COMMITTEE REPORT

February 23, 2022

**S. 887**

Introduced by Senators Rice, Garrett, Adams, Kimbrell and Massey

S. Printed 2/23/22--S.

Read the first time December 6, 2021.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 887) to amend the Code of Laws of South Carolina, 1976, by adding Section 1‑1‑1520 so as to require commissioners and alternates to a Convention of States or, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, page 2, by striking line 7, in Section 1‑1‑1520(B), as contained in SECTION 1, and inserting therein the following:

/ (B) When Congress calls an Article V convention, the General Assembly shall determine the method of selecting candidates for commissioners or alternates to the Article V convention. Each candidate for commissioner or alternate from this State /

Amend the bill further, as and if amended, page 2, by striking line 28, in Section 1-1-1520(D), as contained in SECTION 1, and inserting therein the following:

/ five years.” /

Renumber sections to conform.

Amend title to conform.

LUKE A. RANKIN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**State Expenditure**

This bill requires candidates for commissioners and alternates to a convention of states or to a state ratification convention to take an oath. The bill also creates a new felony offense for violations of the required oath. Persons convicted of this offense must be imprisoned for not more than ten years.

**Senate.** The expenditure impact is pending, as the Senate is still reviewing the bill.

**House of Representatives.** The bill requires the General Assembly to provide legislative instructions to commissioners and alternates for a convention of states or to a state ratification convention to take an oath. The House of Representatives indicates it expects to perform activities that will be conducted in normal sessions. Therefore, the bill will have no fiscal impact.

**Judicial.** This bill creates a new felony offense for a violation of an oath given by a candidate for commissioner or alternate to a convention of states or to a state ratification convention. The implementation of this bill will have no expenditure impact, as Judicial expects to manage any increase in caseloads within current resources.

**Office of the Attorney General.** The expenditure impact is pending, as the Office of the Attorney General is still reviewing the bill.

**Commission on Indigent Defense.**  The implementation of this bill will have no expenditure impact, as the department expects to manage any increase in caseloads within current resources.

**Department of Corrections.** The expenditure impact is pending, as the department is still reviewing the bill.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1‑1‑1520 SO AS TO REQUIRE COMMISSIONERS AND ALTERNATES TO A CONVENTION OF STATES OR TO A STATE RATIFICATION CONVENTION TO TAKE AN OATH, TO PROVIDE CRIMINAL PENALTIES FOR THOSE COMMISSIONERS AND ALTERNATES WHO ARE CONVICTED OF VIOLATING THE REQUIRED OATH; AND TO DEFINE RELEVANT TERMS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 23, Chapter 1, Title 1 of the 1976 Code is amended by adding:

“Section 1‑1‑1520. (A) As used in this section:

(1) ‘Article V convention’ means either a convention of states for proposing amendments or a state ratification convention, as expressly provided for in the United States Constitution, Article V.

(2) ‘Article V application’ means a joint or concurrent resolution enacted by the South Carolina General Assembly requiring the United States Congress to call an Article V convention ‘on the Application of the Legislatures of two thirds of the several States’.

(3) ‘Commissioner or alternate’ means a person selected to represent the State at the Article V convention. For a convention proposing amendments, the General Assembly shall make the selections. For a state ratification convention, the commissioner or alternate is elected by the people based on the candidate’s oath to vote either for or against the proposed amendment to the United States Constitution.

(4) ‘Legislative instructions’ means the instructions provided by the South Carolina General Assembly to the commissioners and alternates before or during a convention to propose amendments.

(5) ‘Unauthorized amendment’ means a proposed amendment that is outside the subject matter of the state’s Article V application or its legislative instructions.

(B) Each candidate for commissioner or alternate from this State to an Article V convention must be required to take the following oath:

‘I do solemnly swear or affirm that to the best of my abilities, I will, as a commissioner or alternate to an Article V convention, uphold the Constitution and laws of the United States of America and the State of South Carolina. I will vote only as instructed by the vote of the people at a ratification convention or in accordance with my legislative instructions at a convention to propose amendments. I understand that any vote against the will of the people or for an unauthorized amendment will be voided, and I will be replaced, recalled, and subject to criminal prosecution.’

(C) The South Carolina General Assembly, or any official or committee authorized by a joint or concurrent resolution of the South Carolina General Assembly, shall certify in writing to the Article V convention the selection of commissioners and alternates, the vote nullification, and the recall and replacement of commissioners with alternates.

(D) A commissioner or alternate who is convicted of violating the provisions of the oath contained in subsection (B) is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years.”

SECTION 2. This act takes effect upon approval by the Governor.

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