WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

Senate Bill 673

By Senators Karnes, Boso and Sypolt

[Originating in the Committee on the Judiciary;

reported on March 27, 2017]

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 the 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 Legislature to delegates and

10   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) Every candidate for delegate or alternate from West Virginia to the Article V convention

2   shall take the following oath: "I do solemnly swear or affirm that, to the best of my abilities, I will,

3   as a delegate or alternate to an Article V convention, uphold the Constitution and laws of the

4   United States of America and the State of West Virginia. I will not vote to allow consideration of

5   or to approve any unauthorized amendment proposed for ratification to the United States of

6   America Constitution".

7   (b) The Legislature, or an official or committee authorized pursuant to subsection (b),

8   section two of this article, shall certify in writing to the Article V convention the delegates and

9   alternates selected, the amendments a delegate or alternate is authorized to consider and vote

10 to approve, the recall procedures set forth in subsection (b) of this section and the mandatory

11 nullification of any votes cast by a delegate or alternate on an unauthorized amendment.

12   (c) Any delegate casting a vote to allow consideration or approval of an unauthorized

13 amendment shall be immediately recalled by an official or committee authorized pursuant to

14 subsection (b), section two of this article and be replaced by an alternate.

15   (d) Delegates may not vote to allow consideration of, or vote to approve, an unauthorized

16 amendment for ratification to the Constitution of the United States. Any such vote would constitute

17 an unauthorized vote and would be considered null and void.

18   (e) Any delegate or alternate shall be deemed a public official, as that term is defined in

19 subsection (k), section three, article one, chapter six-b of this code, and shall be subject to the

20 requirements of the West Virginia Governmental Ethics Act.

§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.

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