WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4449

BY DELEGATES WAXMAN, KURCABA, FOLK, HAMRICK,

FOSTER, MCCUSKEY, SUMMERS, IHLE, TRECOST,

HANSHAW AND KESSINGER

[Introduced February 9, 2016; Referred
to the Committee on the Judiciary.]
INTRODUCED H.B. 2016R2333

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter, designated §4A-1-1, §4A-2-1, §4A-3-1, §4A-3-2, §4A-3-3, §4A-3-4, §4A-4-1, §4A-4-2, §4A-4-3, §4A-4-4, §4A-4-5, §4A-4-6, §4A-4-7, §4A-4-8, §4A-4-9, §4A-5-1, §4A-5-2, §4A-5-3, §4A-6-1, §4A-6-2, §4A-6-3, §4A-6-4, §4A-6-5, §4A-6-6, §4A-6-7, §4A-6-8, §4A-6-9, §4A-7-1, §4A-7-2, §4A-7-3, §4A-7-4, §4A-7-5, §4A-7-6, §4A-7-7, §4A-7-8, §4A-7-9, §4A-7-10, §4A-7-11, §4A-8-1, §4A-8-2, §4A-8-3, §4A-9-1, §4A-9-2, §4A-10-1, §4A-10-2, §4A-10-3, §4A-10-4, §4A-10-5, §4A-10-6 and §4A-10-7, all relating to creating the Compact for a Balanced Budget; providing a declaration of policy, purpose and intent; defining terms; providing for Compact membership and withdrawal; providing for a Compact Commission and Compact Administrator; providing for a resolution applying for a Constitutional Convention; providing for the appointment of delegates, their instructions and limitations; providing for convention rules; providing a prohibition on ultra vires convention; providing for a resolution prospectively ratifying a balanced budget amendment; providing for the construction, enforcement, venue and severability; and providing effective dates a termination date.

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 chapter, designated §4A-1-1, §4A-2-1, §4A-3-1, §4A-3-2, §4A-3-3, §4A-3-4, §4A-4-1, §4A-4-2, §4A-4-3, §4A-4-4, §4A-4-5, §4A-4-6, §4A-4-7, §4A-4-8, §4A-4-9, §4A-5-1, §4A-5-2, §4A-5-3, §4A-6-1, §4A-6-2, §4A-6-3, §4A-6-4, §4A-6-5, §4A-6-6, §4A-6-7, §4A-6-8, §4A-6-9, §4A-7-1, §4A-7-2, §4A-7-3, §4A-7-4, §4A-7-5, §4A-7-6, §4A-7-7, §4A-7-8, §4A-7-9, §4A-7-10, §4A-7-11, §4A-8-1, §4A-8-2, §4A-8-3, §4A-9-1, §4A-9-2, §4A-10-1, §4A-10-2, §4A-10-3, §4A-10-4, §4A-10-5, §4A-10-6 and §4A-10-7, all to read as follows:

CHAPTER 4A. COMPACT FOR A BALANCED BUDGET.

ARTICLE 1. DECLARATION OF POLICY, PURPOSE AND INTENT.
§4A-1-1. Declaration of policy, purpose and intent.

Whereas, every state enacting, adopting and agreeing to be bound by the Compact for a Balanced Budget intends to ensure that their respective Legislature’s use of the power to originate a Balanced Budget Amendment under Article V of the Constitution of the United States will be exercised conveniently and with reasonable certainty as to the consequences thereof.

Now, therefore, in consideration of their expressed mutual promises and obligations, be it enacted by every state enacting, adopting and agreeing to be bound by the Compact for a Balanced Budget, and resolved by each of their respective Legislatures, as the case may be, to exercise herewith all of their respective powers as set forth herein notwithstanding any law to the contrary.

ARTICLE 2. DEFINITIONS.

§4A-2-1. Definitions.

For the purposes of this chapter:

“Compact” means the “Compact for a Balanced Budget” i.e., the entity of this chapter.

“Convention” means the convention for proposing amendments organized by the Compact under Article V of the Constitution of the United States and, where contextually appropriate to ensure the terms of the Compact are not evaded, any other similar gathering or body, which might be organized as a consequence of Congress receiving the application set out in the Compact and claim authority to propose or effectuate any amendment, alteration or revision to the Constitution of the United States. This term does not encompass a convention for proposing amendments under Article V of the Constitution of the United States that is organized independently of the Compact based on the separate and distinct application of any state.

