RESOLUTION 2012-2013-24: Constitutional Amendment – Clarifications and Structure

WHEREAS, Article V Section 3 of the SBA Constitution states that “The House of Delegates shall exercise, by resolution, the legislative authority of the Association,”

WHEREAS, Article X Section 1 of the SBA Constitution states that the “Constitution may be amended by a three—fourths vote of the House of Delegates,”

WHEREAS, clarity in the SBA Constitution promotes effective governance and service to the student body,

THEREFORE, be it hereby resolved that:

1. Article V Section 1, which currently reads:

   “Composition. The House of Delegates shall consist of the voting members of the Executive Board and the elected Delegates. Each member of the House of Delegates shall have one vote.”

shall read:

   “Composition. The House of Delegates shall consist of the voting members of the Executive Board and the elected Delegates. There shall be:

   A. Two delegates elected during Fall Elections from and by each first year section;
   B. Three delegates elected during Fall Elections from and by the L.L.M. class;
   C. One delegate elected during Fall Elections from and by the entering transfer class;
   D. One delegate elected during Fall Elections from and by the S.J.D. class;
   E. Ten delegates elected at- large during Spring Elections from and by the next academic year's second year day class;
   F. Two delegates elected during Spring Elections from and by the next academic year's second year evening class, including evening-to-day transfers;
G. Ten delegates elected during Spring Elections from and by the next academic year's third year day class;

H. Two delegates elected during Spring Elections from and by the next academic year's third year evening class; and

I. Two delegates elected during Spring Elections from and by the next academic year's fourth year evening class.

J. One delegate elected during Spring Elections from and by students enrolled in a Joint Degree Program. Joint Degree students shall only be eligible to vote for this delegate. However, they may vote for 1L section delegates during the Fall of their 1L year.”

Purpose and Explanation: Structurally, this is a reorganization of existing language under Article V Sections 1, 2, and 3. Here we combine Sections 1 and 2 (Composition and Delegates, respectively) into just Section 1 – Composition, because the previous Section 2 outlines the precise composition of the House of Delegates. Thus, it makes more sense for them to be grouped together. Then, in the next amendment, we move the power of the vote down to Section 3 – Powers and Duties.

Substantively, there are two changes. First, the clause designating three delegate slots for the “graduate division” is being narrowed to include only delegates from the L.L.M. class. Second, the S.J.D. class (the other graduate division) is being given one delegate, to be elected in the fall. The S.J.D. class is very small, but remains with the GULC community for at least two years and currently is only represented by a non-voting member. Under the previous language, the S.J.D. class of fewer than 20 would have to compete with the L.L.M. class of more than 400 for representation in SBA, which effectively denies the S.J.D. class representation.

Notice, the final amendment below strikes Section 2 (which is now redundant to Section 1), and renumbers the whole Article accordingly.

2. Article V Section 3, which currently reads:

“Powers and Duties. The House of Delegates shall exercise, by resolution, the legislative authority of the Association. Unless otherwise specified in this Constitution, a majority vote of Delegates present shall be sufficient to adopt a resolution. In the event of a tie vote, the President shall cast an additional vote to break the tie.”

shall read:

“Power and Duties. Each member of the House of Delegates shall have one vote. In the event of a tie vote, the President shall cast an additional
vote to break the tie. The House of Delegates shall exercise, by resolution, the legislative authority of the Association, with the power to amend any resolution submitted. Resolutions may be submitted by either a member of the House of Delegates, or on behalf of a Committee by the Committee Chair. Unless otherwise specified in this Constitution, a majority of votes cast in person and by proxy shall be sufficient to adopt a resolution.

Purpose and Explanation: First, we added the power to vote to this section, since it was removed from Section 1 in the first amendment above. We also clarify how to resolve a tie vote.

We also specify that the House of Delegates has the authority to amend all resolutions presented. This issue arose in the context of appointments of students to committees, where the resolution was submitted on behalf of the Appointments Committee, but subsequently amended on the floor. Under the language of this amendment, resolutions submitted by committees or individual delegates would be treated the same, and subject to the full amendment authority of the House of Delegates. This is largely an administrative convenience; resolutions tend to bog down under differences over seemingly minor word choices, and without the power to amend all resolutions swiftly, they are likely to stall and possibly die.

Next, we resolve any question of who may submit resolutions: Delegates and Committee Chairs. Though in most cases a Committee Chair will also be a member of the House of Delegates, there are times when this will not be true, yet that Chair will need the ability to present resolutions. For example: the Attorney General is Chair of the Judiciary Committee, but not a member of the House of Delegates; there may be circumstances were a non-member is appointed Chair of an Ad Hoc Committee.

Finally, we clarify the voting requirements, which are based on the votes CAST not the members PRESENT. Because the Constitution allows for Proxy Voting, without this change proxy voters are in effect disenfranchised. The alternative is to disallow proxy voting, which is unadvisable for a body consisting of students with other personal and work commitments.

3. Article IV Section 2(E)(ii), which currently reads:

   The Attorney General shall: “Be appointed subject to the approval of the House of Delegates by a two-thirds majority of those present;”

shall read:

   The Attorney General shall: “Be appointed subject to the approval of the House of Delegates by a two-thirds majority of votes cast in person and by proxy;”
Georgetown University Law Center
Student Bar Association
House of Delegates Meeting

Purpose and Explanation: This amendment brings the language of approval of the AG in line with the previous amendment, linking it to votes cast, rather than members present.

4. Article V Section 9, which currently reads:

“Proxy Voting. Proxy voting by Delegates shall be allowed in all meetings of the House of Delegates, but delegates casting votes by proxy will not be counted as present at the meeting unless specifically authorized by the Executive Board or House of Delegates prior to the calling of the role.”

shall read:

“Proxy Voting. Proxy voting by Delegates shall be allowed in all meetings of the House of Delegates in accordance with the Bylaws, but delegates casting votes by proxy will not be counted as present at the meeting unless specifically authorized by the Executive Board or House of Delegates prior to the calling of the role.” (emphasis added)

Purpose and Explanation: To date, the proxy voting process has been amorphous and ineffectively utilized. This amendment will link the proxy voting process to the bylaws (which are explained in another resolution) to allow for a better functioning proxy voting system. Furthermore, this reinforces that the Constitution DOES NOT allow for “absentee voting,” where you cast your vote ahead of time and do not attend the meeting, but requires “proxy voting,” where another person is sent to the meeting to vote and debate on your behalf. Additionally, we note this change brings our Constitution more in line with Robert’s Rules of Order. Robert’s Rules disallows absentee voting, but allows for proxy voting so long as the proxy voting mechanism is detailed in the organization’s bylaws.

5. Article V Section 2 shall be struck, and Sections 3, 4, 5, 6, 7, 8, 9, and 10 shall be renumbered Sections 2, 3, 4, 5, 6, 7, 8, and 9, respectively.

Purpose and Explanation: As referenced before, this Amendment removes language which the first amendment renders redundant, and fixes the numbering scheme. If Amendment 1 does not pass as it stands, it would be advisable to amend or reject this Amendment as well, as appropriate.

Respectfully Submitted,
Georgetown University Law Center
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