

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 25

**FISCAL
NOTE**

BY SENATORS KARNES, LEONHARDT AND BLAIR

[Introduced January 13, 2016;

Referred to the Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §3-11A-1, §3-11A-2, §3-11A-3, §3-11A-4 and §3-11A-5, all relating to
 3 providing a procedure for West Virginia to select delegates to an Article V convention for
 4 proposing amendments to the Constitution of the United States of America; defining terms;
 5 setting forth delegate duties and responsibilities; and providing a felony criminal penalty
 6 for violation of a delegate’s oath.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
 2 article, designated §3-11A-1, §3-11A-2, §3-11A-3, §3-11A-4 and §3-11A-5, all to read as follows:

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

§3-11A-1. Definitions.

1 For the purposes of this article:

2 "Article V Convention" means a "Convention for proposing Amendments" as expressly
 3 provided in Article V of the Constitution of the United States of America.

4 "Article V Application" means a Joint Resolution passed by the Legislature on the same
 5 subject, or containing the same proposed amendment text, as thirty-three other sovereign states
 6 requiring Congress to call an Article V Convention by setting the time and place.

7 "Delegate" or "alternate" means a person selected by the Legislature or any other method
 8 provided by law to represent the State of West Virginia at an Article V Convention.

9 "Legislative instructions" means instructions given by the State Legislature to delegates
 10 and alternates before and during an Article V Convention.

11 "Unauthorized amendment" means a proposed amendment that is outside the subject
 12 matter of the Article V Application, the call, the commission, or any legislative instructions.

§3-11A-2. Committee of correspondence for Article V Convention.

1 (a) The Legislature shall designate one or more legislative committees for purposes of
 2 communicating, exchanging information and otherwise engaging in discussion and dialogue with

3 the several states and congressional delegation regarding acts, resolutions and issues that may
4 be the subject of an Article V Convention, and the rules, processes, potential amendments,
5 procedures for proposing such amendments, interstate compacts, common credentials and
6 instructions for delegates that may govern such an Article V Convention.

7 (b) The Legislature may vest this function in the Joint Committee on Government and
8 Finance, in existing committees of each chamber, or in such other legislative committee or
9 committees as it may see fit to establish.

§3-11A-3. Prohibition against participation in Article V Convention requiring proportional representation.

1 Delegates from West Virginia are only authorized to attend an Article V Convention for
2 proposing amendments where each state has one equal vote. No delegate or alternate from
3 West Virginia may attend an Article V Convention for the purpose of proposing amendments that
4 require proportional representation of the states based on their respective populations.

§3-11A-4. Delegate duties and responsibilities.

1 (a) Delegates may not vote to allow consideration of, or vote to approve, an unauthorized
2 amendment for ratification to the Constitution of the United States. Any such vote would constitute
3 an unauthorized vote, and would be considered null and void.

4 (b) Every candidate for delegate or alternate from West Virginia to the Article V Convention
5 shall take the following oath: "I do solemnly swear or affirm that to the best of my abilities, I will,
6 as a delegate or alternate to an Article V Convention, uphold the Constitution and laws of the
7 United States of America and the State of West Virginia. I will not vote to allow consideration of
8 or to approve any unauthorized amendment proposed for ratification to the United States of
9 America Constitution".

10 (c) Any delegate casting a vote to allow consideration or approval of an unauthorized
11 amendment shall be immediately recalled by an official or committee authorized pursuant to
12 subsection (b), section two of this article, and be replaced by an alternate.

13 (d) The Legislature, or an official or committee authorized pursuant to subsection (b),
14 section two of this article, shall certify in writing to the Article V Convention the delegates and
15 alternates selected, the amendments a delegate or alternate is authorized to consider and vote
16 to approve, the recall procedures set forth in subsection (b) of this section, and the mandatory
17 nullification of any votes cast by a delegate or alternate on an unauthorized amendment.

§3-11A-5. Violation of oath; criminal penalty.

1 Any delegate who violates the oath contained in this article is guilty of a felony and, upon
2 conviction thereof, shall be fined not more than \$1,000 or imprisoned in a state correctional facility
3 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 is a new article; therefore, it has been completely underscored.