

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

HOUSE BILL 1748

5 By: Representative Bentley
6 By: Senator G. Stubblefield
7

For An Act To Be Entitled

9 AN ACT TO ESTABLISH THE LAW CONCERNING A CONVENTION
10 CALLED UNDER ARTICLE V OF THE UNITED STATES
11 CONSTITUTION; AND FOR OTHER PURPOSES.
12
13

Subtitle

15 TO ESTABLISH THE LAW CONCERNING A
16 CONVENTION CALLED UNDER ARTICLE V OF THE
17 UNITED STATES CONSTITUTION.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code Title 7, Chapter 9, is amended to add an
23 additional subchapter to read as follows:

24 Subchapter 7 – Convention Called Under Article V of the United States
25 Constitution
26

27 7-9-701. Definitions.

28 As used in this subchapter:

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

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

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



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

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

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

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

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

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

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

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

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

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

27
28 7-9-702. Delegates to an Article V Convention.

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

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

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

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

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

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

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

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

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

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

19 (1) Delegate;

20 (2) Alternate delegate;

21 (3) Secretary of State; and

22 (4) Article V Convention.

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

26 (e) An alternate delegate shall:

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

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

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

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

35 (h) Alternate delegates:

36 (1) May participate in caucus meetings of the Arkansas

1 delegation to review and discuss proposed amendments;

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

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

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

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

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

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

14
15 7-9-703. Delegate to an Article V Convention – Duties and limitations.

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

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

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

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

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

1 State of Arkansas; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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35 7-9-704. Delegate Advisory Group.

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

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

4 (b) The Delegate Advisory Group shall consist of:

5 (1) The President Pro Tempore of the Senate, who shall serve as
 6 chair of the group;

7 (2) One (1) member of the Senate elected by a simple majority;

8 (3) The Speaker of the House of Representatives;

9 (4) Three (3) members of the House of Representatives elected by
 10 a simple majority;

11 (5) The Secretary of State; and

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

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

17 (1) Advise delegates if there is a reason to believe an action
 18 or attempt to take an action would violate the instructions or limits placed
 19 upon delegates; and

20 (2) Render an advisory determination within twenty-four (24)
 21 hours of receiving such a request.

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

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

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 32 **APPROVED: 4/13/23**