

# **WEST VIRGINIA LEGISLATURE**

**2016 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 25**

BY SENATORS KARNES, LEONHARDT AND BLAIR

[Originating in the Committee on the Judiciary;

reported on February 28, 2016]



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 procedure for West Virginia to select delegates to an Article V convention for  
4 proposing amendments to Constitution of the United States of America; defining terms;  
5 directing Legislature to establish committee of correspondence for Article V convention;  
6 authorizing participation by delegates in Article V convention only when each state has  
7 equal vote; setting forth delegate duties and responsibilities; setting forth oath for  
8 candidate for delegate or alternate; designating delegates and alternates as public officials  
9 and subject to West Virginia Governmental Ethics Act; providing for immediate recall of  
10 delegate casting unauthorized vote and replacement with alternate; directing Legislature  
11 to certify certain information to Article V convention; making violation of delegate's oath a  
12 felony; and providing criminal penalties 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” mean 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 any state based on its 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 or alternate shall be deemed a public official, as that term is defined in  
11 subsection (k), section three, article one, chapter six-b of the code, and shall be subject to the  
12 requirements of the West Virginia Governmental Ethics Act.

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

16 (e) The Legislature, or an official or committee authorized pursuant to subsection (b),  
17 section two of this article, shall certify in writing to the Article V convention the delegates and  
18 alternates selected, the amendments a delegate or alternate is authorized to consider and vote  
19 to approve, the recall procedures set forth in subsection (b) of this section, and the mandatory  
20 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 the article is guilty of a felony and, upon  
2 conviction thereof, shall be fined not less than \$100,000 nor more than \$500,000 and be  
3 imprisoned in a state correctional facility not less than ten years.

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.