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SENATE BILL NO. 1138

Offered January 8, 2025

Prefiled January 7, 2025

A BILL to amend the Code of Virginia by adding in Title 30 a chapter numbered 19.1, consisting of sections numbered 30-173.1 through 30-173.11, relating to General Assembly; intergovernmental affairs; delegates to convention for proposing amendments held pursuant to Article V of the Constitution of the United States; penalties.

Patron—Sturtevant

Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:
1. That the Code of Virginia is amended by adding in Title 30 a chapter numbered 19.1, consisting of sections numbered 30-173.1 through 30-173.11, as follows:

CHAPTER 19.1.**DELEGATES TO A CONVENTION FOR PROPOSING AMENDMENTS HELD PURSUANT TO ARTICLE V OF THE CONSTITUTION OF THE UNITED STATES.****§ 30-173.1. Applicability; definitions.**

A. This chapter shall apply to any convention for proposing amendments to the Constitution of the United States held pursuant to Article V of the Constitution of the United States.

B. As used in this chapter, unless the context requires a different meaning:

"Advisory committee" means a committee consisting of members selected by each chamber of the General Assembly using the process defined in this chapter to perform the duties defined in this chapter.

"Chamber" means either the Senate or the House of Delegates of the General Assembly.

"Commissioning resolution" means the resolution adopted by the Senate and the House of Delegates of the General Assembly that sets forth the names of the appointed delegates, their commissions, and their instructions.

"Delegate" means a person selected by resolution of the General Assembly as provided in this chapter to represent the Commonwealth at any convention for proposing amendments held pursuant to Article V of the Constitution of the United States.

"Delegation" means the group of delegates and interim delegates chosen by the General Assembly to attend any convention for proposing amendments held pursuant to Article V of the Constitution of the United States.

"Interim delegate" means a person selected by the advisory committee pursuant to § 30-173.9 to fill a vacancy in the delegation.

§ 30-173.2. Qualification of delegates.

At the time of his appointment, and throughout his commissionable service, a delegate shall:

1. Have been a United States citizen for not less than five years;
2. Have been a legal resident of the Commonwealth of Virginia for not less than five years;
3. Be at least 25 years of age;
4. Be an active registered voter in the Commonwealth of Virginia;
5. Not have been registered or have been required to register as a federal lobbyist at any time within the last five years;
6. Not have been a federal contractor or employee, other than a member of the United States Armed Forces, at any time within the last 10 years;
7. Not have held a federal elected or appointed office at any time within the last 10 years;
8. Not have had any felony convictions for crimes involving moral turpitude;
9. Not have had any felony convictions within the last 10 years; and
10. Not hold a statewide office while performing the duties of delegate or interim delegate.

§ 30-173.3. Delegate selection and removal.

A. All delegates shall be named by a resolution passed by both chambers of the General Assembly. The General Assembly shall maintain an odd number of delegates in the delegation. Any vacancies shall be filled by the advisory committee's selection of an interim delegate until such time as a vote by the legislature shall select a permanent replacement.

B. A delegate or interim delegate may be recalled or removed at any time and for any reason by a joint resolution of the General Assembly or, if the General Assembly is not in session, may be recalled and suspended from his duties by the advisory committee, pending a vote of the legislature. A delegate or interim delegate shall be recalled or suspended by the advisory committee pursuant to a determination under § 30-

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59 173.10 that he has exceeded the scope of his authority.

60 **§ 30-173.4. Commissioning resolution.**

61 A. The commissioning resolution shall include the following components:

62 1. A delegate shall not vote for or otherwise promote any change to the rule that each state has one vote;
63 and

64 2. A delegate shall not vote in favor of any proposed amendment that would alter the text of the specific
65 guarantees of individual liberty established by the Constitution of the United States, including the original
66 Constitution, the Bill of Rights, and the Thirteenth, Fourteenth, Fifteenth, Nineteenth, Twenty-Third, Twenty-
67 Fourth, and Twenty-Sixth Amendments to the Constitution of the United States.

68 B. If a commissioning resolution is passed pursuant to an Article V Convention of the States to propose
69 amendments to the Constitution of the United States, the commissioning resolution shall clearly state the
70 scope of the delegates' authority, which shall be limited by:

71 1. The subject matter enumerated in the state resolutions in application to the Congress of the United
72 States to call the Article V Convention; and

73 2. Any additional instructions from the General Assembly, whether in the commissioning resolution or
74 issued thereafter.

75 C. The General Assembly may provide additional instructions at any time via subsequent commissioning
76 resolutions, a copy of which the Clerk of the House of Delegates shall provide to each delegate and to the
77 advisory committee.

