

A [Resolution/Rule] to Establish a Process for the Selection and Oversight of Commissioners to an Article V Convention for Proposing Amendments

SECTION 1. Applicability. This [resolution/rule] applies to a convention for proposing amendments held under Article V of the U.S. Constitution.

SECTION 2. Definitions. As used in this [resolution/rule]:

A. “Advisory committee” means a committee consisting of members selected by each chamber using the process defined in this [resolution/rule] to perform the duties defined in this [resolution/rule];

B. “Chamber” means either the Senate or the [House of Representatives/House of Delegates/Assembly] of the [legislature/general assembly];

C. “Commissioner” means a person selected by resolution of the [legislature/general assembly] as provided herein to represent this state at an Article V convention for proposing amendments;

D. “Commissioning Resolution” means the resolution adopted by the [House of Representatives/House of Delegates/Assembly] and Senate of the [legislature/general assembly] which sets forth the names of the appointed commissioners and their commissions and instructions;

E. “Delegation” means the group of commissioners and interim commissioners chosen by the [legislature/general assembly] to attend an Article V convention with the powers and duties defined in this [resolution/rule];

F. “Interim Commissioner” means a person selected by the advisory committee pursuant to Section 8 to fill a vacancy in the delegation.

SECTION 3. Qualifications of Commissioners. At the time of appointment and throughout the Article V convention, a commissioner:

- a. Must be a United States citizen and have been such for at least 5 years;
- b. Must be a resident of the state and have been such for at least 5 years;
- c. Must be at least 25 years old;
- d. Must be a registered voter in this state;
- e. Must not be registered or required to be registered as a federal lobbyist at any time within the last 5 years;

- f. Must not currently be a federal employee (other than a member of the United States armed forces) or contractor, nor have been such at any time within the last 10 years;
- g. Must not have held a federal elected or appointed office at any time within the last 10 years;
- h. Must not have had any felony convictions for crimes involving moral turpitude in any jurisdiction, nor any felony convictions for any crime in any jurisdiction within the last 10 years;
- i. Must not hold a statewide office while performing the duties of commissioner or interim commissioner. For purposes of this section, a position as a state legislator is not deemed a “statewide office.”

SECTION 4. Commissioner Selection and Removal.

- A. [Number] commissioners shall be named by a resolution passed by a majority of those present and voting in a joint session of the [legislature/general assembly]. All commissioners shall be appointed by this process.
- B. The [legislature/general assembly] shall maintain an odd number of commissioners in the delegation.
- C. A commissioner or interim commissioner may be recalled and/or removed at any time and for any reason by a joint resolution of the [legislature/general assembly] or by a majority of those present and voting in a joint session thereof; and if the [legislature/general assembly] is not in session, may be recalled and suspended from their duties by the advisory committee, pending a vote of the legislature.
- D. A commissioner or interim commissioner shall be recalled and/or suspended by the advisory committee pursuant to a determination under Section 13 that he or she has exceeded the scope of his or her authority.

SECTION 5. Commissioning Resolution.

- A. The resolution naming the commissioners shall include their commission. The commission shall include, but shall not be limited to, the following components:
 - 1. A commissioner shall not vote for or otherwise promote any change to the traditional convention rule of decision on the floor and in the committee of the whole, to-wit, that each state has one vote.
 - 2. A commissioner shall not vote in favor of any proposed amendment that would alter the text of the specific guarantees of individual liberty established by the Constitution, including the original Constitution, the Bill of Rights, and the following amendments: Thirteenth, Fourteenth, Fifteenth, Nineteenth, Twenty-Third, Twenty-Fourth, and Twenty-Sixth.

- B. The commissioning resolution shall clearly state the scope of the commissioners' authority, which shall be limited by:
- 1a. if this state was not one of the two-thirds of the states applying for the Convention, the subject matter enumerated in the 34 state applications that triggered the convention; or
 - 1b. if this state was one of the two-thirds of the states applying for the Convention, the subject matter in this state's application; and
 2. any additional instructions from the [legislature/general assembly], whether in the commissioning resolution or issued thereafter.

C. The [legislature/general assembly] may provide additional instructions at any time via subsequent resolution, a copy of which the Clerk of the [House of Representatives/House of Delegates/Assembly] shall provide to each commissioner and to the advisory committee.

SECTION 6. Oath.

A. Each commissioner shall, before exercising any function of the position, execute the following oath in writing: "I do solemnly swear (or affirm) that I accept and will act according to the limits of authority specified in my commission and any present or subsequent instructions. I understand that violating this oath may subject me to penalties provided by law. I understand that I may be recalled or suspended from my duties by the [legislature/general assembly] or the advisory committee. "

B. A commissioner's executed oath shall be filed with the Secretary of State.

SECTION 7. Credentials. After a commissioner's executed oath is filed with the Secretary of State, the Clerk of the [House of Representatives/House of Delegates/Assembly] shall provide to the commissioner an official copy of the executed oath and the commissioning resolution, which together shall serve as the commissioner's credentials.

