

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

HOUSE BILL 1748

By: Representative Bentley
By: Senator G. Stubblefield

For An Act To Be Entitled

AN ACT TO ESTABLISH THE LAW CONCERNING A CONVENTION
CALLED UNDER ARTICLE V OF THE UNITED STATES
CONSTITUTION; AND FOR OTHER PURPOSES.

Subtitle

TO ESTABLISH THE LAW CONCERNING A
CONVENTION CALLED UNDER ARTICLE V OF THE
UNITED STATES CONSTITUTION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 7, Chapter 9, is amended to add an additional subchapter to read as follows:

Subchapter 7 – Convention Called Under Article V of the United States
Constitution

7-9-701. Definitions.

As used in this subchapter:

(1) "Alternate delegate" means a person selected by the General Assembly to represent the State of Arkansas at an Article V Convention if the originally chosen delegate is not able to serve or vote;

(2)(A) "Article V Application" means the document calling the Article V Convention adopted by:

(i) The United States Congress, if the Article V Convention is called by the United States Congress under Article V of the United States Constitution; and



(ii) A state legislature if the Article V Convention is called for by application of the legislatures of two-thirds (2/3) of the several states under Article V of the United States Constitution.

(B) The Article V Application under subdivision (3)(A)(ii) of this section shall be made by joint resolution passed by the General Assembly;

(3) "Article V Convention" means an interstate convention called under Article V of the United States Constitution;

(4) "Delegate" means a person selected by the General Assembly to represent the State of Arkansas at an Article V Convention, that may be referred to as a commissioner of the State of Arkansas;

(5)(A) "Legislative instructions" means the instructions of the General Assembly given to delegates and their alternate delegates regarding the permitted scope of the Article V Convention.

(B) The General Assembly shall adopt legislative instructions by joint resolution.

(C) Legislative instructions shall be consistent with the scope of the convention as defined by the Article V Application passed by the State of Arkansas and relied upon by the United States Congress to call the Article V Convention; and

(6) Except as provided under subdivision (6)(B) of this section, "unauthorized amendment" means a proposed amendment that:

(A) Does not reflect the amendment text in the Article V Application under consideration; or

(B) Is outside the subject matter permitted under the Article V Application as may be clarified by the legislative instructions.

7-9-702. Delegates to an Article V Convention.

(a) The State of Arkansas shall appoint seven (7) delegates to an Article V Convention as follows:

(1) Two (2) members of the Senate appointed by a majority vote of the Senate who are serving at the time of the appointment;

(2) Three (3) members of the House of Representatives appointed by a majority vote of the House of Representatives who are serving at the time of the appointment; and

(3) Two (2) citizens of the State of Arkansas, selected by the

President Pro Tempore of the Senate and the Speaker of the House of Representative from a list of recommendations made by the Convention of States Arkansas.

(b) The State of Arkansas shall appoint three (3) alternate delegates to an Article V Convention as follows:

(1) One (1) member of the Senate appointed by a majority vote of the Senate who are serving at the time of the appointment;

(2) One (1) member of the House of Representatives appointed by a majority vote of the House of Representatives who are serving at the time of the appointment; and

(3) One (1) citizen of the State of Arkansas, selected by the President Pro Tempore of the Senate and the Speaker of the House of Representative from a list of recommendations made by the Convention of States Arkansas.

(c) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall certify the selection of the delegate and alternate delegate by written proclamation and provide a copy of the written proclamation to the:

(1) Delegate;

(2) Alternate delegate;

(3) Secretary of State; and

(4) Article V Convention.

(d) A person shall not serve as a delegate or an alternate delegate without the written proclamation in his or her name under subdivision (c) of this section.

(e) An alternate delegate shall:

(1) Act in place of a delegate when they are absent from the Article V Convention; and

(2) Replace a delegate if a delegate vacates the office.

(f) A delegate may only be replaced by the entity that selected the delegate initially.

(g) In the event an alternate delegate permanently fills the vacancy of a delegate, a new alternate delegate shall be selected by the body which chose the original alternate delegate.

(h) Alternate delegates:

(1) May participate in caucus meetings of the Arkansas

delegation to review and discuss proposed amendments;

(2) May attend convention and committee meetings as observers;

(3) Shall not speak publicly on the record in any meetings while still in alternate status; and

(4) Shall not vote to determine the Arkansas vote on a proposed amendment while they are in alternate status.

