

CHAPTER 2014-52

Committee Substitute for House Bill No. 609

An act relating to Article V constitutional conventions; creating s. 11.93, F.S.; providing a short title; creating s. 11.931, F.S.; providing for applicability; creating s. 11.932, F.S.; providing definitions; creating s. 11.933, F.S.; establishing qualifications of delegates and alternate delegates to an Article V constitutional convention; creating s. 11.9331, F.S.; providing for the appointment of delegates by the Legislature; creating s. 11.9332, F.S.; requiring majority vote approval in each chamber for the appointment of delegates; creating s. 11.9333, F.S.; authorizing the Legislature to recall a delegate and fill a vacancy; authorizing the presiding officers of the Legislature to call for a special legislative session to fill a vacancy; creating s. 11.9334, F.S.; establishing a legislative method for appointments and recalls; creating s. 11.9335, F.S.; providing for the reimbursement of delegates and alternate delegates for per diem and travel expenses; creating s. 11.9336, F.S.; requiring delegates and alternate delegates to execute a written oath of responsibilities; creating s. 11.9337, F.S.; providing for the filing of delegates' oaths and the issuance of commissions; creating s. 11.934, F.S.; providing for instructions to delegates and alternate delegates; creating s. 11.9341, F.S.; establishing duties of alternate delegates; creating s. 11.9342, F.S.; establishing circumstances under which a convention vote is declared void; creating s. 11.9343, F.S.; providing circumstances under which a delegate or alternate delegate's appointment is forfeited; creating s. 11.9344, F.S.; establishing circumstances under which the application to call an Article V convention ceases to be a continuing application and is deemed to have no effect; creating s. 11.9345, F.S.; providing penalties for a delegate or alternate delegate who votes or attempts to vote outside the scope of the Legislature's instructions or the limits of the call for a constitutional convention; creating ss. 11.935, 11.9351, and 11.9352, F.S.; establishing a delegate advisory group, its membership, duties, and responsibilities; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 11.93, Florida Statutes, is created to read:

11.93 Short title.—Sections 11.93-11.9352 may be cited as the “Article V Constitutional Convention Act.”

Section 2. Section 11.931, Florida Statutes, is created to read:

11.931 Applicability.—Sections 11.93-11.9352 shall apply when an Article V convention is called for the purpose of proposing amendments to the Constitution of the United States.

Section 3. Section 11.932, Florida Statutes, is created to read:

11.932 Definitions.—As used in ss. 11.93-11.9352, the term:

(1) “Alternate delegate” means an individual who is appointed as an alternate delegate as provided by law.

(2) “Article V convention” means a convention called for by the states under Article V of the Constitution of the United States for the purpose of proposing amendments to the Constitution of the United States.

(3) “Chamber” means either the Senate or the House of Representatives.

(4) “Delegate” means an individual appointed to represent Florida at an Article V convention.

(5) “Paired delegate” means the delegate with whom an alternate delegate is paired.

Section 4. Section 11.933, Florida Statutes, is created to read:

11.933 Qualifications of delegates and alternate delegates.—

(1) To be appointed as a delegate or alternate delegate to an Article V convention, a person must:

(a) Reside in this state.

(b) Be a registered voter in this state.

(c) Not be registered or required to be registered as a lobbyist under the laws of this state.

(2) A person may not be appointed as a delegate if he or she holds a federal office.

Section 5. Section 11.9331, Florida Statutes, is created to read:

11.9331 Appointment of delegates by Legislature.—

(1) Whenever an Article V convention is called, the Senate and House of Representatives shall appoint, under rules adopted jointly by the Senate and House of Representatives:

(a) The number of delegates allocated to represent Florida.

(b) An equal number of alternate delegates.

(2) Unless otherwise established by the rules of procedure of an Article V convention, it is presumed that Florida has two delegates and two alternate delegates designated to represent the state.

(3) If the Legislature is not in session when delegates must be appointed, the President of the Senate and the Speaker of the House of Representatives

shall call the Legislature into special session pursuant to s. 11.011 for the purpose of appointing delegates and alternate delegates.

Section 6. Section 11.9332, Florida Statutes, is created to read:

11.9332 Appointment by majority vote of each chamber; pairing delegates and alternate delegates.—

(1) To be appointed as a delegate or an alternate delegate, a person must receive, in each chamber, the vote of a majority of all the members elected to that chamber.

