

1 AN ACT relating to the selection and oversight of Article V convention delegates
2 and declaring an emergency.

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

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

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

- 7 *(1) "Alternate delegate" means an individual appointed under Section 2 of this Act*
8 *to represent this Commonwealth as an alternate who is paired to a delegate at an*
9 *Article V convention;*
- 10 *(2) "Article V convention" means a convention called by the United States Congress*
11 *under Article V of the United States Constitution;*
- 12 *(3) "Committee" means the Article V Oversight Committee;*
- 13 *(4) "Delegate" means an:*
- 14 *(a) Individual appointed under Section 2 of this Act to represent this*
15 *Commonwealth as a delegate at an Article V convention; or*
- 16 *(b) Alternate delegate who fills a vacancy in the office of the alternate*
17 *delegate's paired delegate; and*
- 18 *(5) "Recall" means an act by one (1) chamber of the General Assembly to revoke the*
19 *appointment of an individual from his or her duties as a delegate or alternate*
20 *delegate representing this Commonwealth at an Article V convention; and*
- 21 *(6) "Unauthorized vote" means a vote cast by a delegate or alternate delegate at an*
22 *Article V convention that:*
- 23 *(a) Is contrary to the instructions adopted under Section 4 of this Act that are*
24 *in effect at the time the vote is taken;*
- 25 *(b) Exceeds the scope or subject matter of the Article V convention as*
26 *authorized by the General Assembly in the application to the United States*
27 *Congress to call the convention if the General Assembly made an*

- 1 application to call the convention;
2 (c) Exceeds the scope or subject matter of the Article V convention if the
3 General Assembly did not make an application to the United States
4 Congress to call the convention;
5 (d) Alters the one-state, one-vote rule for proposing amendments; or
6 (e) Modifies fundamental rights protected by the United States Constitution.

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

- 9 (1) As soon as possible following the calling of an Article V convention, the General
10 Assembly shall appoint delegates and alternate delegates to the convention
11 pursuant to subsection (2) or (3) of this section.
12 (2) Except as provided by subsection (3) of this section, the General Assembly shall
13 appoint five (5) delegates and five (5) alternate delegates to the Article V
14 convention as follows:
15 (a) The House of Representatives shall appoint three (3) members of the House
16 of Representatives as delegates and three (3) members of the House of
17 Representatives as alternate delegates; and
18 (b) The Senate shall appoint two (2) members of the Senate as delegates and
19 two (2) members of the Senate as alternate delegates.
20 (3) If the number of delegates allocated to represent the Commonwealth at the
21 Article V convention is determined by agreement among the states to be a number
22 other than five (5), the General Assembly shall appoint the allocated number of
23 delegates and an equal number of alternate delegates as follows:
24 (a) If the allocated number of delegates is an odd number:
25 1. The House of Representatives shall appoint a number of members of
26 the House of Representatives as delegates that is equal to three-fifths
27 (3/5) of the allocated number or as close to that proportion as possible

- 1 and the same number of members of the House of Representatives as
2 alternate delegates; and
- 3 2. The Senate shall appoint a number of members of the Senate as
4 delegates that is equal to two-fifths (2/5) of the allocated number or as
5 close to that proportion as possible and the same number of members
6 of the Senate as alternate delegates; and
- 7 (b) If the allocated number of delegates is an even number:
- 8 1. The House of Representatives shall appoint a number of members of
9 the House of Representatives as delegates that is equal to one-half
10 (1/2) of the allocated number and the same number of members of the
11 House of Representatives as alternate delegates; and
- 12 2. The Senate shall appoint a number of members of the Senate as
13 delegates that is equal to one-half (1/2) of the allocated number and
14 the same number of members of the Senate as alternate delegates.
- 15 (4) The appointing chamber shall pair each alternate delegate with a delegate at the
16 time each appointment is made. The alternate delegate shall act in the place of
17 his or her paired delegate when the delegate is absent from the convention.
- 18 (5) An alternate delegate automatically fills a vacancy in the office of the alternate
19 delegate's paired delegate unless the office of the alternate delegate is
20 simultaneously vacated.
- 21 (6) Except as provided in subsection (5) of this section, the chamber that appointed a
22 delegate or alternate delegate shall fill a vacancy in the office of the delegate or
23 alternate delegate as soon as possible after the vacancy occurs.
- 24 (7) The chamber that appointed a delegate or alternate delegate may recall the
25 delegate or alternate delegate. A vacancy created by the recall of a delegate or
26 alternate delegate shall be filled in the same manner provided by subsections (5)
27 and (6) of this section.

