

1 AN ACT relating to the selection and oversight of Article V convention
2 commissioners.

3 WHEREAS, the founders of the Constitution of the United States empowered state
4 legislatures to be guardians of liberty against future abuses of power by the federal
5 government; and

6 WHEREAS, the federal government has invaded the legitimate role of the states
7 through the manipulative process of federal mandates, most of which are unfunded to a
8 great extent; and

9 WHEREAS, it is the solemn duty of the states to protect the liberty of our people,
10 particularly for generations to come, by proposing amendments to the Constitution of the
11 United States through a convention of the states under Article V of the Constitution of the
12 United States for the purpose of restraining these and related abuses of power; and

13 WHEREAS, it is imperative that once an Article V convention is established that
14 this Commonwealth have a process and procedure to select and provide oversight over
15 commissioners to ensure that they are acting in the best interests of the Commonwealth
16 and its people;

17 NOW, THEREFORE,

18 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

19 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO
20 READ AS FOLLOWS:

21 ***As used in Sections 1 to 5 of this Act:***

22 ***(1) "Advisory Committee" means a committee consisting of members selected by***
23 ***each chamber using the process and performing the duties outlined in Section 5***
24 ***of this Act;***

25 ***(2) "Chamber" means either the Senate or the House of Representatives of the***
26 ***Kentucky General Assembly;***

27 ***(3) "Commissioner" means a person selected by resolution of the General Assembly***

- 1 to represent this Commonwealth at any interstate convention;
2 (4) "Commissioning resolution" means the resolution adopted by the House of
3 Representatives and Senate of the General Assembly which sets forth the names
4 of the appointed commissioners, their commissions, and instructions;
5 (5) "Delegation" means the group of commissioners and interim commissioners
6 chosen by the General Assembly to attend any interstate convention; and
7 (6) "Interim commissioner" means a person selected by the advisory committee
8 pursuant to Section 5 of this Act to fill a vacancy in the delegation.

9 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO
10 READ AS FOLLOWS:

- 11 (1) If an Article V convention is convened and this Commonwealth is a participant,
12 the General Assembly shall adopt a joint resolution naming five (5)
13 commissioners to represent the Commonwealth in the convention.
14 (2) The resolution naming the commissioners shall include their commission. The
15 commission shall include but not be limited to the following components:
16 (a) A commissioner shall not vote for or otherwise promote any change to the
17 traditional convention rule of decision on the floor and in the committee of
18 the whole, including, that each state has one (1) vote; and
19 (b) A commissioner shall not vote in favor of any proposed amendment that
20 would alter the text of the specific guarantees of individual liberty
21 established by the Constitution of the United States, including the original
22 Constitution, the Bill of Rights, and the Thirteenth, Fourteenth, Fifteenth,
23 Nineteenth, Twenty-Third, Twenty-Fourth, and Twenty-Sixth Amendments
24 to the Constitution of the United States.
25 (3) If a commissioning resolution is passed pursuant to an Article V convention of
26 the states to propose amendments to the Constitution of the United States, the
27 resolution shall clearly state the scope of the commissioners' authority, which

1 shall be limited by:

2 (a) The subject matter enumerated in the thirty-four (34) state resolutions in
3 application to Congress to call the convention; and

4 (b) Any additional instructions from the General Assembly.

5 (4) The General Assembly may provide additional instructions at any time by
6 subsequent resolution, a copy of which the Clerk of the House of Representatives
7 shall provide to each commissioner and to the advisory committee.

8 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO
9 READ AS FOLLOWS:

10 (1) At the time of their appointment, and throughout their commissionable service,
11 each of the five (5) commissioners shall:

12 (a) Have been a United States citizen for not less than five (5) years;

13 (b) Be a legal resident of the Commonwealth of Kentucky for not less than five
14 (5) years;

15 (c) Be at least twenty-five (25) years old;

16 (d) Be an active registered voter in the Commonwealth of Kentucky;

17 (e) Not be registered or have been required to register as a federal lobbyist at
18 any time within the last five (5) years;

19 (f) Not currently be a federal employee or federal contractor, nor have been a
20 federal employee or federal contractor within the last ten (10) years, but
21 may be a member of the United States Armed Forces;

22 (g) Not have held a federal elected or appointed office at any time within the
23 last ten (10) years;

24 (h) Not have had any felony convictions for any crime, including crimes
25 involving moral turpitude, in any jurisdiction within the last ten (10) years;
26 and

27 (i) Not hold a statewide office while performing the duties of commissioner or

1 interim commissioner. For the purposes of this section, a position as a state
2 legislator shall not be deemed a statewide office.

3 (2) (a) Each commissioner shall, before exercising any function of the position,
4 execute the following oath in writing: "I do solemnly swear or affirm that I
5 accept and will act according to the limits of authority specified in my
6 commission and any present or subsequent instructions from the Kentucky
7 General Assembly. I understand that violating this oath may subject me to
8 penalties provided by law. I understand that I may be recalled or suspended
9 from my duties by the General Assembly or the advisory committee."

10 (b) A commissioner's executed oath shall be filed with the Secretary of State.

