

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 each***  
23 ***chamber using the process and performing the duties outlined in Section 5 of this***  
24 ***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 a commissioning resolution of the***

1 General Assembly to represent this Commonwealth at any interstate convention;

2 (4) "Commissioning resolution" means the joint 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 commissioning resolution naming five (5)  
13 commissioners to represent this Commonwealth in the convention.

14 (2) The commissioning resolution shall include but not be limited to the following  
15 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, it shall  
27 clearly state the scope of the commissioners' authority, which shall be limited by:

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

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

4 (4) The General Assembly may provide additional instructions at any time by  
 5 subsequent joint resolution, a copy of which the Clerk of the House of  
 6 Representatives shall provide to each commissioner and to the advisory  
 7 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 his  
18 or her duties by the advisory committee, pending a vote of the General  
19 Assembly the next time it is in session and authorized to 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 vacancy shall be filled by the advisory committee's selection of  
24 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  
 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) A commissioner who is not the commissioner designated to communicate with the  
 27 media on behalf of the delegation shall not 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) (a) The quorum for a decision by the delegation shall be a majority present and  
 10 voting at the time the question is called. Decisions may include but not be  
 11 limited to the:

12 1. Designation of commissioners for particular duties; and

13 2. Determination of how the state's vote shall be cast.

14 (b) A decision shall not be made and a vote shall not be cast if less than a  
 15 majority of the delegation votes on the question.

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

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

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

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

22 (b) A member of the House of Representatives, appointed by the Speaker of the  
 23 House of Representatives; and

24 (c) A member of the General Assembly:

25 1. Nominated by both the Speaker of the House and the President of the  
 26 Senate; and

27 2. Approved by the majority of those voting in each chamber.

- 1 (2) The advisory committee shall select one (1) of its members as chair.
- 2 (3) A commissioner may request that the advisory committee advise him or her  
3 whether a prospective action by a commissioner would violate the commissioning  
4 resolution or any subsequent instructions.
- 5 (4) The advisory committee shall:
- 6 (a) Communicate to the commissioner requesting advice pursuant to subsection  
7 (3) of this section by any appropriate means a determination within twenty-  
8 four (24) hours of receiving the request; and
- 9 (b) Have the authority to hire staff and develop appropriate procedures and  
10 mechanisms for monitoring the convention, its committees, and  
11 subcommittees.
- 12 (5) If the advisory committee has reason to believe that a commissioner or interim  
13 commissioner has exceeded the scope of his or her authority, the advisory  
14 committee shall notify the Speaker of the House of Representatives and the  
15 President of the Senate.
- 16 (6) Upon request for a determination by the Speaker of the House and the President  
17 of the Senate whether a commissioner or interim commissioner has exceeded the  
18 scope of his or her authority, the advisory committee shall issue a determination  
19 whether the commissioner or interim commissioner exceeded his or her authority.  
20 The determination shall be expeditiously made and immediately communicated to  
21 the person requesting it.
- 22 (7) Upon a determination that a commissioner or interim commissioner has exceeded  
23 the scope of his or her authority pursuant to this section, the advisory committee  
24 shall notify the Speaker of the House and the President of the Senate for further  
25 action pursuant to subsection (4) of Section 3 of this Act.