18104125D

SENATE JOINT RESOLUTION NO. 31

Offered January 10, 2018

Prefiled January 8, 2018

Adopting procedures for selecting and replacing commissioners to represent the Virginia General Assembly at interstate conventions, for clarifying the scope of authority of commissioners and committees at such conventions, for enforcing limits on such authority, and for prescribing an oath to be taken by interstate convention commissioners.

Patrons—Peake, Carrico and Stuart; Delegates: Head, Pogge and Thomas

Referred to Committee on Rules

WHEREAS, in the years since the Declaration of Independence, and both before and after ratification of the United States Constitution (Constitution), the states and state legislatures have from time to time met in interstate conventions (however denominated) to consult upon and propose or adopt measures to address prescribed problems; this continued a pre-Independence practice of American colonies meeting in inter-colonial conventions and congresses; and

WHEREAS, the Constitution recognizes the authority of states and state legislatures to commission commissioners to interstate conventions, subject to the limitations set forth in the Constitution; it does so implicitly in Article I, Section 10 (recognizing interstate compacts, subject to congressional approval), explicitly through Article V (authorizing conventions for proposing amendments), and by reserving this previously existing state power to the states through the Tenth Amendment; and

WHEREAS, although the authority to meet in convention is generally a power reserved to the states by the Constitution, in the case of a convention for proposing amendments the power is granted to the several state legislatures through Article V of the Constitution; and

WHEREAS, there are currently a number of efforts underway to trigger a convention for states to propose amendments to the Constitution pursuant to Article V of said Constitution, including efforts aimed at proposing amendments to reform campaign finance laws, to require a balanced federal budget, to impose term limits on federal officials, and to limit the scope and power of the federal government; and

WHEREAS, regardless of whether the current members of the Virginia General Assembly support any of these particular efforts, it is in the best interest of the people of the Commonwealth of Virginia for the General Assembly to establish procedures for the selection and replacement of commissioners to an interstate convention, including a convention for proposing amendments, and for defining and limiting the scope of their authority and enforcing said limitations; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby adopt the following methods for selecting and replacing commissioners to represent the Virginia General Assembly at interstate conventions, for clarifying the scope of their authority at such conventions, for enforcing limits on such authority, and for prescribing an oath to be taken by interstate convention commissioners:

Section 1. Definitions.

(a) "Application" means an application for a convention for proposing amendments relied upon by Congress in calling such a convention.

(b) "Commission" means the document or documents whereby the state, state legislature, or duly authorized officer of the state empowers a commissioner to an interstate convention and fixes the scope of his authority.

(c) "Commissioner" means a person selected and commissioned to represent the state legislature at an interstate convention.

(d) "Committee" means a delegation of persons commissioned to an interstate convention.

(e) "Convention for proposing amendments" means an interstate convention consisting of committees commissioned by the legislatures of the several states and called by Congress on the application of at least two-thirds of such legislatures under the authority of Article V of the Constitution.

(f) "Instructions" means directions given to commissioners by the commissioning authority or by that authority's agent designated for that purpose. Instructions are given contemporaneously with or subsequent to a commission and may be amended before or during an interstate convention.

(g) "Interstate convention" means a diplomatic meeting, however denominated, of committees from three or more states or state legislatures to consult upon and propose or adopt measures pertaining to one or more issues previously prescribed by applications, by the convention call, or by the commissioning authority.

INTRODUCED

SJ31

8/7/22 9:24

Section 2. Purposes.

The purposes of these rules are to:

(a) clarify the scope of authority of commissioners and committees representing the Commonwealth or the legislature of the Commonwealth at interstate conventions;

(b) provide for enforcing limits on such authority;

(c) provide methods of selecting and replacing commissioners to conventions; and

(d) prescribe an oath to be taken by interstate convention commissioners.

Section 3. Qualifications, number, selection, and removal of commissioners.

(a) An individual must meet the following qualifications to be selected as a commissioner of an interstate convention:

(i) reside in Virginia;

(ii) be at least 18 years of age;

(iii) not be registered or required to be registered as a lobbyist; and

(iv) not hold any federal office.

(b) Commissioners to a convention for preparing amendments shall be selected by a majority vote of a joint session of the General Assembly. Unless a different number is prescribed by the same joint session, the number of commissioners in the Commonwealth's committee shall be five.

(c) Commissioners to a convention for proposing amendments may be recalled and removed at any time and for any reason by a majority vote of a joint session of the General Assembly and, if the General Assembly is not in session, may be suspended, pending such a vote, by a joint legislative committee duly authorized by the General Assembly for that purpose.

(d) The number and methods of selection and removal of commissioners to other conventions shall be as prescribed by law.

Section 4. Vacancies.

(a) Vacancies in committees representing the General Assembly at a convention for proposing amendments shall be filled by the joint legislative committee duly authorized for that purpose until such time as a vote by a joint session of the General Assembly shall select a permanent replacement.

(b) Vacancies in committees of commissioners at other interstate conventions shall be filled as prescribed by law or, in the absence of governing law, by the authority commissioning the commissioners.

Section 5. Limitations on commissioners' powers.

(a) No commissioner shall exceed the scope of authority granted by his commission or violate his instructions.

(b) In the case of a convention for proposing amendments, the scope of authority granted by any commission and instructions shall not be deemed to exceed the narrowest of:

(i) the scope of the congressional call;

(ii) the scope of the narrowest application among those cited by Congress as mandating the convention call; or

(iii) the actual terms of the commission and instructions.

Section 6. Oath.

(a) Prior to or contemporaneously with receiving his commission, each commissioner shall take the following oath: "I do solemnly swear (or affirm) that I accept and will act according to the limits of authority specified in my commission and by any present or subsequent instructions. I understand that violating this oath may subject me to penalties provided by law."

(b) No person shall serve as a commissioner prior to taking the oath specified in subsection (a).

Section 7. Violation of Oath by a Commissioner.

A commissioner will be deemed to have willfully sworn his oath falsely and be subject to the penalties therefor if, while serving as a commissioner at an interstate convention, he votes for, votes to consider, or otherwise promotes any action of the convention not within the scope defined in Section 5, provided, however, that a commissioner may vote for or otherwise support a measure clearly identified as a nonbinding recommendation rather than as a formal proposal.