“State” means one of the several states of the United States. Where contextually appropriate, the term “State” includes all of its branches, departments, agencies, political subdivisions, and officers and representatives acting in their official capacity.

“Member State” means a state that has enacted, adopted and agreed to be bound to the
Compact. For any state to qualify as a Member State with respect to any other state under the Compact, each state must have enacted, adopted and agreed to be bound by substantively identical compact legislation.

“Compact Notice Recipients” means the Archivist of the United States, the President of the United States, the President of the United States Senate, the Office of the Secretary of the United States Senate, the Speaker of the United States House of Representatives, the Office of the Clerk of the United States House of Representatives, the chief executive officer of each state, and the presiding officer(s) of each house of the Legislatures of the several states. All notices required by the Compact shall be by U.S. Certified Mail, return receipt requested, or an equivalent or superior form of notice, such as personal delivery documented by evidence of actual receipt.

“Balanced Budget Amendment” means the following:

(1) Total outlays of the government of the United States may not exceed total receipts of the government of the United States at any point in time unless the excess of outlays over receipts is financed exclusively by debt issued in strict conformity with this article.

(2) Outstanding debt may not exceed authorized debt, which initially shall be an amount equal to one hundred five percent of the outstanding debt on the effective date of this article. Authorized debt may not be increased above its aforesaid initial amount unless the increase is first approved by the legislatures of the several states as provided in subdivision (3) of this definition.

(3) From time to time, Congress may increase authorized debt to an amount in excess of its initial amount set by subdivision (2) of this definition only if it first publicly refers to the legislatures of the several states an unconditional, single subject measure proposing the amount of the increase, in such form as provided by law, and the measure is thereafter publicly and unconditionally approved by a simple majority of the legislatures of the several states, in such form as provided respectively by state law; provided that no inducement requiring an expenditure or tax levy shall be demanded, offered or accepted as a quid pro quo for the approval. If the
approval is not obtained within sixty calendar days after referral then the measure shall be deemed disapproved and the authorized debt shall thereby remain unchanged.

(4) Whenever the outstanding debt exceeds ninety-eight percent of the debt limit set by subdivision (2) of this definition, the President shall enforce the limit by publicly designating specific expenditures for impoundment in an amount sufficient to ensure outstanding debt may not exceed the authorized debt. Said impoundment becomes effective thirty days thereafter, unless Congress first designates an alternate impoundment of the same or greater amount by concurrent resolution, which becomes immediately effective. The failure of the President to designate or enforce the required impoundment is an impeachable misdemeanor. Any purported issuance or incurrence of any debt in excess of the debt limit set by subdivision two of this definition is void.

(5) No bill that provides for a new or increased general revenue tax may become law unless approved by a two-thirds roll call vote of the whole number of each chamber of Congress. However, this requirement does not apply to any bill that provides for a new end user sales tax which would completely replace every existing income tax levied by the government of the United States; or for the reduction or elimination of an exemption, deduction, or credit allowed under an existing general revenue tax.

(6) For purposes of this article, “debt” means any obligation backed by the full faith and credit of the government of the United States; “outstanding debt” means all debt held in any account and by any entity at a given point in time; “authorized debt” means the maximum total amount of debt that may be lawfully issued and outstanding at any single point in time under this article; “total outlays of the government of the United States” means all expenditures of the government of the United States from any source; “total receipts of the government of the United States” means all tax receipts and other income of the government of the United States, excluding proceeds from its issuance or incurrence of debt or any type of liability; “impoundment” means a proposal not to spend all or part of a sum of money appropriated by Congress; and “general
“revenue tax” means any income tax, sales tax, or value-added tax levied by the government of the United States excluding imposts and duties.

(7) This article is immediately operative upon ratification, self-enforcing, and Congress may enact conforming legislation to facilitate enforcement.”

ARTICLE 3. COMPACT MEMBERSHIP AND WITHDRAWAL.

§ 4A-3-1. Compact governs member states.

The Compact governs each Member State to the fullest extent permitted by their respective Constitutions, superseding and repealing any conflicting or contrary law.

§ 4A-3-2. Obligations of member states.