(b) At the time of appointment, each alternate delegate must be paired with a delegate as provided by a concurrent resolution adopted by the Legislature.

Section 7. Section 11.9333, Florida Statutes, is created to read:

11.9333 Recall; filling a vacancy; special legislative session.—

(1) The Legislature may, at any time, recall a delegate or alternate delegate and replace that delegate or alternate delegate with an individual appointed under ss. 11.93-11.9352.

(2) The Legislature may, at any time, fill a vacancy in the office of delegate or alternate delegate with a person appointed under ss. 11.93-11.9352. If the Legislature is not in session when a vacancy occurs with respect to both a delegate and the paired alternate delegate, the President of the Senate and the Speaker of the House of Representatives shall call the Legislature into special session pursuant to s. 11.011 for the purpose of appointing a delegate and an alternate delegate to fill the vacancies.

Section 8. Section 11.9334, Florida Statutes, is created to read:

11.9334 Method of appointment and recall.—The Legislature shall appoint or recall delegates or alternate delegates by concurrent resolution.

Section 9. Section 11.9335, Florida Statutes, is created to read:

11.9335 Reimbursement of per diem and travel expenses.—A delegate or alternate delegate shall serve without compensation but may be reimbursed for per diem and travel expenses pursuant to s. 112.061.

Section 10. Section 11.9336, Florida Statutes, is created to read:

11.9336 Oath.—Each delegate and alternate delegate shall, before exercising any function of the position, execute an oath in the state and in writing that the delegate or alternative delegate will:

(1) Support the Constitution of the United States and the State Constitution.

(2) Faithfully abide by and execute any instructions to delegates and alternate delegates adopted by the Legislature.

(3) Otherwise faithfully discharge the duties of a delegate or alternate delegate.

Section 11. Section 11.9337, Florida Statutes, is created to read:

11.9337 Filing of oath; issuance of commission.—The executed oath of a delegate or alternate delegate shall be filed with the Secretary of State. After the oath is filed, the Governor shall issue a commission to the delegate or alternate delegate.

Section 12. Section 11.934, Florida Statutes, is created to read:

11.934 Instructions to delegates.—

(1) When delegates and alternate delegates are appointed, the Legislature shall adopt a concurrent resolution to provide instructions to the delegates and alternate delegates regarding the rules of procedure and any other matter relating to the Article V convention that the Legislature considers necessary.

(2) The Legislature may amend the instructions at any time by concurrent resolution.

Section 13. Section 11.9341, Florida Statutes, is created to read:

11.9341 Duties of alternate delegates.—An alternate delegate:

(1) Shall act in the place of the paired delegate when the paired delegate is absent from the Article V convention.

(2) Replaces the paired delegate if the alternate delegate’s paired delegate vacates the office.

Section 14. Section 11.9342, Florida Statutes, is created to read:

11.9342 Vote cast outside the scope of instructions or limits; status of vote.—A vote cast by a delegate or an alternate delegate at an Article V convention is void if the vote is outside the scope of:

(1) The instructions established by a concurrent resolution adopted pursuant to ss. 11.93-11.9352; or

(2) The limits placed by the Legislature in a concurrent resolution or memorial that calls for an Article V convention for the purpose of proposing one or more amendments to the Constitution of the United States on the subjects and amendments that may be considered by the Article V Convention.

Section 15. Section 11.9343, Florida Statutes, is created to read:

11.9343 Vote cast outside the scope of instructions or limits; appointment forfeited.—

(1) A delegate or alternate delegate forfeits his or her appointment by virtue of a vote or attempt to vote that is outside the scope of:

(a) The instructions established by a concurrent resolution adopted pursuant to ss. 11.93-11.9352; or

(b) The limits placed by the Legislature in a concurrent resolution or memorial that calls for an Article V convention for the purpose of proposing one or more amendments to the Constitution of the United States on the subjects and amendments that may be considered by the Article V convention.

(2) If a delegate forfeits an appointment under subsection (1), the paired alternate delegate of the delegate becomes the delegate at the time the forfeiture of the appointment occurs.

Section 16. Section 11.9344, Florida Statutes, is created to read:

11.9344 Vote cast outside the scope of instructions or limits; status of application.—The application of the Legislature to call an Article V convention for proposing amendments to the Constitution of the United States ceases to be a continuing application and shall be treated as having no effect if all of the delegates and alternate delegates vote or attempt to vote outside the scope of:

(1) The instructions established by a concurrent resolution adopted pursuant to ss. 11.93-11.9352; or

(2) The limits placed by the Legislature in a concurrent resolution or memorial that calls for an Article V convention for the purpose of proposing one or more amendments to the Constitution of the United States on the subjects and amendments that may be considered by the Article V convention.