(i)(1) Delegates and alternative delegates are entitled to receive the same mileage, travel, and per diem expenses as those paid to members of the General Assembly.

(2) All necessary expenses shall be paid from funds appropriated by the General Assembly.

(3) Delegates and alternative delegates are not eligible for a salary for the performance of these duties.

7-9-703. Delegate to an Article V Convention – Duties and limitations.

(a) To be considered for the positions of delegate or alternate delegate, a person shall take the following oath:

"I do solemnly swear or affirm that to the best of my abilities, I will, as a delegate or alternate to an Article V Convention, uphold the Arkansas Constitution, the United States Constitution, and laws of the United States of America and the State of Arkansas. I will not vote to allow consideration of, to consider, or to approve an unauthorized amendment proposed for ratification to the United States Constitution. I agree to faithfully and impartially discharge all duties incumbent on a convention delegate, including the duty to abide by instructions established by joint resolution of the General Assembly of Arkansas and to act only within the scope of the General Assembly's application for the convention. I understand that violation of this oath will result in my immediate recall and replacement at the Article V Convention and that additional criminal penalties may be imposed on me under Arkansas law."

(b) The General Assembly shall determine the instructions, if any, to be given to the delegates, including without limitation instructions that:

(1) The delegates shall not support a voting rule other than the rule whereby each state exercises one vote;

(2) On all voting matters and the Article V Convention, a simple majority of the Arkansas delegates shall constitute a single vote for the

State of Arkansas; and

(3) The delegates shall not vote in the affirmative on an unauthorized amendment.

(c) If a delegate votes or attempts to vote to allow consideration of, to consider, or to approve an unauthorized amendment for ratification to the United States Constitution, the:

(1) Delegate is ineligible to serve as a delegate;

(2) Delegate's certification under § 7-9-702(a) is revoked; and

(3) Delegate shall be immediately replaced by an alternate delegate.

(d) A vote cast or attempted to be cast by a delegate under subsection (c) of this section is null and void.

(e) Upon the request of a delegate or alternate delegate, the General Assembly shall provide guidance to the delegate or alternate delegate concerning whether a proposed amendment is within the permitted subject matter of the Article V Convention.

(f)(1) If a delegate knowingly violates the oath contained in this section, the delegate is guilty of usurping, overturning, or seizing government under § 5-51-204, a Class B felony.

(2) A person convicted of a violation under subdivision (f)(1) of this section is barred from holding public office or state employment from the date of his or her conviction.

(g)(1) The delegates shall elect from among the delegates a chairperson who shall serve until the election of a new chairperson by the delegation.

(2) The chairperson will report to the General Assembly on all matters pertaining to the activities of the delegates and the Article V Convention.

(3) The chairperson shall record all votes cast on proposed amendments by the Arkansas delegation.

(h) Each delegate shall immediately notify the Delegate Advisory Group if he or she believes a delegate has violated his or her oath or instructions while participating in the Article V Convention.

7-9-704. Delegate Advisory Group.

(a) Upon the ratification of a resolution calling for an Article V

Convention, the General Assembly shall appoint a "Delegate Advisory Group" to recommend additional instructions to be given to delegates beyond those articulated in the resolution.

(b) The Delegate Advisory Group shall consist of:

- (1) The President Pro Tempore of the Senate, who shall serve as chair of the group;
- (2) One (1) member of the Senate elected by a simple majority;
- (3) The Speaker of the House of Representatives;
- (4) Three (3) members of the House of Representatives elected by a simple majority;
- (5) The Secretary of State; and
- (6) One (1) citizen of the State of Arkansas, selected by the President Pro Tempore of the Senate and the Speaker of the House of Representative from a list of recommendations made by the Convention of States Arkansas.

(c) Upon request of a delegate, the Delegate Advisory Group shall:

- (1) Advise delegates if there is a reason to believe an action or attempt to take an action would violate the instructions or limits placed upon delegates; and
- (2) Render an advisory determination within twenty-four (24) hours of receiving such a request.

(d)(1) The Delegate Advisory Group shall advise the Attorney General if there is reason to believe that a vote by the delegates has violated the instructions or exceeded the limits of a delegates' authority.

(2) If the Attorney General declares the vote void and the credentials of the commissioner are revoked, the Attorney General shall determine if the actions of the delegate merit charges being filed against the offending delegate in accordance with the legal penalties prescribed in this subchapter.

APPROVED: 4/13/23