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Summary: Commissioners to Article V Convention

**HISTORY OF LEGISLATIVE ACTIONS**

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**VERSIONS OF THIS BILL**

[12/05/2024](https://www.scstatehouse.gov/sess126_2025-2026/prever/3558_20241205.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING ARTICLE 23 OF CHAPTER 1, TITLE 1, RELATING TO CALLS OR APPLICATIONS FOR CONSTITUTIONAL AMENDING CONVENTIONS MADE TO CONGRESS, SO AS TO RETITLE THE ARTICLE, AND TO ADD NEW SECTIONS TO DEFINE NECESSARY TERMS AND PROVIDE FOR THE QUALIFICATIONS, APPOINTMENT, OATH, AND DUTIES OF COMMISSIONERS APPOINTED TO REPRESENT THE STATE AT AN ARTICLE V CONVENTION, AMONG OTHER THINGS.

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

SECTION 1. Article 23, Chapter 1, Title 1 of the S.C. Code is amended to read:

Article 23

Repeal of Joint Resolution Calling for Balanced Federal Budget; Disavowal of Calls for Constitutional Convention Calls for Constitutional Amending Convention

 Section 1‑1‑1510. (A) Joint Resolution 775 of 1976 is repealed.

 (B) The General Assembly of the State of South Carolina disavows any other calls or applications for a constitutional convention made to Congress prior to the effective date of this act, by any means expressed, including, but not limited to, S. 1024 of 1978.

 (C) The Secretary of State is directed to forward copies of this act bearing the Great Seal of the State to the following persons: The President and Vice President of the United States, the Speaker of the House of Representatives, and each member of the South Carolina Congressional Delegation in Washington, D.C.

 Section 1‑1‑1515. As used in this article:

 (1) “Advisory committee” means a committee consisting of members selected by each chamber using the process defined in this resolution to perform the duties defined in this resolution.

 (2) “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.

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

 (4) “Commissioner” means a person selected by resolution of the General Assembly as provided herein to represent this State at an Article V convention for proposing amendments.

 (5) “Commissioning Resolution” means the resolution adopted by the General Assembly which sets forth the names of the appointed commissioners, their commissions, and instructions.

 (6) “Delegation” means the group of commissioners and interim commissioners chosen by the General Assembly to attend an Article V convention with the powers and duties defined in this resolution.

 (7) “Interim Commissioner” means a person selected by the advisory committee pursuant to Section 1‑1‑1550 to fill a vacancy in the delegation.

 Section 1‑1‑1520. (A) At the time of appointment and throughout the Article V convention, a commissioner must be:

 (1) a United States citizen and have been a United States citizen for at least five years;

 (2) a resident of the State and have been such for at least five years;

 (3) at least twenty‑five years old; and

 (4) a registered voter in this State.

 (B) At the time of appointment and throughout the Article V convention, a commissioner must not:

 (1) be registered or required to be registered as a federal lobbyist at any time within the last five years;

 (2) have been a federal employee (other than a member of the United States Armed Forces) or contractor at any time within the last ten years;

 (3) have held a federal elected or appointed office at any time within the last ten years; and

 (4) have a felony conviction in any jurisdiction within the last ten years.

 Section 1‑1‑1525. (A) Seven commissioners shall be named by a resolution passed by a majority of those present and voting in a joint session of the General Assembly. In addition, one alternate commissioner will be named, but may only act in the event one of these seven voting commissioners is removed.

 (B) Commissioners may be recalled or removed at any time and for any reason by a joint resolution of the General Assembly or by a majority of those present and voting in a joint session thereof. If the General Assembly is not in session, commissioners may be recalled and suspended from their duties by the advisory committee, pending a vote of the General Assembly.

 Section 1‑1‑1530. (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 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, subject to the following limitations:

 (1)(a) if this State was not one of the two‑thirds of the states applying for the Article V convention, the subject matter enumerated in the 34 state applications that triggered the convention; or

 (b) if this State was one of the two‑thirds of the states applying for the Article V convention, the subject matter in this State’s application; and

 (2) any additional instructions from the General Assembly, whether in the commissioning resolution or issued thereafter.

 (C) The General Assembly may provide additional instructions at any time via subsequent resolution, a copy of which the Clerk of the House of Representatives shall provide to each commissioner.

 Section 1‑1‑1535. (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.”

 (B) A commissioner’s executed oath shall be filed with the Secretary of State.

 Section 1‑1‑1540. After a commissioner’s executed oath is filed with the Secretary of State, the Clerk of the House of Representatives 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 1‑1‑1545. 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 1‑1‑1550. (A) A commissioner shall receive the same compensation as a member of the General Assembly, 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 General Assembly.

 Section 1‑1‑1555. 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 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 1‑1‑1560. (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 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 media on behalf of the delegation shall communicate with the media about convention business during the convention or during any temporary recess or temporary adjournment.

 (D) A commissioner violating subsection (B) or (C) may be suspended or recalled by the advisory committee or by the General Assembly.

 (E) Subsections (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 1‑1‑1565. (A) The advisory committee consists of the following members:

 (1) a state senator appointed by the President of the Senate;

 (2) a state representative appointed by the Speaker of the House;

 (3) a member of the legislature nominated by joint action of the President of the Senate and the Speaker of the House of Representatives 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 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 twenty‑four 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; and

 (4) may meet virtually to take any necessary actions.

 Section 1‑1‑1570. (A) Whenever the advisory committee has reason to believe that a commissioner or interim commissioner has acted outside the scope of his or her authority, the committee shall notify the Speaker of the House, 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 and to the presiding officers of the convention.

 (C) Upon a finding that a commissioner or interim commissioner has exceeded the scope of his or her authority:

 (1) the commissioner or interim commissioner may be immediately removed or recalled by the Speaker of the House or the President of the Senate; and

 (2) this finding must be forwarded to the Attorney General to investigate whether the commissioner or interim commissioner has committed misconduct in office.

 Section 1‑1‑1575. Any individual who, while not being privileged by law, knowingly bribes, threatens, intimidates, or obstructs a commissioner or interim commissioner in the performance of his duties, or attempts to do so, is guilty of a felony and, upon conviction, must be fined not more than one thousand dollars and imprisoned not more than one year.

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

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