sent to Senate ([House Journal‑page 37](file:///H:\HJ%20Archive\2013\03-21-13.docx))

3/21/2013 Senate Introduced and read first time ([Senate Journal‑page 13](file:///H:\SJ%20Archive\2013\03-21-13.docx))

3/21/2013 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 13](file:///H:\SJ%20Archive\2013\03-21-13.docx))

4/10/2013 Senate Committee report: Favorable with amendment **Judiciary** ([Senate Journal‑page 23](file:///H:\SJ%20Archive\2013\04-10-13.docx))

4/24/2013 Senate Committee Amendment Adopted ([Senate Journal‑page 20](file:///H:\SJ%20Archive\2013\04-24-13.docx))

4/24/2013 Senate Read second time ([Senate Journal‑page 20](file:///H:\SJ%20Archive\2013\04-24-13.docx))

4/24/2013 Senate Roll call Ayes‑39 Nays‑0 ([Senate Journal‑page 20](file:///H:\SJ%20Archive\2013\04-24-13.docx))

4/25/2013 Scrivener's error corrected

5/21/2014 Senate Read third time and returned to House with amendments ([Senate Journal‑page 28](file:///H:\SJ%20Archive\2014\05-21-14.docx))

5/27/2014 House Concurred in Senate amendment and enrolled ([House Journal‑page 52](file:///H:\HJ%20Archive\2014\05-27-14.docx))

5/27/2014 Scrivener's error corrected

5/29/2014 Ratified R 249

6/3/2014 Signed By Governor

6/11/2014 Effective date See Act for Effective Date

6/12/2014 Act No. 224

**VERSIONS OF THIS BILL**

[2/19/2013](file:///p:\pprever\2013-14\3540_20130219.docx)

[3/6/2013](file:///p:\pprever\2013-14\3540_20130306.docx)

[4/10/2013](file:///p:\pprever\2013-14\3540_20130410.docx)

[4/24/2013](file:///p:\pprever\2013-14\3540_20130424.docx)

[4/25/2013](file:///p:\pprever\2013-14\3540_20130425.docx)

[5/27/2014](file:///p:\pprever\2013-14\3540_20140527.docx)

(A224, R249, H3540)

**AN ACT TO AMEND SECTION 1‑3‑240, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REMOVAL OF OFFICERS BY THE GOVERNOR, SO AS TO ADD THE ADJUTANT GENERAL TO THE LIST OF OFFICERS OR ENTITIES THE GOVERNING BOARD OF WHICH MAY BE REMOVED BY THE GOVERNOR ONLY FOR CERTAIN REASONS CONSTITUTING CAUSE; TO AMEND SECTION 25‑1‑320, RELATING TO THE STATE ADJUTANT GENERAL, SO AS TO PROVIDE THAT THE ADJUTANT GENERAL MUST BE APPOINTED BY THE GOVERNOR UPON THE ADVICE AND CONSENT OF THE SENATE FOR A TERM NOT COTERMINOUS WITH THE GOVERNOR, AND TO ESTABLISH CERTAIN QUALIFICATIONS FOR THE OFFICE OF ADJUTANT GENERAL; TO AMEND SECTION 25‑1‑340, AS AMENDED, RELATING TO VACANCIES IN THE OFFICE OF ADJUTANT GENERAL, SO AS TO DELETE A REFERENCE TO THE ELIGIBILITY REQUIREMENTS OF CONSTITUTIONAL OFFICERS, AND TO AUTHORIZE THE GOVERNOR TO MAKE A TEMPORARY APPOINTMENT TO THE OFFICE OF ADJUTANT GENERAL PURSUANT TO SECTION 1‑3‑210 SHOULD A VACANCY OCCUR AT A TIME WHEN THE SENATE IS NOT IN SESSION; AND TO PROVIDE THAT THE ABOVE PROVISIONS ARE EFFECTIVE UPON THE RATIFICATION OF AMENDMENTS TO SECTION 7, ARTICLE VI, AND SECTION 4, ARTICLE XIII OF THE CONSTITUTION OF THIS STATE DELETING THE REQUIREMENT THAT THE STATE ADJUTANT GENERAL BE ELECTED BY THE QUALIFIED ELECTORS OF THIS STATE.**

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

**Removal of officers**

SECTION 1. Section 1‑3‑240(C)(1) of the 1976 Code, as last amended by Act 105 of 2012, is further amended by adding at the end:

“(p) State Adjutant General.”