By becoming a Member State, each state offers, promises and agrees to perform and comply strictly in accordance with the terms and conditions of the Compact, and has made the offer, promise and agreement in anticipation and consideration of, and in substantial reliance upon, the mutual and reciprocal performance and compliance by each other current and future Member State, if any. Accordingly, in addition to having the force of law in each Member State upon its respective effective date, the Compact and each of its articles contractually binds each Member State when: (1) At least one other state has likewise become a Member State by enacting substantively identical legislation adopting and agreeing to be bound by the Compact; and (2) notice of the state’s Member State status is or has been seasonably received by the Compact Administrator, if any, or otherwise by the chief executive officer of each other Member State.

§ 4A-3-3. Member state status.

For purposes of determining Member State status under the Compact, as long as all other provisions of the Compact remain identical and operative on the same terms, legislation enacting, adopting and agreeing to be bound by the Compact shall be deemed and regarded as “substantively identical” with respect to the other legislation enacted by another state notwithstanding: (1) Any difference in section two, article four of this chapter with specific regard to the respectively enacting state’s own method of appointing its member to the Commission; (2)
any difference in section five of that article with specific regard to the respectively enacting state’s own obligation to fund the Commission; (3) any difference in sections one and two, article six of this chapter with specific regard to the number and identity of each delegate respectively appointed on behalf of the enacting state, provided that no more than three delegates may attend and participate in the Convention on behalf of any state; or (4) any difference in section seven, article ten of this chapter with specific regard to the respectively enacting as to whether section one, article five of this chapter shall survive termination of the Compact, and thereafter become a continuing resolution of the legislature of the state applying to Congress for the calling of a convention of the states under Article V of the Constitution of the United States, under the terms and limitations as may be specified by the state.

§4A-3-4. Withdrawal of member states.

When fewer than three-fourths of the states are Member States, any Member State may withdraw from the Compact by enacting appropriate legislation, as determined by state law, and giving notice of the withdrawal to the Compact Administrator, if any, or otherwise to the chief executive officer of each other Member State. A withdrawal does not affect the validity or applicability of the compact with respect to remaining Member States, provided that there remain at least two states. However, once at least three-fourths of the states are Member States, then no Member State may withdraw from the Compact prior to its termination absent unanimous consent of all Member States.

ARTICLE 4. COMPACT COMMISSION AND COMPACT ADMINISTRATOR.

§4A-4-1. Nature of the Compact Commission.

The Compact Commission (“Commission”) is hereby established. It has the power and duty: (1) To appoint and oversee a Compact Administrator; (2) to encourage States to join the Compact and Congress to call the Convention in accordance with the Compact; (3) to coordinate the performance of obligations under the Compact; (4) to oversee the Convention’s logistical operations as appropriate to ensure the Compact governs its proceedings; (5) to oversee the
defense and enforcement of the Compact in appropriate legal venues; (6) to request funds and
to disburse those funds to support the operations of the Commission, Compact Administrator, and
Convention; and (7) to cooperate with any entity that shares a common interest with the
Commission and engages in policy research, public interest litigation or lobbying in support of the
purposes of the Compact. The Commission only has the implied powers as are essential to
carrying out these express powers and duties. It may take no action that contravenes or is
inconsistent with the Compact or any law of any state that is not superseded by the Compact. It
may adopt and publish corresponding bylaws and policies.

§4A-4-2. Commission membership.

The Commission initially consists of three unpaid members. Each Member State may
appoint one member to the Commission through an appointment process to be determined by
their respective chief executive officer until all positions on the Commission are filled. Positions
shall be assigned to appointees in the order in which their respective appointing states became
Member States. The bylaws of the Commission may expand its membership to include
representatives of additional Member States and to allow for modest salaries and reimbursement
of expenses if adequate funding exists.

§4A-4-3. Commission action.

Each Commission member is entitled to one vote. The Commission may not act unless a
majority of its appointed membership is present, and no action is binding unless approved by a
majority of the Commission’s appointed membership. The Commission shall meet at least once
a year, and may meet more frequently.

§4A-4-4. First order of business.

The Commission shall at the earliest possible time elect from among its membership a
Chairperson, determine a primary place of doing business, and appoint a Compact Administrator.

§4A-4-5. Funding.

The Commission and the Compact Administrator’s activities shall be funded exclusively
by each Member State, as determined by their respective state law, or by voluntary donations.

§4A-4-6. Compact administrator.

