

H. B. 2424

(By Delegates Overington, Gearheart, Cadle, Butler, Householder,
Moffatt, Faircloth, Frich. Sobonya, and Howell)

[Introduced January 27, 2015; referred to the
Committee on the Judiciary then Finance.]

**FISCAL
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §3-11A-1, §3-11A-2, §3-11A-3 and §3-11A-4, all relating to providing a procedure for West Virginia to select delegates to an Article V convention for proposing amendments to the Constitution of the United States of America; defining terms; setting forth delegate duties and responsibilities; and providing a felony criminal penalty for violation of a delegate’s oath.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §3-11A-1, §3-11A-2, §3-11A-3 and §3-11A-4, all to read as follows:

ARTICLE 11A. AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES.

§3-11A-1. Conventions for proposing amendments to the Constitution of the United States; committees; delegates.

(a) Committee of Correspondence for Article V Conventions for Proposing Amendments. --

The Legislature shall designate one or more legislative committees for purposes of communicating,

1 exchanging information and otherwise engaging in discussion and dialogue with the several states
2 and Congressional delegation regarding acts, resolutions and issues related to the Article V
3 Convention rules, process, potential amendments, interstate compacts, developing common
4 credentials and instructions for delegates and procedures for an Article V Convention for proposing
5 amendments. It may vest this function in the Joint Committee on Government and Finance, in
6 existing committees of each house, or in such other legislative committee as it may see fit to
7 establish.

8 (b) *Prohibiting Delegates from Attending a Convention for Proposing Amendments if*
9 *Congress Mandates Proportional Representation.* -- Delegates from West Virginia may only be
10 authorized to attend an Article V Convention for proposing amendments where each state has one
11 equal vote.

12 **§3-11A-2. Definitions.**

13 For the purposes of this article:

14 (1) “Article V Convention” means a “Convention for proposing Amendments” as expressly
15 provided in Article V of the Constitution of the United States of America;

16 (2) “Article V Application” means a Joint resolution passed by the Legislature on the same
17 subject or containing the same proposed amendment text as thirty-three other sovereign states
18 requiring Congress to call an Article V convention by setting the time and place;

19 (3) “Delegate” or “alternate” means a person selected by the Legislature or any other method
20 provided by law to represent the State of West Virginia at an Article V convention;

21 (4) “Legislative Instructions” means instructions given by the State Legislature to delegates
22 and alternates before and during an Article V Convention; and

1 (5) “Unauthorized amendment” means a proposed amendment that is outside the subject
2 matter of the application, the call, the commission, or any Legislative Instructions.

3 **§3-11A-3. Delegates duties and responsibilities.**

4 (a) Delegates from West Virginia to an Article V Convention may not vote to allow
5 consideration of or vote to approve an unauthorized amendment for ratification to the United States
6 of America Constitution.

7 (b) Any delegate casting a vote to allow consideration or approval of an unauthorized
8 amendment shall be immediately recalled by an official or committee authorized by a Resolution of
9 the Legislature and replaced by an alternate.

10 (c) Every candidate for delegate or alternate from West Virginia to the Article V Convention
11 shall take the following oath:

12 “I do solemnly swear or affirm that to the best of my abilities, I will, as a delegate or alternate to an
13 Article V Convention, uphold the Constitution and laws of the United States of America and the
14 State of West Virginia. I will not vote to allow consideration of or to approve any unauthorized
15 amendment proposed for ratification to the United States of America Constitution”.

16 (d) The Legislature or an official or committee authorized by a Resolution of the Legislature
17 shall certify in writing to the Article V Convention the selection of delegates and alternates, the recall
18 and replacement of a delegate with and alternate and the nullification of unauthorized votes cast by
19 the delegate of West Virginia.

20 **§3-11A-4. Violation of oath; criminal penalty.**

21 Any Delegate who violates the oath contained in this article is guilty of a felony and, upon
22 conviction thereof shall be fined not more than \$1,000 or imprisoned in a state correctional facility

1 not less than one year, or both fined and imprisoned.

NOTE: The purpose of this bill is to provide a procedure for West Virginia to select delegates to an Article V Convention for proposing amendments to the Constitution of the United States of America. The bill defines terms. The bill sets forth delegate duties and responsibilities. The bill provides a felony criminal penalty for violation of a delegate's oath.

This article is new; therefore, it has been completely underscored.