

MAKING DEMOCRACY WORK IN SC

Network Update

LWV LEAGUE OF WOMEN VOTERS
OF SOUTH CAROLINA



May 6, 2022

MDW SC Update: Sine Die!

Yesterday was Sine Die, the last day of the regular legislative session. Following this the General Assembly returns in compliance with the Sine Die Resolution, which establishes the scope and timing of their returns to complete their business. This year they will return to work on the budget, override gubernatorial vetoes (or not), and respond to conference reports. They will also, after the end of June, consider enacting even more draconian action than current SC abortion law. This is not normally a topic for the MDW SC Updates so we won't expand on this here, except to say that both the existing "heartbeat" law and the proposed "no exceptions" abortion law is a violation of both the federal and state constitutions, no matter what decision is made in the Dobbs Case that is currently before SCOTUS.

In much happier news, we finally have a bill finally giving South Carolinians no-excuse early voting along with an array of other election changes.

Early Voting and Election Administration

In the last days of the session, the Senate used S.108 as a vehicle for a deal reached with the House on early voting and election administration. As of this writing we have no information that this has been signed by the Governor. If he vetoes the bill, putting it into effect will have to wait for an override vote (which is essentially certain in both houses) when the General Assembly returns under the Sine Die resolution.

We celebrate the availability of in-person early voting to all qualified electors in South Carolina. The bill also includes other important provisions.

The major provisions of S. 108:

- Two weeks of no-excuse early voting (exclusive of Sundays) are provided with a formula to establish the number of locations to be established prior to election day.
- There will be no in-person excused absentee voting, but excused absentee voting by mail (or personal delivery) will continue.

- Prohibition on “fusion” voting – candidates can run under only one party (essentially a partisan restriction to end a practice most common for the state’s minority party).
- No one may request absentee ballots for more than 10 persons in addition to themselves.
- Excused absentee voting for those on vacation available only to those absent for the entire early voting and election day period
- Applications for absentee ballots must include last four digits of SSN.
- Witnesses to absentee ballots must provide their addresses.
- Authorized returnees of absentee ballots must show ID from a list of government-issued photo IDs, which will be recorded by election officials.
- Candidates can have observers present for the initial opening of the outer envelope of mail ballots. (Regrettably, no additional time was provided for opening internal envelopes and tabulating absentee ballots.)
- It is a felony to disclose election results prematurely, punishable by up to five years in prison.
- Officials must date stamp ballot applications.
- There must be broad public input into procurement of new voting systems.
- Various specifications related to voting systems and ballots have been added.
- Provisions related to voter registration roll maintenance and frequency of updates have been added.
- There is a prohibition on knowingly being listed on multiple state’s voter rolls.
- Provides for multiple forms of election audits including risk limiting audits (RLAs), with a minimum of 5% of ballots audited. (This minimum is unfortunate, in conflict with sound RLA process, and may make excessive demands on some county election offices.)
- Requires notice and permits engagement of the President of the Senate and the Speaker of the House in all legal actions challenging election law. (The courts already permit their involvement.)
- The SEC Executive Director is to be hired by the SEC “upon the advice and consent of the Senate” (a provision very important to senators)
- No one can continue to serve as an SEC commissioner or Executive Director who “makes a written or oral statement intended for general distribution or dissemination to the public at large discrediting the merit of a state election law.” (This restriction is so broad that it invites problems and may become a significant limitation on the ability of those officials to carry out their duties in the best interest of voters.)

The last provision was accepted by the Senate as an alternative to Senate advice and consent on appointment of commissioners.

Constitutional Convention Resolutions

The General Assembly passed S. 133, which is the “balanced budget” form of a constitutional convention resolution. The League continues to believe that these resolutions are very dangerous. They are contrary to the best advice of virtually all

constitutional experts who are not on the payroll of ALEC, the Mercer Foundation, or other proponents of an Article V convention to “shrink the government until it can be drowned in the bathtub.”

The League strongly supports Representatives King and Brawley in their comments on the House floor regarding this resolution and their insistence on a provision protective of the 13th, 14th, and 15th amendments to the Constitution. These are put at risk by all calls for an Article V convention. Our concern is that if the amendment that they introduced to this effect survives conference committee, it is unclear that it (or any other state instruction or limitation) can be enforced against an actual convention that is free to establish its own scope and procedures. The civil rights of all Americans are at risk in an Article V convention.

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