The Compact Administrator has the power and duty: (1) To timely notify the states of the date, time and location of the Convention; (2) to organize and direct the logistical operations of the Convention; (3) to maintain an accurate list of all Member States, their appointed delegates, including contact information; and (4) to formulate, transmit, and maintain all official notices, records, and communications relating to the Compact. The Compact Administrator shall only have the implied powers as are essential to carrying out these express powers and duties; and may take no action that contravenes or is inconsistent with the Compact or any law of any state that is not superseded by the Compact. The Compact Administrator serves at the pleasure of the Commission and must keep the Commission seasonably apprised of the performance or nonperformance of the terms and conditions of the Compact. Any notice sent by a Member State to the Compact Administrator concerning the Compact is adequate notice to each other Member State provided that a copy of the notice is seasonably delivered by the Compact Administrator to each other Member State’s respective chief executive officer.

§4A-4-7. Notice of key events.

Upon the occurrence of each of the following described events, or otherwise as soon as possible, the Compact Administrator shall immediately send the following notices to all Compact notice recipients, together with certified conforming copies of the chaptered version of the Compact as maintained in the statutes of each Member State: (1) Whenever any state becomes a Member State, notice of that fact shall be given; (2) once at least three-fourths of the states are Member States, notice of that fact shall be given together with a statement declaring that the Legislatures of at least two-thirds of the several states have applied for a convention for proposing amendments under Article V of the Constitution of the United States, petitioning Congress to call the Convention contemplated by the Compact, and further requesting cooperation in organizing the same in accordance with the Compact; (3) once Congress has called the Convention
contemplated by the Compact, and whenever the date, time and location of the Convention has been determined, notice of that fact shall be given together with the date, time and location of the Convention and other essential logistical matters; (4) upon approval of the Balanced Budget Amendment by the Convention, notice of that fact shall be given together with the transmission of certified copies of the approved proposed amendment and a statement requesting Congress to refer the same for ratification by three-fourths of the Legislatures of the several states under Article V of the Constitution of the United States (however, in no event may any proposed amendment other than the Balanced Budget Amendment be transmitted); and (5) when any Article of the Compact prospectively ratifying the Balanced Budget Amendment is effective in any Member State, notice of the same shall be given together with a statement declaring the ratification and further requesting cooperation in ensuring that the official record confirms and reflects the effective corresponding amendment to the Constitution of the United States. However, whenever any Member State enacts appropriate legislation, as determined by the laws of the respective state, withdrawing from the Compact, the Compact Administrator shall immediately send certified conforming copies of the chaptered version of the withdrawal legislation as maintained in the statutes of each withdrawing Member State, solely to each chief executive officer of each remaining Member State, giving notice of the withdrawal.

§4A-4-8. Cooperation.

The Commission, Member States and Compact Administrator shall cooperate with each other and give each other mutual assistance in enforcing the Compact and shall give the chief law-enforcement officer of each other Member State any information or documents that are reasonably necessary to facilitate the enforcement of the Compact.

§4A-4-9. Effective date.

This article does not take effect until there are at least two Member States.

ARTICLE 5. RESOLUTION APPLYING FOR CONVENTION.

§4A-5-1. Calling of a convention for the ratification of a balanced budget amendment.
Be it resolved, as provided in Article V of the Constitution of the United States, the Legislature of each Member State herewith applies to Congress for the calling of a convention for proposing amendments limited to the subject matter of proposing for ratification the Balanced Budget Amendment.

§4A-5-2. Ratification by the states.

Congress is further petitioned to refer the Balanced Budget Amendment to the states for ratification by three-fourths of their respective Legislatures.

§4A-5-3. Effective date.

This article does not take effect until at least three-fourths of the several states are Member States.

ARTICLE 6. DELEGATE APPOINTMENT, LIMITATIONS AND INSTRUCTIONS.

§4A-6-1. Number of delegates.

West Virginia has three delegates to represent its sovereign interests at the Convention.

§4A-6-2. Identity of delegates.

The Governor, Speaker of the House of Delegates, and President of the Senate, who are serving on the enactment date of the legislation by which West Virginia is enacting, adopting and agreeing to be bound by the Compact, or their respective designee, as identified in a sworn affidavit executed by the officer, are each appointed in an individual capacity as its sole and exclusive delegates. A majority vote of the delegation shall serve to decide any issue at the Convention on behalf of West Virginia.

§4A-6-3. Replacement or recall of delegates.

A delegate appointed hereunder may be replaced or recalled by the Legislature of his or her respective state at any time for good cause, such as criminal misconduct or the violation of the Compact. If replaced or recalled, any delegate previously appointed hereunder must immediately vacate the Convention and return to their respective state’s capitol.