Section 17. Section 11.9345, Florida Statutes, is created to read:

11.9345 Vote cast outside the scope of instructions; criminal liability.—A delegate or alternate delegate commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, who signs an oath of office as required by s. 11.9336 in the state and who thereafter violates the oath by knowingly or intentionally voting or attempting to vote outside the scope of:

(1) The instructions established by a concurrent resolution adopted pursuant to ss. 11.93-11.9352; or

(2) The limits placed by the Legislature in a concurrent resolution or memorial that calls for an Article V convention for the purpose of proposing

one or more amendments to the Constitution of the United States on the subjects and amendments that may be considered by the Article V convention.

Section 18. Section 11.935, Florida Statutes, is created to read:

11.935 Article V convention advisory group.—

(1) As used in this section, the term “advisory group” means the Article V convention delegate advisory group.

(2) The advisory group consists of the following members:

(a) An attorney appointed by the President of the Senate.

(b) An attorney appointed by the Speaker of the House of Representatives.

(c) An attorney selected by agreement of the attorneys appointed under paragraphs (a) and (b), who shall serve as chair of the advisory group.

(3) The advisory group shall meet at the call of the chair and shall establish the policies and procedures that the advisory group determines necessary to carry out ss. 11.93-11.9352.

(4) Upon the request of a delegate or alternate delegate, the advisory group shall advise the delegate or alternate delegate whether there is reason to believe that an action or an attempt to take an action by a delegate or alternate delegate would:

(a) Violate the instructions established by a concurrent resolution adopted by the Legislature under ss. 11.93-11.9352; or

(b) Exceed the limits placed by the Legislature in a concurrent resolution or memorial that calls for an Article V convention for the purpose of proposing one or more amendments to the Constitution of the United States on the subjects and amendments that may be considered by the Article V convention.

(5) The advisory group:

(a) May render an advisory determination under this section in any summary manner considered appropriate by the advisory group.

(b) Shall render an advisory determination under this section within 24 hours after receiving a request for a determination.

(c) Shall transmit a copy of an advisory determination under this section in the most expeditious manner possible to the delegate or alternate delegate who requested the advisory determination.

(c) If the advisory group renders an advisory determination under this section, the advisory group may also take an action permitted under s. 11.9351.

Section 19. Section 11.9351, Florida Statutes, is created to read:

11.9351 Oversight of delegates with respect to instructions.—

(1) The advisory group, on its own motion, or upon the request of the President of the Senate, the Speaker of the House of Representatives, or the Attorney General, shall advise the Attorney General whether there is reason to believe that a vote or an attempt to vote by a delegate or alternate delegate has:

(a) Violated the instructions established by a concurrent resolution adopted by the Legislature under ss. 11.93-11.9352; or

(b) Exceeded the limits placed by the Legislature in a concurrent resolution or memorial that calls for an Article V convention for the purpose of proposing one or more amendments to the Constitution of the United States on the subjects and amendments that may be considered by the Article V convention.

(2) The advisory group shall issue the advisory determination under this section by one of the following summary procedures:

(a) Without notice or an evidentiary proceeding; or

(b) After a hearing conducted by the advisory group.

(3) The advisory group shall render an advisory determination under this section within 24 hours after receiving a request for an advisory determination.

(4) The advisory group shall transmit a copy of an advisory determination in the most expeditious manner possible to the Attorney General.

Section 20. Section 11.9352, Florida Statutes, is created to read:

11.9352 Advisory determination concerning a vote outside the scope of instructions.—Immediately, upon receipt of an advisory determination that finds that a vote or attempt to vote by a delegate or alternate delegate is a violation as described in s. 11.9351 or in excess of the authority of the delegate or alternate delegate, the Attorney General shall inform the delegates, alternate delegates, the President of the Senate, the Speaker of the House of Representatives, and the Article V convention that:

(1) The vote or attempt to vote did not comply with Florida law, is void, and has no effect.

(2) The credentials of the delegate or alternate delegate who is the subject of the determination are revoked.

Section 21. This act shall take effect July 1, 2014.

Approved by the Governor June 2, 2014.

Filed in Office Secretary of State June 2, 2014.