

SENATE BILL No. 279

By Committee on Assessment and Taxation

3-12

1 AN ACT concerning a convention of the states under article V of the
2 United States constitution; prescribing the appointment and
3 qualifications of delegates; the duties and responsibilities thereof;
4 instruction thereof by the legislature.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. The provisions of sections 1 through 8, and amendments
8 thereto, shall apply whenever a convention of the states is called pursuant
9 to article V of the United States constitution.

10 Sec. 2. As used in sections 1 through 8, and amendments thereto:

11 (a) "Alternate delegate" means an individual appointed pursuant to
12 section 3, and amendments thereto, as an alternate delegate to act in place
13 of an absent, recalled or disqualified delegate of the state of Kansas at an
14 article V convention.

15 (b) "Article V application" means a joint resolution adopted by both
16 houses of the legislature that applies for a convention of the states under
17 article V of the United States constitution.

18 (c) "Article V convention" means a convention for proposing
19 amendments to the United States constitution applied for by the states
20 under article V of the United States constitution.

21 (d) "Delegate" means an individual appointed pursuant to section 3,
22 and amendments thereto, to represent the state of Kansas at an article V
23 convention.

24 (e) "Delegate committee" means the group of those individuals
25 appointed to serve as delegates, including alternate delegates.

26 (f) "Joint committee of correspondence" means the committee
27 established pursuant to section 5, and amendments thereto.

28 (g) "Unauthorized amendment" means a proposed amendment that is
29 outside the authority of the delegates as established by section 4, and
30 amendments thereto.

31 (h) "Congressional district" means the congressional districts
32 described in K.S.A. 2014 Supp. 4-143, and amendments thereto, if such
33 section is in effect at the time an article V convention is convened, or, if
34 K.S.A. 2014 Supp. 4-143 is not in effect at the time an article V
35 convention is convened, then those congressional districts described in any
36 successor statute establishing congressional districts for the United States

1 house of representatives.

2 Sec. 3. (a) Whenever an article V convention is called, the members
3 of the house of representatives and the senate shall appoint the appropriate
4 number of delegates and alternate delegates allocated to represent the state
5 of Kansas. The appointments shall be made proportionally as follows:

6 (1) Members of the house of representatives and senate shall caucus
7 based upon the member's residency according to such member's respective
8 congressional district, regardless of party affiliation or house membership.

9 (2) For each congressional district, the senator in the majority party
10 with the most seniority who is a resident of such congressional district
11 shall call the initial meeting for delegate selection for that congressional
12 district. The initial meeting shall be called not more than 30 days after the
13 date an article V convention is called. In the event that an initial meeting is
14 not called by such senator, the representative in the majority party with the
15 most seniority who is a resident of such congressional district shall call the
16 initial meeting.

17 (3) The first order of business at any initial meeting called pursuant to
18 this subsection shall be to elect a chairperson and a secretary from the
19 members of the caucus. The chairperson shall preside over all meetings of
20 the caucus and shall direct and receive correspondence as required. The
21 secretary shall notify caucus members of meeting dates and times and any
22 other notices required during the selection of delegates, and shall keep the
23 minutes of all caucus meetings.

24 (4) Each congressional district caucus shall select one delegate and
25 one alternate from such congressional district. The delegates and alternate
26 delegates shall be former members of the legislature whose aggregate
27 number of years as a member of the legislature is not less than eight,
28 provided that no delegate or alternate delegate is a member of the joint
29 committee of correspondence.

30 (b) The term of each delegate and alternate delegate shall commence
31 upon certification of the appointment of such delegate and alternate
32 delegate by the congressional district caucus to the secretary of state. Such
33 term shall expire upon the conclusion of the article V convention, unless
34 such term is terminated at an earlier date due to recall, resignation,
35 incapacitation or death. In the event a delegate is recalled, resigns,
36 becomes incapacitated or dies, the alternate delegate shall immediately
37 assume the duties, functions and responsibilities as a delegate to the article
38 V convention.

39 (c) A petition, signed by two or more members of the delegate
40 committee, to recall a delegate or an alternate delegate may be submitted
41 to the congressional district caucus chairperson for the congressional
42 district caucus that appointed such delegate or alternate delegate. The
43 congressional district caucus shall convene within 15 days from the date

1 such petition is received by the chairperson to consider such petition. The
2 congressional district caucus may recall a delegate or alternate delegate
3 upon approval by $\frac{2}{3}$ of the members of the congressional district caucus.

4 (d) Within 15 days after an alternate delegate becomes a delegate
5 pursuant to this section, the congressional district caucus that appointed
6 such alternate delegate shall caucus and appoint a new alternate delegate in
7 accordance with subsection (a).

8 (e) The secretary of state shall certify in writing the identity of the
9 delegates appointed or recalled and the filling of any delegate vacancy.
10 Such certification shall be submitted to the appropriate party with the
11 article V convention.

12 Sec. 4. (a) Each delegate and alternate delegate appointed pursuant to
13 section 3, and amendments thereto, shall reaffirm an oath as described in
14 section 7, and amendments thereto. The authority of a delegate shall not be
15 deemed to exceed the narrower of: (1) The scope of the article V
16 application; or (2) any instructions contained in a concurrent resolution
17 adopted pursuant to section 6, and amendments thereto.