§4A-6-4. Oath.
The power and authority of a delegate under this Article may only be exercised after the Convention is first called by Congress in accordance with the Compact and the appointment is duly accepted by the appointee publicly taking the following oath or affirmation: “I do solemnly swear (or affirm) that I accept this appointment and will act strictly in accordance with the terms and conditions of the Compact for a Balanced Budget, the Constitution of the State I represent, and the Constitution of the United States. I understand that violating this oath (or affirmation) forfeits my appointment and may subject me to other penalties as provided by law.”

§4A-6-5. Term.

The term of a delegate hereunder commences upon acceptance of appointment and terminates upon the permanent adjournment of the Convention, unless shortened by recall, replacement or forfeiture under this Article. Upon expiration of the term, any person formerly serving as a delegate must immediately withdraw from and cease participation at the Convention, if any is proceeding.

§4A-6-6. Delegate authority.

(a) The power and authority of any delegate appointed hereunder is strictly limited: (1) To introducing, debating, voting upon, proposing and enforcing the Convention Rules specified in the Compact, as needed to ensure those rules govern the Convention; and (2) to introducing, debating, voting upon, and rejecting or proposing for ratification the Balanced Budget Amendment. All actions taken by any delegate in violation of this section are void ab initio.

(b) No delegate of any Member State may introduce, debate, vote upon, reject or propose for ratification any Constitutional amendment at the Convention unless: (1) The Convention Rules specified in the Compact govern the Convention and their actions; and (2) the Constitutional amendment is the Balanced Budget Amendment.

(c) The power and authority of any delegate at the Convention does not include any power or authority associated with any other public office held by the delegate. Any person appointed to serve as a delegate shall take a temporary leave of absence, or otherwise shall be deemed
temporarily disabled, from any other public office held by the delegate while attending the
Convention, and may not exercise any power or authority associated with any other public office held by the delegate, while attending the Convention. All actions taken by any delegate in violation of this section are void ab initio.

§4A-6-7. Order of business.

Before introducing, debating, voting upon, rejecting or proposing for ratification any Constitutional amendment at the Convention, each delegate of every Member State must first ensure the Convention Rules in the Compact govern the Convention and their actions. Every delegate and each Member State must immediately vacate the Convention and notify the Compact Administrator by the most effective and expeditious means if the Convention Rules in the Compact are not adopted to govern the Convention and their actions.

§4A-6-8. Forfeiture of appointment.

If any Member State or delegate violates any provision of the Compact, then every delegate of that Member State immediately forfeits his or her appointment, and shall immediately cease participation at the Convention, vacate the Convention, and return to his or her respective state’s capitol.


A delegate appointed hereunder is entitled to reimbursement of reasonable expenses for attending the Convention from his or her respective Member State. No delegate may accept any other form of remuneration or compensation for service under the Compact.

ARTICLE 7. CONVENTION RULES.

§4A-7-1. Nature of the convention.

The Convention shall be organized, construed and conducted as a body exclusively representing and constituted by the several States.

§4A-7-2. Agenda of the convention.

The agenda of the Convention shall be entirely focused upon and exclusively limited to
introducing, debating, voting upon, and rejecting or proposing for ratification the Balanced Budget Amendment under the Convention Rules specified in this Article and in accordance with the Compact. It shall not be in order for the Convention to consider any matter that is outside the scope of this agenda.

§4A-7-3. Delegate identity and procedure.

States shall be represented at the Convention through duly appointed delegates. The number, identity and authority of delegates assigned to each state shall be determined by the Compact in the case of Member States or, in the case of states that are not Member States, by their respective state laws. However, to prevent disruption of proceedings, no more than three delegates may attend and participate in the Convention on behalf of any state. A certified chaptered conforming copy of the Compact, together with government-issued photographic proof of identification, shall suffice as credentials for delegates of Member States. Any commission for delegates of states that are not Member States shall be based on their respective state laws, but it shall furnish credentials that are at least as reliable as those required of Member States.

§4A-7-4. Voting.

Each state represented at the Convention has one vote, exercised by the vote of that state’s delegate in the case of states represented by one delegate, or, in the case of any state that is represented by more than one delegate, by the majority vote of that state’s respective delegates.

§4A-7-5. Quorum.

