

By Senator Stargel

15-00197-14

20141008__

1 A bill to be entitled
2 An act relating to Article V constitutional
3 conventions; creating s. 11.93, F.S.; providing a
4 short title; creating s. 11.931, F.S.; providing for
5 applicability; creating s. 11.932, F.S.; providing
6 definitions; creating s. 11.933, F.S.; establishing
7 qualifications of delegates and alternate delegates to
8 an Article V constitutional convention; creating s.
9 11.9331, F.S.; providing for the appointment of
10 delegates by the Legislature; creating s. 11.9332,
11 F.S.; requiring majority vote approval in each chamber
12 for the appointment of delegates; creating s. 11.9333,
13 F.S.; authorizing the Legislature to recall a delegate
14 and fill a vacancy; authorizing the Governor to call a
15 special legislative session to fill a vacancy;
16 creating s. 11.9334, F.S.; establishing a legislative
17 method for appointments and recalls; creating s.
18 11.9335, F.S.; providing for the reimbursement of
19 delegates and alternate delegates for per diem and
20 travel expenses; creating s. 11.9336, F.S.; requiring
21 delegates and alternate delegates to execute a written
22 oath of responsibilities; creating s. 11.9337, F.S.;
23 providing for the filing of delegates' oaths and the
24 issuance of commissions; creating s. 11.934, F.S.;
25 providing for instructions to delegates and alternate
26 delegates; creating s. 11.9341, F.S.; establishing
27 duties of alternate delegates; creating s. 11.9342,
28 F.S.; establishing circumstances under which a
29 convention vote is declared void; creating s. 11.9343,

15-00197-14

20141008__

30 F.S.; providing circumstances under which a delegate
31 or alternate delegate's appointment is forfeited;
32 creating s. 11.9344, F.S.; establishing circumstances
33 under which the application to call an Article V
34 convention ceases to be a continuing application and
35 is deemed to have no effect; creating s. 11.9345,
36 F.S.; providing penalties for a delegate or alternate
37 delegate who votes or attempts to vote outside the
38 scope of the Legislature's instructions or the limits
39 of the call for a constitutional convention; creating
40 ss. 11.935, 11.9351, and 11.9352, F.S.; establishing a
41 delegate advisory group, its membership, duties, and
42 responsibilities; providing an effective date.

43
44 Be It Enacted by the Legislature of the State of Florida:

45
46 Section 1. Section 11.93, Florida Statutes, is created to
47 read:

48 11.93 Short title.—Sections 11.93-11.9352 may be cited as
49 the "Article V Constitutional Convention Act."

50 Section 2. Section 11.931, Florida Statutes, is created to
51 read:

52 11.931 Applicability.—Sections 11.93-11.9352 shall apply
53 when an Article V convention is called for the purpose of
54 proposing amendments to the Constitution of the United States.

55 Section 3. Section 11.932, Florida Statutes, is created to
56 read:

57 11.932 Definitions.—As used in ss. 11.93-11.9352, the term:
58 (1) "Alternate delegate" means an individual who is

15-00197-14

20141008__

59 appointed as an alternate delegate as provided by law.

60 (2) "Article V convention" means a convention called for by
61 the states under Article V of the Constitution of the United
62 States for the purpose of proposing amendments to the
63 Constitution of the United States.

64 (3) "Chamber" means either the Senate or the House of
65 Representatives.

66 (4) "Delegate" means an individual appointed to represent
67 Florida at an Article V convention.

68 (5) "Paired delegate" means the delegate with whom an
69 alternate delegate is paired.

70 Section 4. Section 11.933, Florida Statutes, is created to
71 read:

72 11.933 Qualifications of delegates and alternate
73 delegates.-

74 (1) To be appointed as a delegate or alternate delegate to
75 an Article V convention, a person must:

76 (a) Reside in this state.

77 (b) Be a registered voter in this state.