1 (8) (a) A chamber that seeks to appoint, recall, or fill a vacancy of a delegate or
2 alternate delegate may do so by adopting a resolution.

3 (b) If the committee determines that a delegate or alternate delegate made an
4 unauthorized vote pursuant to Section 5 of this Act, the appointing chamber
5 of the General Assembly may recall the delegate or alternate delegate.

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

8 (1) Service as a delegate or alternate delegate by a member of the General Assembly
9 is an additional duty of the member's office.

10 (2) A delegate or alternate delegate shall not be entitled to compensation for service
11 as a delegate or alternate delegate.

12 (3) A delegate or alternate delegate shall be entitled to reimbursement for necessary
13 expenses incurred in performance of official duties, subject to any applicable
14 limitation on reimbursement provided by state law.

15 (4) A delegate or alternate delegate shall not accept a gift, loan, food or beverages,
16 entertainment, lodging, transportation, or other benefit from any lobbyist or
17 legislative agent as defined in KRS 6.611.

18 (5) (a) An individual appointed as a delegate or alternate delegate shall take the
19 following oath before voting or taking an action as a delegate or alternate
20 delegate of this Commonwealth: "I do solemnly swear (or affirm) that to the
21 best of my abilities, I will, as a delegate (or alternate delegate) to the Article
22 V convention, act according to the limits of the authority granted to me by
23 Kentucky law, not consider or vote to approve any amendment to the United
24 States Constitution not authorized by the General Assembly in its
25 application to Congress to call this convention or any amendment outside
26 the scope of this convention if the General Assembly did not make an
27 application, faithfully abide by and execute the instructions to delegates or

1 alternate delegates adopted by the General Assembly, not propose, support,
2 or vote for any amendment or rule change that alters the one-state, one-vote
3 rule for proposing amendments, proposes amendments outside the scope of
4 the convention call, or modifies fundamental rights protected by the United
5 States Constitution, and otherwise act only within the authority and scope
6 granted to me by this Commonwealth, so help me God."

7 (b) Each delegate and alternate delegate shall file the executed oath with the
8 Secretary of State.

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

11 (1) The General Assembly by joint resolution shall adopt instructions to the delegates
12 and alternate delegates to govern the actions of those officers at an Article V
13 convention.

14 (2) The General Assembly shall not adopt instructions for an Article V convention
15 called following an application by the General Assembly to the United States
16 Congress for the convention that would authorize a delegate or alternate delegate
17 to consider or vote to approve an amendment to the United States Constitution
18 that is not authorized by the General Assembly in its application for the
19 convention.

20 (3) The General Assembly may amend instructions for an Article V convention at
21 any time by joint resolution, except as provided in subsection (2) of this section.

22 (4) A delegate or alternate delegate shall not cast an unauthorized vote.

23 (5) Except as provided in Section 5 of this Act, the determination that a vote is an
24 unauthorized vote may only be made by the chamber of the General Assembly
25 that appointed the delegate or alternate delegate who cast the vote in question.

26 (6) A vote determined to be an unauthorized vote shall be considered invalid.

27 (7) A delegate or alternate delegate who casts a vote determined to be an

1 unauthorized vote shall be disqualified to continue to serve as a delegate or
 2 alternate delegate. A vacancy in the office of a delegate or alternate delegate
 3 created by the disqualification of the delegate or alternate delegate shall be filled
 4 in the manner provided in Section 2 of this Act.

