

# 2014 SPECIAL SESSION I

INTRODUCED

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## HOUSE RESOLUTION NO. 541

Offered June 11, 2014

*Authorizing the Speaker of the House to employ legal counsel to represent the House of Delegates in pending litigation involving the challenge of the constitutionality of Article I, Section 15-A of the Constitution of Virginia.*

Patrons—Cole, Lingamfelter, Marshall, R.G., Ransone, Bell, Richard P., Byron, Cline, Fariss, Landes, LaRock, Webert and Wilt

Committee Referral Pending

WHEREAS, the Constitution of Virginia is the fundamental law of the Commonwealth; and

WHEREAS, the House of Delegates twice voted to approve an amendment to the Constitution of Virginia to add Section 15-A, which is popularly known as the Marriage Amendment, to Article I, declaring that "only a union between one man and one woman may be a marriage valid in or recognized by the Commonwealth and its subdivisions"; and

WHEREAS, the people of Virginia voted in 2006 to ratify Article I, Section 15-A of the Constitution of Virginia; and

WHEREAS, Article I, Section 15-A has been challenged in federal court as violating the United States Constitution; and

WHEREAS, the Office of the Attorney General of Virginia initially filed a vigorous defense to the constitutionality of Article I, Section 15-A of the Constitution of Virginia; and

WHEREAS, upon assuming office as Attorney General of Virginia in January 2014, Mark Herring announced that his office would no longer defend Article I, Section 15-A of the Constitution of Virginia, declined to employ special counsel to defend that provision in his place, and filed a position on behalf of the Commonwealth arguing that the provision violated the United States Constitution; and

WHEREAS, the Governor of Virginia has refused to exercise the authority granted to him by § 2.2-510 of the Code of Virginia to employ special counsel to defend the constitutionality of Article I, Section 15-A of the Constitution of Virginia; and

WHEREAS, the people of Virginia and the House of Delegates have been deprived of representation in the pending federal litigation and of a vigorous defense in their name and that of the Commonwealth of the constitutionality of Article I, Section 15-A of the Constitution of Virginia; and

WHEREAS, the decision of the federal district court in such challenge, which invalidated Article I, Section 15-A of the Constitution of Virginia as being in violation of the United States Constitution, has been appealed to the United States Court of Appeals for the Fourth Circuit; and

WHEREAS, the decision of the United States Court of Appeals for the Fourth Circuit involving the challenge to Article I, Section 15-A of the Constitution of Virginia is likely to be presented to the United States Supreme Court for review regardless of the outcome of the appeal; and

WHEREAS, the House of Delegates has a strong interest in defending the constitutionality of Article I, Section 15-A of the Constitution of Virginia in the absence of an advocate for that position on behalf of the Commonwealth in the pending challenge to that provision; now, therefore, be it

RESOLVED by the House of Delegates, That the Speaker of the House be authorized to employ legal counsel to represent the House of Delegates in pending litigation involving the challenge of the constitutionality of Article I, Section 15-A of the Constitution of Virginia.

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to William J. Howell, the Speaker of the House.

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