78 (c) Not be registered or required to be registered as a
79 lobbyist under the laws of this state.

80 (2) A person may not be appointed as a delegate if he or
81 she holds a federal office.

82 Section 5. Section 11.9331, Florida Statutes, is created to
83 read:

84 11.9331 Appointment of delegates by Legislature.-

85 (1) Whenever an Article V convention is called, the Senate
86 and House of Representatives shall appoint, under rules adopted
87 jointly by the Senate and House of Representatives:

15-00197-14

20141008__

88 (a) The number of delegates allocated to represent Florida.

89 (b) An equal number of alternate delegates.

90 (2) Unless otherwise established by the rules of procedure
91 of an Article V convention, it is presumed that Florida has two
92 delegates and two alternate delegates designated to represent
93 the state.

94 (3) If the Legislature is not in session when delegates
95 must be appointed, the Governor shall call the Legislature into
96 special session pursuant to s. 3(c), Art. III of the State
97 Constitution for the purpose of appointing delegates and
98 alternate delegates.

99 Section 6. Section 11.9332, Florida Statutes, is created to
100 read:

101 11.9332 Appointment by majority vote of each chamber;
102 pairing delegates and alternate delegates.-

103 (1) To be appointed as a delegate or an alternate delegate,
104 a person must receive, in each chamber, the vote of a majority
105 of all the members elected to that chamber.

106 (2) At the time of appointment, each alternate delegate
107 must be paired with a delegate as provided by a concurrent
108 resolution adopted by the Legislature.

109 Section 7. Section 11.9333, Florida Statutes, is created to
110 read:

111 11.9333 Recall; filling a vacancy; special legislative
112 session.-

113 (1) The Legislature may, at any time, recall a delegate or
114 alternate delegate and replace that delegate or alternate
115 delegate with an individual appointed under ss. 11.93-11.9352.

116 (2) The Legislature may, at any time, fill a vacancy in the

15-00197-14

20141008__

117 office of delegate or alternate delegate with a person appointed
118 under ss. 11.93-11.9352. If the Legislature is not in session
119 when a vacancy occurs with respect to both a delegate and the
120 paired alternate delegate, the Governor shall call the
121 Legislature into special session pursuant to s. 3(c), Art. III
122 of the State Constitution for the purpose of appointing a
123 delegate and an alternate delegate to fill the vacancies.

124 Section 8. Section 11.9334, Florida Statutes, is created to
125 read:

126 11.9334 Method of appointment and recall.—The Legislature
127 shall appoint or recall delegates or alternate delegates by
128 concurrent resolution.

129 Section 9. Section 11.9335, Florida Statutes, is created to
130 read:

131 11.9335 Reimbursement of per diem and travel expenses.—A
132 delegate or alternate delegate shall serve without compensation
133 but may be reimbursed for per diem and travel expenses pursuant
134 to s. 112.061.

135 Section 10. Section 11.9336, Florida Statutes, is created
136 to read:

137 11.9336 Oath.—Each delegate and alternate delegate shall,
138 before exercising any function of the position, execute an oath
139 in writing that the delegate or alternate delegate will:

140 (1) Support the Constitution of the United States and the
141 State Constitution.

142 (2) Faithfully abide by and execute any instructions to
143 delegates and alternate delegates adopted by the Legislature.

144 (3) Otherwise faithfully discharge the duties of a delegate
145 or alternate delegate.

15-00197-14

20141008__

146 Section 11. Section 11.9337, Florida Statutes, is created
147 to read:

148 11.9337 Filing of oath; issuance of commission.—The
149 executed oath of a delegate or alternate delegate shall be filed
150 with the Secretary of State. After the oath is filed, the
151 Governor shall issue a commission to the delegate or alternate
152 delegate.