**Appointment of Adjutant General**

SECTION 2. Section 25‑1‑320 of the 1976 Code is amended to read:

“Section 25‑1‑320. (A) There must be an Adjutant General appointed by the Governor upon the advice and consent of the Senate. The initial term of the first appointed Adjutant General must be for two years so as to allow subsequent terms to be staggered with that of the Governor’s term. After the initial appointment, the Adjutant General must be appointed for a four‑year term commencing on the first Wednesday following the second Tuesday in January that follows the general election that marks the Governor’s midterm. The position of Adjutant General is recognized as holding the rank of Major General. He shall hold office until his successor is appointed and confirmed. The Adjutant General is the commander of all military forces within the South Carolina Military Department, and he is responsible to the Governor in his role as and Commander in Chief for the proper performance of his duties. He shall receive an annual salary as provided by the General Assembly and only may be removed for cause prior to the expiration of his term pursuant to the provisions of Section 1‑3‑240(C).

(B) The person appointed Adjutant General by the Governor must possess, at a minimum, the following qualifications:

(1) be a qualified elector of this State;

(2) be in an active National Guard status at the time of the appointment, except as provided in subsection (E);

(3) be a graduate of the Army War College, the Air War College, or the military education level equivalent;

(4) have ten or more years of federally recognized commissioned service in the South Carolina National Guard, at least five years of which must have been at the rank of Lieutenant Colonel (O‑5) or higher;

(5) have command experience at the battalion or squadron level or higher; and

(6) hold the rank of Colonel (O‑6) or higher and possess the necessary qualifications to serve as a federally recognized general officer.

(C) In addition to the minimum qualifications for the Office of Adjutant General specified in subsection (B), the Governor also may consider:

(1) the candidates’ military experience, including command experience or military service in an area where hostile‑fire pay or imminent‑danger pay was authorized pursuant to federal law or regulation; and

(2) the promotion criteria for the rank of major general or higher.

(D) In the event of a vacancy or impending vacancy in the Office of the Adjutant General, the South Carolina Military Department, upon request of the Governor, shall provide a list of candidates who satisfy the qualifications for office specified in subsection (B) and copies of the candidates’ military personnel records.

(E) Nothing in this section may be construed to prohibit the Governor’s ability to appoint a qualified retired officer who has not exceeded the maximum age to serve as a federally recognized general officer.”

**Vacancies in Office of the Adjutant General**

SECTION 3. Section 25‑1‑340 of the 1976 Code, as last amended by Act 46 of 2011, is further amended to read:

“Section 25‑1‑340. If the Office of the Adjutant General is vacated because of the death, resignation, removal, or retirement of the Adjutant General prior to the normal expiration of his term of Office, the Governor shall appoint with the advice and consent of the Senate an officer of the active South Carolina National Guard, who meets the eligibility requirements provided in Section 25‑1‑320 to fill out the unexpired term of the former incumbent. In the event a vacancy should occur in the Office of Adjutant General at a time when the Senate is not in session, the Governor temporarily may fill the vacancy pursuant to Section 1‑3‑210. The appointee, upon being duly qualified, is subject to all the duties and liabilities incident to the office and receives the compensation provided by law for the Adjutant General during his term of service.”

**Time effective**

SECTION 4. This act takes effect upon the ratification of amendments to Section 7, Article VI, and Section 4, Article XIII of the Constitution of this State deleting the requirement that the Adjutant General be elected by the qualified electors of this State and providing that he be appointed by the Governor.

Ratified the 29th day of May, 2014.

Approved the 3rd day of June, 2014.

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