A majority of the several states of the United States, each present through its respective delegate in the case of any state that is represented by one delegate, or through a majority of its respective delegates, in the case of any state that is represented by more than one delegate, shall constitute a quorum for the transaction of any business on behalf of the Convention.

§4A-7-6. Action by the convention.

The Convention may only act as a committee of the whole, chaired by the delegate
representing the first state to have become a Member State, if that state is represented by one
delegate, or otherwise by the delegate chosen by the majority vote of that state’s respective
delegates. The transaction of any business on behalf of the Convention, including the designation
of a Secretary, the adoption of parliamentary procedures and the rejection or proposal of any
Constitutional amendment, requires a quorum to be present and a majority affirmative vote of
those states constituting the quorum.

§4A-7-7. Emergency suspension and relocation of the convention.

In the event that the Chair of the Convention declares an emergency due to disorder or
an imminent threat to public health and safety prior to the completion of the business on the
Agenda, and a majority of the states present at the Convention do not object to the declaration,
further Convention proceedings shall be temporarily suspended, and the Commission shall
subsequently relocate or reschedule the Convention to resume proceedings in an orderly fashion
in accordance with the terms and conditions of the Compact with prior notice given to the Compact
Notice Recipients.


In adopting, applying and formulating parliamentary procedure, the Convention shall
exclusively adopt, apply or appropriately adapt provisions of the most recent editions of Robert’s
Rules of Order and the American Institute of Parliamentarians Standard Code of Parliamentary
Procedure. In adopting, applying or adapting parliamentary procedure, the Convention shall
exclusively consider analogous precedent arising within the jurisdiction of the United States.
Parliamentary procedures adopted, applied or adapted pursuant to this section shall not obstruct,
override or otherwise conflict with the Compact.

§4A-7-9. Transmittal.

Upon approval of the Balanced Budget Amendment by the Convention to propose for
ratification, the Chair of the Convention shall immediately transmit certified copies of the approved
proposed amendment to the Compact Administrator and all Compact Notice Recipients, notifying
them respectively of the approval and requesting Congress to refer the same for ratification by
the states under Article V of the Constitution of the United States. However, in no event shall any
proposed amendment other than the Balanced Budget Amendment be transmitted as aforesaid.

§4A-7-10. Transparency.

Records of the Convention, including the identities of all attendees and detailed minutes
of all proceedings, shall be kept by the Chair of the Convention or Secretary designated by the
Convention. All proceedings and records of the Convention shall be open to the public upon
request subject to reasonable regulations adopted by the Convention that are closely tailored to
preventing disruption of proceedings under this Article.

§4A-7-11. Adjournment of the convention.

The Convention shall permanently adjourn upon the earlier of twenty-four hours after
commencing proceedings under this Article or the completion of the business on its Agenda.

ARTICLE 8. PROHIBITION ON ULTRA VIRES CONVENTION.

§4A-8-1. Congressional action required.

Member States shall not participate in the Convention unless: (1) Congress first calls the
Convention in accordance with the Compact; and (2) the Convention Rules of the Compact are
adopted by the Convention as its first order of business.

§4A-8-2. Void ab initio actions.

Any proposal or action of the Convention is void ab initio and issued by a body that is
conducting itself in an unlawful and ultra vires fashion if that proposal or action: (1) Violates or
was approved in violation of the Convention Rules or the delegate instructions and limitations on
delegate authority specified in the Compact; (2) purports to propose or effectuate a mode of
ratification that is not specified in Article V of the Constitution of the United States; or (3) purports
to propose or effectuate the formation of a new government. All Member States are prohibited
from advancing or assisting in the advancement of any proposal or action.

§4A-8-3. Ratification.
Member States shall not ratify or otherwise approve any proposed amendment, alteration or revision to the Constitution of the United States, which originates from the Convention, other than the Balanced Budget Amendment.

**ARTICLE 9. RESOLUTION PROSPECTIVELY RATIFYING THE BALANCED BUDGET AMENDMENT.**

§4A-9-1. Adoption.

Each Member State, by and through its respective Legislature, hereby adopts and ratifies the Balanced Budget Amendment.

§4A-9-2. Effective date.

This article does not take effect until Congress effectively refers the Balanced Budget Amendment to the states for ratification by three-fourths of the Legislatures of the several states under Article V of the Constitution of the United States.

**ARTICLE 10. CONSTRUCTION, ENFORCEMENT, VENUE, AND SEVERABILITY.**

§4A-10-1. Enacting legislation.

