

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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**Apr 16 2025**

IN THE ORIGINAL JURISDICTION

S.C. SUPREME COURT

Appellate Case No. 2025-000685

Curtis M. Loftis, Jr., State Treasurer .....Petitioner,

v.

Thomas C. Alexander, President  
of the South Carolina Senate.....Respondent.

**Return to Motion for Temporary Restraining Order and  
Preliminary Injunction**

Respondent Thomas C. Alexander, President of the South Carolina Senate, opposes Petitioner’s Motion for Temporary Restraining Order and Preliminary Injunction because his request does not comport with the requirements for this Court to issue the unusual and drastic remedy of a temporary restraining order. The Court should deny the motion.

**1. Procedural History**

On Thursday, April 10, 2025, Petitioner Curtis Loftis, the South Carolina State Treasurer, filed a Petition for Original Jurisdiction, Declaratory Judgement, and a Motion for Temporary Restraining Order, and Preliminary Injunction. Petitioner requests that the Court issue a temporary restraining order and a temporary injunction against the South Carolina Senate to stop the Senate from proceeding with the Senate’s Article XV, § 3 hearing scheduled for Monday, April 21, 2025. The Court notified the parties on Friday, April 11, 2025 that a return to the motion for temporary

restraining order and preliminary injunction must be served and filed no later than Wednesday, April 16, 2025.

**2. Temporary Restraining Order and Preliminary Injunction are Premature and Improper.**

**A. *The Motion is premature.***

Petitioner's request for a temporary restraining order is not ripe because at this time there is no "real and substantial controversy." A temporary restraining order is appropriate when it is necessary to preserve the status quo or prevent irreparable injury to a party pending litigation. *Zabinski v. Bright Acres Associates*, 346 S.C. 580, 600, 553 S.E.2d 110, 121 (2001) ("The sole purpose of a temporary injunction is to preserve the status quo and thus avoid possible irreparable injury to a party pending litigation."); *Greenville Bistro, LLC. v. Greenville County*, 425 S.C. 146, 160, 866 S.E.2d 562, 569 (2021). ("The purpose of an injunction is to preserve the status quo and prevent possible irreparable injury to a party pending litigation."). However, for the reasons more fully explained in Respondent's contemporaneously filed Motion to Dismiss, Petitioner has no cognizable injury arising from the Senate's proceedings because he is subject to Article XV, § 3 of the South Carolina Constitution and this is the provision that forms the basis of the Senate's actions about which he complains.

At bottom, the Senate's proceeding neither disrupts the status quo nor causes Petitioner irreparable harm. Petitioner will remain State Treasurer after the hearing regardless of the outcome of a Senate vote for removal. A vacancy in office cannot occur under a Section 3 removal procedure until the House approves removal by a two-thirds vote and the Governor removes the officer. Until both legislative bodies have acted, a temporary restraining order would serve no purpose and would operate to enjoin a coequal branch of government from the discharge of its Constitutional prerogatives and duties.

**B. *The Motion does not meet the predicate requirements for granting injunctive relief.***

A preliminary injunction is also inappropriate because Petitioner cannot satisfy the required elements. “The purpose of a preliminary injunction is to preserve the status quo and prevent irreparable harm to the party requesting it.” *Compton v. South Carolina Dept. of Corrections*, 392 S.C. 361, 366, 709 S.E.2d 639, 642 (2011). “An applicant for a preliminary injunction must allege sufficient facts to state a cause of action for injunction and demonstrate that this relief is reasonably necessary to preserve the rights of the parties during the litigation.” *Id.* “Accordingly, the applicant must establish three elements to receive this relief: (1) he will suffer immediate, irreparable harm without the injunction; (2) he has a likelihood of success on the merits; and (3) he has no adequate remedy at law.” *Id.*

First, Petitioner will not suffer immediate, irreparable harm without the injunction. There has not been a vote yet on the resolution and, even if the Senate holds a hearing and votes to remove Petitioner from office, the House must also vote to remove Petitioner from office and send an address to the Governor. Thus, denying the request for injunction at this stage will not moot Petitioner’s arguments regarding impeachment. Moreover, there is no harm to alleviate at this stage because neither legislative body has voted for his removal by the required supermajority and Petitioner cannot claim any harm merely by having to submit to the procedure required for executive officers accused of willful neglect of duty or other reasonable cause. In short, Petitioner will remain the Treasurer upon adjournment of the Senate on Monday, April 21st.

Second, Petitioner will not likely succeed on the merits of his underlying complaint for several reasons. For the reasons more fully explained in Respondent’s contemporaneously filed Motion to Dismiss, Petitioner is not likely to succeed on the merits of his claim. In short, impeachment is not the sole method of removing the State Treasurer from office under our State’s constitution. Article XV creates two methods for statewide officers: impeachment for serious

crimes or serious misconduct, and removal for willful neglect of duty. S.C. Const., art. XV, §§ 1 & 3. The removal method is determined by the severity of the wrongdoing. The Senate is properly proceeding under Article XV, § 3 based on its findings that Petitioner has willfully neglected his duty to the State as its Treasurer. Petitioner's position on this issue is based on preference and not the application of the constitutional provisions as written.

Third, as explained in Respondent's contemporaneously filed Motion to Dismiss, Petitioner is ultimately asking the Court to rule on a nonjusticiable political question. As such, there is no remedy at law to be had because Petitioner is seeking a judicial remedy for a legislative problem. And as noted above, Petitioner has and will suffer no cognizable harm from the plain application of the State's Constitution to him as an executive officer.

### **Conclusion**

For the reasons expressed above and in Respondent's contemporaneously filed Motion to Dismiss, the Motion for Temporary Restraining Order and Preliminary Injunction should be denied.

*[Signature Page Follows]*

Respectfully submitted,

**South Carolina Senate**

s/Kenneth M. Moffitt

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