78 **§ 30-173.5. Delegate oath and credentials.**

79 A. Each delegate shall, before exercising any function of the position, execute the following oath in
80 writing:

81 "I do solemnly swear (or affirm) that I accept and will act according to the limits of authority specified in
82 my commission and any present or subsequent instructions from the General Assembly of Virginia. I
83 understand that violating this oath may subject me to penalties provided by law. I understand that I may be
84 recalled or suspended from my duties by the General Assembly or the advisory committee."

85 B. Upon execution, the delegate's oath shall be filed with the Secretary of the Commonwealth, and the
86 Clerk of the House of Delegates shall provide to the delegate an official copy of the executed oath and the
87 commissioning resolution, which together shall serve as the delegate's credentials.

88 **§ 30-173.6. Compensation and expenses.**

89 A delegate shall receive the same compensation as a member of the House of Delegates, prorated for
90 length of time served. A delegate is entitled to receive the same allowance for expenses as provided to a
91 member of the House of Delegates.

92 **§ 30-173.7. Emolument and gift prohibition.**

93 Neither a delegate nor an interim delegate shall accept, during his time of service, any gifts or benefits
94 with a combined value of more than \$200 other than from a member of his family and of the kind customarily
95 granted by a member of one's family. Gifts and benefits shall be construed liberally and include current and
96 future loans, lodging, food, offers of prospective employment, and other actual and prospective benefits;
97 however, an employer's decision to continue paying a delegate's current salary shall not be construed to be a
98 gift.

99 **§ 30-173.8. Quorum; roles; communications of the delegation.**

100 A. A majority of the delegation present and voting shall constitute a quorum. Any action by the delegation
101 shall require a majority of those present and voting.

102 B. The delegates, including any interim delegates, shall choose from among themselves (i) a chairman,
103 (ii) a person who shall cast the Commonwealth's vote on the convention floor, and (iii) a spokesperson who
104 shall speak to the mass media on behalf of the delegation. The same person may be chosen to exercise
105 multiple functions. The delegation may reassign duties as it sees fit.

106 C. The internal deliberations of the delegation shall be secret. No delegate shall publicly contradict the
107 delegation on a matter on which the delegation has taken a formal position. No delegate other than the one
108 designated to communicate with the mass media on behalf of the delegation shall communicate with the mass
109 media about convention business during the convention or during any temporary recess or temporary
110 adjournment. A delegate violating this subsection may be suspended or recalled by the advisory committee or
111 by the General Assembly. This subsection shall not be construed to prevent a delegate from presenting his
112 opinions to the convention or debating a matter at the convention on which his delegation has not formally
113 taken a position.

114 **§ 30-173.9. Advisory committee.**

115 A. The advisory committee shall consist of one member of the Senate appointed by the Senate Majority
116 Leader, one member of the House of Delegates appointed by the Speaker of the House of Delegates, and one
117 member of the General Assembly nominated by joint action of the Senate Majority Leader and the Speaker of
118 the House of Delegates and approved by the majority of those voting in each chamber.

119 The advisory committee shall select one of its members as chairman.

120 B. The advisory committee shall have authority to hire staff and develop appropriate procedures and

mechanisms for monitoring the convention, its committees, and its subcommittees.

C. A delegate may request that the advisory committee advise him as to whether a prospective action by the delegate would violate the commissioning resolution or any subsequent instructions. The advisory committee shall communicate a determination by any appropriate medium to the delegate requesting such advice within 24 hours of receiving the request.

§ 30-173.10. Monitoring the exercise of delegate authority.

A. Whenever the advisory committee has reason to believe that a delegate or interim delegate has exceeded the scope of his authority, the advisory committee shall notify the Speaker of the House of Delegates, the Senate Majority Leader, and the Attorney General.

B. Upon the request for a determination by the Speaker of the House of Delegates, the Senate Majority Leader, or the Attorney General on whether a delegate or interim delegate has exceeded the scope of his authority, the advisory committee shall issue a determination. The determination shall be made and communicated promptly to the person requesting it.

C. Upon a determination that a delegate or interim delegate has exceeded the scope of his authority, the advisory committee shall immediately exercise its authority under § 30-173.3 to remove such delegate and shall communicate such action and the reasons therefor to the Speaker of the House of Delegates, the Senate Majority Leader, the Attorney General, and the presiding officers of the convention.

§ 30-173.11. Penalties.

A. A delegate or interim delegate shall not vote or otherwise act beyond the authority granted in the commissioning resolution, as may be altered by any duly issued subsequent instructions provided prior to the vote or other action takes place. A delegate or interim delegate who exceeds the scope of his authority is guilty of a Class 5 felony.

B. Any person who, by bribery, intimidation, threats, coercion, or other means, willfully and intentionally hinders or prevents or attempts to hinder or prevent a delegate or interim delegate from the performance of their duties in accordance with the commissioning resolution and any other subsequent instructions is guilty of a Class 5 felony.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2024, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.