153 Section 12. Section 11.934, Florida Statutes, is created to
154 read:

155 11.934 Instructions to delegates.—

156 (1) When delegates and alternate delegates are appointed,
157 the Legislature shall adopt a concurrent resolution to provide
158 instructions to the delegates and alternate delegates regarding
159 the rules of procedure and any other matter relating to the
160 Article V convention that the Legislature considers necessary.

161 (2) The Legislature may amend the instructions at any time
162 by concurrent resolution.

163 Section 13. Section 11.9341, Florida Statutes, is created
164 to read:

165 11.9341 Duties of alternate delegates.—An alternate
166 delegate:

167 (1) Shall act in the place of the paired delegate when the
168 paired delegate is absent from the Article V convention.

169 (2) Replaces the paired delegate if the alternate
170 delegate's paired delegate vacates the office.

171 Section 14. Section 11.9342, Florida Statutes, is created
172 to read:

173 11.9342 Vote cast outside the scope of instructions or
174 limits; status of vote.—A vote cast by a delegate or an

15-00197-14

20141008__

175 alternate delegate at an Article V convention is void if the
176 vote is outside the scope of:

177 (1) The instructions established by a concurrent resolution
178 adopted pursuant to ss. 11.93-11.9352; or

179 (2) The limits placed by the Legislature in a concurrent
180 resolution or memorial that calls for an Article V convention
181 for the purpose of proposing one or more amendments to the
182 Constitution of the United States on the subjects and amendments
183 that may be considered by the Article V convention.

184 Section 15. Section 11.9343, Florida Statutes, is created
185 to read:

186 11.9343 Vote cast outside the scope of instructions or
187 limits; appointment forfeited.-

188 (1) A delegate or alternate delegate forfeits his or her
189 appointment by virtue of a vote or attempt to vote that is
190 outside the scope of:

191 (a) The instructions established by a concurrent resolution
192 adopted pursuant to ss. 11.93-11.9352; or

193 (b) The limits placed by the Legislature in a concurrent
194 resolution or memorial that calls for an Article V convention
195 for the purpose of proposing one or more amendments to the
196 Constitution of the United States on the subjects and amendments
197 that may be considered by the Article V convention.

198 (2) If a delegate forfeits an appointment under subsection
199 (1), the paired alternate delegate of the delegate becomes the
200 delegate at the time the forfeiture of the appointment occurs.

201 Section 16. Section 11.9344, Florida Statutes, is created
202 to read:

203 11.9344 Vote cast outside the scope of instructions or

15-00197-14

20141008__

204 limits; status of application.—The application of the
205 Legislature to call an Article V convention for proposing
206 amendments to the Constitution of the United States ceases to be
207 a continuing application and shall be treated as having no
208 effect if all of the delegates and alternate delegates vote or
209 attempt to vote outside the scope of:

210 (1) The instructions established by a concurrent resolution
211 adopted pursuant to ss. 11.93-11.9352; or

212 (2) The limits placed by the Legislature in a concurrent
213 resolution or memorial that calls for an Article V convention
214 for the purpose of proposing one or more amendments to the
215 Constitution of the United States on the subjects and amendments
216 that may be considered by the Article V convention.

217 Section 17. Section 11.9345, Florida Statutes, is created
218 to read:

219 11.9345 Vote cast outside the scope of instructions;
220 criminal liability.—A delegate or alternate delegate commits a
221 felony of the third degree, punishable as provided in s. 775.082
222 or s. 775.083, who knowingly or intentionally votes or attempts
223 to vote outside the scope of:

224 (1) The instructions established by a concurrent resolution
225 adopted pursuant to ss. 11.93-11.9352; or

226 (2) The limits placed by the Legislature in a concurrent
227 resolution or memorial that calls for an Article V convention
228 for the purpose of proposing one or more amendments to the
229 Constitution of the United States on the subjects and amendments
230 that may be considered by the Article V convention.