To the extent that the effectiveness of the Compact or any of its articles or provisions requires the alteration of local legislative rules, drafting policies, or procedure to be effective, the enactment of legislation enacting, adopting and agreeing to be bound by the Compact shall be deemed to waive, repeal, supersede, or otherwise amend and conform all the rules, policies or procedures to allow for the effectiveness of the Compact to the fullest extent permitted by the Constitution of any affected Member State.

§4A-10-2. Date and Location of the Convention.

Unless otherwise specified by Congress in its call, the Convention shall be held in Dallas, Texas and commence proceedings at 9:00 a.m. Central Standard Time on the sixth Wednesday after the latter of the effective date of Article V of the Compact or the enactment date of the Congressional resolution calling the Convention.
§4A-10-3. Additional powers and duties.

In addition to all other powers and duties conferred by state law which are consistent with the terms and conditions of the Compact, the chief law-enforcement officer of each Member State is empowered to defend the Compact from any legal challenge, as well as to seek civil mandatory and prohibitory injunctive relief to enforce the Compact; and shall take such action whenever the Compact is challenged or violated.

§4A-10-4. Exclusive venue.

The exclusive venue for all actions in any way arising under the Compact shall be in the United States District Court for the Northern District of Texas or the courts of the state of Texas within the jurisdictional boundaries of the foregoing district court. Each Member State shall submit to the jurisdiction of the courts with respect to the actions. However, upon written request by the chief law-enforcement officer of any Member State, the Commission may elect to waive this provision for the purpose of ensuring an action proceeds in the venue that allows for the most convenient and effective enforcement or defense of the Compact. Any waiver shall be limited to the particular action to which it is applied and not construed or relied upon as a general waiver of this provision. The waiver decisions of the Commission under this provision shall be final and binding on each Member State.

§4A-10-5. Effective date.

The effective date of the Compact and any of its articles is the latter of: (1) The date of any event rendering the same effective according to its respective terms and conditions; or (2) the earliest date otherwise permitted by law.


Article eight of this chapter is nonseverable prior to termination of the Compact. However, if any other phrase, clause, sentence or provision of the Compact, or the applicability of any other phrase, clause, sentence or provision of the Compact to any government, agency, person or circumstance, is declared in a final judgment to be contrary to the Constitution of the United
States, contrary to the state Constitution of any Member State, or is otherwise held invalid by a court of competent jurisdiction, the phrase, clause, sentence or provision shall be severed and held for naught, and the validity of the remainder of the Compact and the applicability of the remainder of the Compact to any government, agency, person or circumstance shall not be affected. Furthermore, if the Compact is declared in a final judgment by a court of competent jurisdiction to be entirely contrary to the state Constitution of any Member State or otherwise entirely invalid as to any Member State, the Member State shall be deemed to have withdrawn from the Compact, and the Compact shall remain in full force and effect as to any remaining Member State. Finally, if the Compact is declared in a final judgment by a court of competent jurisdiction to be wholly or substantially in violation of Article I, Section 10, of the Constitution of the United States, then it shall be construed and enforced solely as reciprocal legislation enacted by the affected Member State(s).

§4A-10-7. Termination.

The Compact shall terminate and be held for naught when the Compact is fully performed and the Constitution of the United States is amended by the Balanced Budget Amendment. However, notwithstanding anything to the contrary set forth in the Compact, in the event the amendment does not occur within seven years after the first state passes legislation enacting, adopting and agreeing to be bound to the Compact, the Compact shall terminate as follows: (1) The Commission shall dissolve and wind up its operations within ninety days thereafter, with the Compact Administrator giving notice of the dissolution and the operative effect of this section to the Compact Notice Recipients; and (2) upon the completed dissolution of the Commission, the Compact shall be deemed terminated, repealed, void ab initio, and held for naught.

NOTE: The purpose of this bill is to create the Compact for a Balanced Budget. The bill provides a declaration of policy, purpose and intent. The bill defines terms. The bill provides for Compact membership and withdrawal. The bill provides for a Compact Commission and Compact Administrator. The bill provides for a resolution applying for a Constitutional Convention. The bill provides for the appointment of delegates, their instructions and
limitations. The bill provides for convention rules. The bill provides a prohibition on ultra vires convention. The bill provides for a resolution prospectively ratifying a balanced budget amendment. The bill provides for the construction, enforcement, venue and severability. The bill providing effective dates a termination date.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.