5 (8) The President of the Senate or Speaker of the House of Representatives that
 6 determined that a delegate or alternate delegate has cast an unauthorized vote
 7 shall promptly notify the presiding officer of the Article V convention that the
 8 delegate or alternate delegate has cast an unauthorized vote and is disqualified to
 9 serve as a delegate or alternate delegate.

10 (9) A delegate or alternate delegate who casts an unauthorized vote shall be guilty of
 11 a Class D felony and shall be punished by a fine of not more than one thousand
 12 dollars (\$1,000), or by imprisonment for a term of not more than one (1) year, or
 13 both.

14 (10) Any person who knowingly bribes, threatens, intimidates, or obstructs a delegate
 15 or alternate delegate in the performance of his or her duties, or attempts to do so,
 16 while not being otherwise privileged by law to so act, shall be guilty of a Class D
 17 felony and shall be punished by a fine of not more than one thousand dollars
 18 (\$1,000), or by imprisonment for a term of not more than one (1) year, or both.

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

21 (1) The General Assembly shall appoint an Article V Oversight Committee at the
 22 time delegates and alternate delegates are appointed under Section 2 of this Act.

23 (2) The committee shall consist of the following ten (10) members:

24 (a) Four (4) members of the Senate, appointed by the President of the Senate;

25 (b) Four (4) members of the House of Representatives, appointed by the
 26 Speaker of the House of Representatives; and

27 (c) The President of the Senate and the Speaker of the House of

- 1 Representatives, who shall serve as joint chairs of the committee.
- 2 (3) If the General Assembly is not convened in regular or extraordinary session at
3 any time during which an Article V convention is convened, the members of the
4 committee shall:
- 5 (a) Meet at the call of the chairs at the State Capitol; and
6 (b) Determine whether a vote cast by a delegate or alternate delegate is an
7 unauthorized vote for the purposes of Section 4 of this Act.
- 8 (4) A determination that a delegate or alternate delegate has cast an unauthorized
9 vote pursuant to subsection (3)(b) of this section requires seven (7) or more
10 members of the committee to vote in favor of that determination. Such a
11 determination by the members of the committee shall have the same effect as a
12 determination by the appointing chamber under subsection (7) of Section 4 of
13 this Act, and the committee shall immediately:
- 14 (a) Communicate its determination to the appointing chamber of the General
15 Assembly that the delegate or alternate delegate who cast the unauthorized
16 vote is disqualified to continue to serve as a delegate or alternate delegate,
17 and may recommend that the appointing chamber recall the delegate or
18 alternate delegate who cast the unauthorized vote; and
- 19 (b) Notify the presiding officer of the Article V convention that the delegate or
20 alternate delegate is disqualified to serve as a delegate or alternate delegate
21 for casting an unauthorized vote, and that a vacancy has been created in the
22 office of the delegate or alternate delegate.
- 23 (5) The committee may meet or act under subsection (3) of this section only when at
24 least six (6) members are present, which shall constitute a quorum. Any action
25 requires a majority vote of those present unless a higher threshold is specified in
26 Sections 1 to 5 of this Act.
- 27 (6) The committee shall not be authorized to take any action when the General

1 **Assembly is convened in regular or extraordinary session.**

2 ➔Section 6. If any provision of this Act or the application thereof to any person
3 or circumstance is held invalid, the invalidity shall not affect other provisions or
4 applications of the Act that can be given effect without the invalid provision or
5 application, and to this end the provisions of this Act are severable.

6 ➔Section 7. This Act may be cited as the Article V Delegate Accountability Act.

7 ➔Section 8. Whereas an Article V convention could be called at any time, an
8 emergency is declared to exist, and this Act takes effect upon its passage and approval by
9 the Governor or upon its otherwise becoming a law.