231 Section 18. Section 11.935, Florida Statutes, is created to
232 read:

15-00197-14

20141008__

- 233 11.935 Article V convention advisory group.-
- 234 (1) As used in this section, the term "advisory group"
235 means the Article V convention delegate advisory group.
- 236 (2) The advisory group consists of the following members:
- 237 (a) The Chief Justice of the Supreme Court, who shall serve
238 as the chair.
- 239 (b) An attorney appointed by the President of the Senate.
- 240 (c) An attorney appointed by the Speaker of the House of
241 Representatives.
- 242 (3) The advisory group shall meet at the call of the chair
243 and shall establish the policies and procedures that the
244 advisory group determines necessary to carry out ss. 11.93-
245 11.9352.
- 246 (4) Upon the request of a delegate or alternate delegate,
247 the advisory group shall advise the delegate or alternate
248 delegate whether there is reason to believe that an action or an
249 attempt to take an action by a delegate or alternate delegate
250 would:
- 251 (a) Violate the instructions established by a concurrent
252 resolution adopted by the Legislature under ss. 11.93-11.9352;
253 or
- 254 (b) Exceed the limits placed by the Legislature in a
255 concurrent resolution or memorial that calls for an Article V
256 convention for the purpose of proposing one or more amendments
257 to the Constitution of the United States on the subjects and
258 amendments that may be considered by the Article V convention.
- 259 (5) The advisory group:
- 260 (a) May render an advisory determination under this section
261 in any summary manner considered appropriate by the advisory

15-00197-14

20141008__

262 group.

263 (b) Shall render an advisory determination under this
264 section within 24 hours after receiving a request for a
265 determination.

266 (c) Shall transmit a copy of an advisory determination
267 under this section in the most expeditious manner possible to
268 the delegate or alternate delegate who requested the advisory
269 determination.

270 (d) If the advisory group renders an advisory determination
271 under this section, the advisory group may also take an action
272 permitted under s. 11.9351.

273 Section 19. Section 11.9351, Florida Statutes, is created
274 to read:

275 11.9351 Oversight of delegates with respect to
276 instructions.-

277 (1) The advisory group, on its own motion, or upon the
278 request of the President of the Senate, the Speaker of the House
279 of Representatives, or the Attorney General, shall advise the
280 Attorney General whether there is reason to believe that a vote
281 or an attempt to vote by a delegate or alternate delegate has:

282 (a) Violated the instructions established by a concurrent
283 resolution adopted by the Legislature under ss. 11.93-11.9352;
284 or

285 (b) Exceeded the limits placed by the Legislature in a
286 concurrent resolution or memorial that calls for an Article V
287 convention for the purpose of proposing one or more amendments
288 to the Constitution of the United States on the subjects and
289 amendments that may be considered by the Article V convention.

290 (2) The advisory group shall issue the advisory

15-00197-14

20141008__

291 determination under this section by one of the following summary
292 procedures:

293 (a) Without notice or an evidentiary proceeding; or

294 (b) After a hearing conducted by the advisory group.

295 (3) The advisory group shall render an advisory
296 determination under this section within 24 hours after receiving
297 a request for an advisory determination.

298 (4) The advisory group shall transmit a copy of an advisory
299 determination in the most expeditious manner possible to the
300 Attorney General.

301 Section 20. Section 11.9352, Florida Statutes, is created
302 to read:

303 11.9352 Advisory determination concerning a vote outside
304 the scope of instructions.—Immediately, upon receipt of an
305 advisory determination that finds that a vote or attempt to vote
306 by a delegate or alternate delegate is a violation as described
307 in s. 11.9351 or in excess of the authority of the delegate or
308 alternate delegate, the Attorney General shall inform the
309 delegates, alternate delegates, the President of the Senate, the
310 Speaker of the House of Representatives, and the Article V
311 convention that:

312 (1) The vote or attempt to vote did not comply with Florida
313 law, is void, and has no effect.

314 (2) The credentials of the delegate or alternate delegate
315 who is the subject of the determination are revoked.

316 Section 21. This act shall take effect July 1, 2014.