11 (3) After a commissioner's executed oath is filed with the Secretary of State, the
12 Clerk of the House of Representatives shall provide to the commissioner an
13 official copy of the executed oath and the commissioning resolution, which
14 together shall serve as the commissioner's credentials.

15 (4) (a) A commissioner or interim commissioner may be recalled or removed at any
16 time for any reason by a joint resolution of the General Assembly, or if the
17 General Assembly is not in session, may be recalled and suspended from
18 their duties by the advisory committee, pending a vote of the General
19 Assembly the next time it is in session and authorize the vote on the issue.

20 (b) A commissioner or interim commissioner shall be recalled or suspended by
21 the advisory committee pursuant to a determination under Section 5 of this
22 Act that he or she has exceeded the scope of his or her authority.

23 (5) Any commissioner vacancies shall be filled by the advisory committee's selection
24 of an interim commissioner until the General Assembly selects a permanent
25 replacement.

26 (6) A commissioner shall receive the same compensation and allowance for expenses
27 as a member of the House of Representatives of this Commonwealth.

1 Compensation for the commissioner shall be prorated for length of time served.

2 (7) A commissioner or an interim commissioner shall not accept, during his or her
3 time of service, any gift or benefit with a combined value of more than fifty
4 dollars (\$50), other than from a member of his or her family and of the kind of
5 customarily granted by a member of one's family. As used in this subsection, the
6 term "gift or benefit" shall be construed liberally to include current and future
7 loans, lodging, food, offer of prospective employment, and other actual and
8 prospective benefits. An employer's decision to continue paying a commissioner's
9 current salary shall not be construed as a gift.

10 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO
11 READ AS FOLLOWS:

12 (1) (a) The commissioners within the delegation, including any interim
13 commissioners filling a vacancy, shall choose from among them a person
14 to:

- 15 1. Chair the delegation;
- 16 2. Cast the state's vote on the convention floor; and
- 17 3. Speak to the media on behalf of the delegation.

18 (b) If the delegation so decides, the same person may exercise any two (2) or all
19 three (3) functions listed in paragraph (a) of this subsection. The delegation
20 may, at any time, designate a different commissioner to perform any of the
21 functions listed in paragraph (a) of this subsection.

22 (2) Each commissioner shall take care to avoid communicating the impression to any
23 person outside the delegation that the delegation is divided on a question on
24 which the delegation has taken a formal position, including but not limited to
25 casting a vote.

26 (3) No commissioner, other than the person designated to communicate with the
27 media on behalf of the delegation, shall communicate with the media about

1 convention business during the convention or during any temporary recess or
2 temporary adjournment.

3 (4) A commissioner who violates subsection (2) or (3) of this section may be
4 suspended or recalled by the advisory committee or the General Assembly.

5 (5) Subsections (2) and (3) of this section shall not be construed to prevent a
6 commissioner from presenting his or her opinions to the convention or debating a
7 matter at the convention on which his or her delegation has not formally taken a
8 position.

9 (6) The quorum for a decision by the delegation, including the designation of
10 commissioners for particular duties and the determination of how the state's vote
11 shall be cast, shall be a majority present and voting at the time the question is
12 called. A decision shall not be made and a vote shall not be cast if less than a
13 majority of the delegation votes in the question.

14 (7) If a quorum is present the decision of the delegation, shall be that of the majority
15 of those present and voting at the time the question is called.

16 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO
17 READ AS FOLLOWS:

18 (1) The advisory committee shall consist of the following members:

19 (a) A member of the Senate, appointed by the President of the Senate;

20 (b) A member of the House of Representatives, appointed by the Speaker of the
21 House of Representatives; and

22 (c) A member of the General Assembly, nominated by both the Speaker of the
23 House and the President of the Senate and approved by the majority of
24 those voting in each chamber.

25 (2) The advisory committee shall select one (1) of its members as chair.

26 (3) A commissioner may request that the advisory committee advise him or her
27 whether a prospective action by a commissioner would violate the commissioning

1 resolution or any subsequent instructions.

2 (4) The advisory committee shall:

3 (a) Communicate to the commissioner requesting advice pursuant to subsection
4 (3) of this section by any appropriate means a determination within twenty-
5 four (24) hours of receiving the request; and

6 (b) Have the authority to hire staff and develop appropriate procedures and
7 mechanisms for monitoring the convention, its committees, and
8 subcommittees.

9 (5) If the advisory committee has reason to believe that a commissioner or interim
10 commissioner has exceeded the scope of his or her authority, the advisory
11 committee shall notify the Speaker of the House of Representatives, and the
12 President of the Senate.

13 (6) Upon request for a determination by the Speaker of the House and the President
14 of the Senate whether a commissioner or interim commissioner has exceeded the
15 scope of his or her authority, the advisory committee shall issue a determination
16 whether the commissioner or interim commissioner exceeded his or her authority.
17 The determination shall be expeditiously made and immediately communicated to
18 the person requesting it.

19 (7) Upon a determination that a commissioner or interim commissioner has exceeded
20 the scope of his or her authority pursuant to this section, the advisory committee
21 shall notify the Speaker of the House and the President of the Senate for further
22 action pursuant to subsection (4) of Section 3 of this Act.