SECTION 8. Vacancies. Any vacancies shall be filled by the advisory committee's selection of an interim commissioner until such time as a vote by a joint session of the legislature shall select a permanent replacement.

SECTION 9. Compensation and Expenses.

A. A commissioner shall receive the same compensation as a member of the [House of Representatives/House of Delegates/Assembly/] of this state, prorated for length of time served.

B. A commissioner is entitled to receive the same allowance for expenses as provided to a member of the [House of Representatives/House of Delegates/Assembly] of this state.

SECTION 10. Emolument and Gift Prohibition.

Neither a commissioner nor an interim commissioner shall accept, during his or her time of service, any gifts or benefits with a combined value of more than two hundred dollars (\$200.00), other than from a member of his or her family and of the kind customarily granted by a member of one's family. The term "gift or benefit" shall be construed liberally to include current and future loans, lodging, food, offer of prospective employment, and other actual and prospective benefits. An employer's decision to continue paying a commissioner's current salary shall not be construed to be a gift.

SECTION 11. Quorum, Conduct, and Rule of Decision within the Delegation.

- A. The commissioners within the delegation (including any interim commissioners filling a vacancy) shall choose from among them a person who shall chair the delegation, a person who shall cast the state's vote on the convention floor, and a person to speak to the mass media on behalf of the delegation. If the delegation so decides, the same person may exercise any two or all three functions. The delegation may designate a different commissioner to perform any function at any time.
- B. Each commissioner shall take care to avoid communicating the impression to any person outside the delegation that the delegation is divided on a question on which the delegation has taken a formal position, including but not limited to casting a vote.
- C. No commissioner other than the one designated to communicate with the mass media on behalf of the delegation shall communicate with the mass media about convention business during the convention or during any temporary recess or temporary adjournment.
- D. A commissioner violating Section 11(B) or (C) may be suspended or recalled by the advisory committee or by the [legislature/general assembly].
- E. Sections 11(B) and (C) shall not be construed to prevent a commissioner from presenting his or her opinions to the convention or debating a matter at the convention on which his or her delegation has not formally taken a position.
- F. The quorum for decision by the delegation—including the designation of commissioners for particular duties and the determination of how the state's vote shall be cast—shall be a majority present and voting at the time the delegation is polled. No decisions shall be made and no

- vote shall be cast if less than a majority of the delegation votes in the poll.
- G. The rule of decision for the delegation, a quorum being present, shall be a majority of those present and voting at the time of polling.

SECTION 12. Article V Commissioner Advisory Committee.

- A. The advisory committee consists of the following members:
1. A State Senator appointed by the President of the Senate;
 2. A State [Representative/Delegate/Assemblyman] appointed by the Speaker of the [House/Assembly];
 3. A member of the legislature nominated by joint action of the President of the Senate and the Speaker of the [House of Representatives/House of Delegates/Assembly] and approved by the majority of those voting in each Chamber.
- B. The advisory committee shall select one of its members as chair.
- C. A commissioner may request that the advisory committee advise him or her as to whether a prospective action by the commissioner would violate the commissioning resolution or any subsequent instructions.
- D. The advisory committee:
1. Shall communicate to the commissioner requesting such advice a determination within 24 hours of receiving the request.
 2. May communicate such determination by any appropriate medium.
 3. Shall have authority to hire staff and develop appropriate procedures and mechanisms for monitoring the convention, its committees, and subcommittees.

SECTION 13. Monitoring the Exercise of Commissioner Authority.

- A. Whenever the advisory committee has reason to believe that a commissioner or interim commissioner has exceeded the scope of his or her authority, the committee shall notify the Speaker of the [House/Assembly], the President of the Senate, and the Attorney General.
- B. Upon the request for a determination by the Speaker of the House, the President of the Senate, or the Attorney General on whether a commissioner or interim commissioner has exceeded the scope of his or her authority, the advisory committee shall issue a determination on whether the

commissioner or interim commissioner did exceed his or her authority. The determination shall be expeditiously made and immediately communicated to the person requesting it.

C. Upon determining that a commissioner or interim commissioner has exceeded the scope of his or her authority pursuant to Section 13(A) or (B), the advisory committee shall immediately exercise its authority under Section 4 to remove said commissioner, and shall communicate said action and the reasons therefor to the Speaker of the House, the President of the Senate, the Attorney General, and the presiding officers of the convention.