18 (b) No delegate or alternate delegate may vote at an article V
19 convention to move forward an unauthorized amendment. Any vote cast
20 by a delegate to move forward an unauthorized amendment at an article V
21 convention shall be void.

22 (c) The delegate committee shall file a report with the joint
23 committee of correspondence at the end of each article V convention
24 session day. Such report shall include, but shall not be limited to,
25 amendments entered, discussed or voted upon, and each delegate's vote on
26 any such amendment. The report shall be signed by a majority of the
27 delegate committee who were in attendance on that session day.

28 (d) A delegate at an article V convention who votes to move forward
29 an unauthorized amendment, as determined by the joint committee of
30 correspondence pursuant to section 5, and amendments thereto, shall be
31 immediately recalled and shall be referred to the attorney general for
32 appropriate action pursuant to section 8, and amendments thereto. Any
33 delegate who is recalled pursuant to this subsection shall be immediately
34 replaced by an alternate delegate in accordance with section 3(d), and
35 amendments thereto.

36 Sec. 5. (a) When an article V convention is called, there shall be
37 appointed a joint committee of correspondence who shall be responsible
38 for communications with the delegate committee. The joint committee of
39 correspondence shall consist of the following 10 members:

- 40 (1) The speaker of the house of representatives;
- 41 (2) the president of the senate;
- 42 (3) one member of the house of representatives appointed by each
43 congressional district caucus; and

1 (4) one member of the senate appointed by each congressional district
2 caucus.

3 (b) Each delegate and alternate delegate and the delegate committee
4 shall direct all official communications regarding an article V convention
5 to the joint committee of correspondence. Official communications include
6 any proposed adoption or modification of rules governing the article V
7 convention, the language of any proposed amendment under discussion,
8 any administrative matters or any other matter requiring guidance from the
9 joint committee of correspondence. With respect to the proposed adoption
10 or modification of rules governing an article V convention, if the joint
11 committee of correspondence does not render a decision on any proposed
12 adoption or modification of such rules within 72 hours of receiving
13 notification from the delegate committee, the delegate committee shall
14 presume that the joint committee of correspondence rejects the proposed
15 adoption or modification of such rules.

16 (c) Any delegate, alternate delegate, the speaker of the house of
17 representatives or the president of the senate may submit a request to the
18 joint committee of correspondence for an advisory determination as to
19 whether a delegate has acted beyond the scope of such delegate's authority.
20 Upon receipt of such request, the joint committee of correspondence shall
21 promptly investigate and render a determination on the matter. Any
22 determination by the joint committee of correspondence may be rendered
23 in a manner considered appropriate by the joint committee of
24 correspondence, or as provided by a concurrent resolution adopted by the
25 legislature pursuant to section 6, and amendments thereto. A determination
26 requested pursuant to this subsection shall be rendered within 72 hours
27 after receiving a request for such a determination. The joint committee of
28 correspondence shall provide a copy of any such advisory determination in
29 the most expeditious manner possible to all of the delegates.

30 (d) The joint committee of correspondence shall not take any action
31 except upon approval by a majority of the members of the committee.

32 Sec. 6. (a) Upon appointment of the delegates and alternate delegates
33 pursuant to section 3, and amendments thereto, the legislature may adopt a
34 concurrent resolution providing instructions to the delegates and alternate
35 delegates regarding the following:

36 (1) The rules of procedure to be used by delegates and the delegate
37 committee; and

38 (2) any other matters concerning the article V convention that the
39 legislature deems relevant.

40 Any such concurrent resolution shall include a provision stating that
41 except as otherwise specified, the instructions contained in the concurrent
42 resolution shall be binding upon the delegates.

43 (b) The legislature may amend any instructions adopted pursuant to

1 this section at any time by adoption of a subsequent concurrent resolution.

2 Sec. 7. (a) Prior to the commencement of service as a delegate, each
3 delegate shall take the following oath:

4 "I do solemnly swear (or affirm) that I accept and will act according to
5 the limits of authority specified in my commission and by any present or
6 subsequent instructions from the legislature of the state of Kansas. I
7 understand that violating this oath may subject me to penalties as provided
8 by law."

9 (b) No person shall serve as a delegate unless such person has taken
10 the oath specified in this section.

11 Sec. 8. (a) A person commits the offense of exceeding the scope of
12 authority at an article V convention if, while serving as a delegate at an
13 article V convention, such person votes to move forward an unauthorized
14 amendment or other formal proposal, or otherwise promotes an action of
15 the article V convention that is not within the delegate's scope of authority
16 as established in section 4, and amendments thereto. It shall not be an
17 offense for a person serving as a delegate at an article V convention to vote
18 for or otherwise support a measure clearly identified as a non-binding
19 recommendation after the delegate committee has caucused on such
20 recommendation.

21 (b) Any delegate who violates subsection (a) shall be fined an amount
22 not to exceed \$1,000.

23 (c) All civil penalties imposed pursuant to this section shall be
24 imposed by the attorney general. Any civil penalties received by the
25 attorney general shall be remitted to the state treasurer in accordance with
26 the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt
27 of each such remittance, the state treasurer shall deposit the entire amount
28 in the state treasury to the credit of the state general fund.

29 Sec. 9. This act shall take effect and be in force from and after its
30 publication in the statute book.