

By the Committee on Appropriations; and Senator Stargel

576-04220-14

20141008c1

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 presiding officers
15 of the Legislature to call for a special legislative
16 session to fill a vacancy; creating s. 11.9334, F.S.;
17 establishing a legislative method for appointments and
18 recalls; creating s. 11.9335, F.S.; providing for the
19 reimbursement of delegates and alternate delegates for
20 per diem and travel expenses; creating s. 11.9336,
21 F.S.; requiring delegates and alternate delegates to
22 execute a written oath of responsibilities; creating
23 s. 11.9337, F.S.; providing for the filing of
24 delegates' oaths and the issuance of commissions;
25 creating s. 11.934, F.S.; providing for instructions
26 to delegates and alternate delegates; creating s.
27 11.9341, F.S.; establishing duties of alternate
28 delegates; creating s. 11.9342, F.S.; establishing
29 circumstances under which a convention vote is

576-04220-14

20141008c1

30 declared void; creating s. 11.9343, F.S.; providing
31 circumstances under which a delegate or alternate
32 delegate's appointment is forfeited; creating s.
33 11.9344, F.S.; establishing circumstances under which
34 the application to call an Article V convention ceases
35 to be a continuing application and is deemed to have
36 no effect; creating s. 11.9345, F.S.; providing
37 penalties for a delegate or alternate delegate who
38 votes or attempts to vote outside the scope of the
39 Legislature's instructions or the limits of the call
40 for a constitutional convention; creating ss. 11.935,
41 11.9351, and 11.9352, F.S.; establishing a delegate
42 advisory group, its membership, duties, and
43 responsibilities; providing an effective date.
44

45 Be It Enacted by the Legislature of the State of Florida:
46

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

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

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

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

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

58 11.932 Definitions.—As used in ss. 11.93-11.9352, the term:

576-04220-14

20141008c1

59 (1) "Alternate delegate" means an individual who is
60 appointed as an alternate delegate as provided by law.

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

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

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

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

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

73 11.933 Qualifications of delegates and alternate
74 delegates.—

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

77 (a) Reside in this state.

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

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

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

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

85 11.9331 Appointment of delegates by Legislature.—

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

576-04220-14

20141008c1

88 jointly by the Senate and House of Representatives:

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

90 (b) An equal number of alternate delegates.

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

95 (3) If the Legislature is not in session when delegates
96 must be appointed, the President of the Senate and the Speaker
97 of the House of Representatives shall call the Legislature into
98 special session pursuant to s. 11.011 for the purpose of
99 appointing delegates and alternate delegates.

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

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

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

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

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

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

114 (1) The Legislature may, at any time, recall a delegate or
115 alternate delegate and replace that delegate or alternate
116 delegate with an individual appointed under s. 11.9331.

576-04220-14

20141008c1

117 (2) The Legislature may, at any time, fill a vacancy in the
118 office of delegate or alternate delegate with a person appointed
119 under s. 11.9331. If the Legislature is not in session when a
120 vacancy occurs with respect to both a delegate and the paired
121 alternate delegate, the President of the Senate and the Speaker
122 of the House of Representatives shall call the Legislature into
123 special session pursuant to s. 11.011 for the purpose of
124 appointing a delegate and an alternate delegate to fill the
125 vacancies.

126 Section 8. Section 11.9334, Florida Statutes, is created to
127 read:

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

131 Section 9. Section 11.9335, Florida Statutes, is created to
132 read:

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

137 Section 10. Section 11.9336, Florida Statutes, is created
138 to read:

139 11.9336 Oath.—Each delegate and alternate delegate shall,
140 before exercising any function of the position, execute an oath
141 in the state and in writing that the delegate or alternative
142 delegate will:

143 (1) Support the Constitution of the United States and the
144 State Constitution.

145 (2) Faithfully abide by and execute any instructions to

576-04220-14

20141008c1

146 delegates and alternate delegates adopted by the Legislature.

147 (3) Otherwise faithfully discharge the duties of a delegate
148 or alternate delegate.

149 Section 11. Section 11.9337, Florida Statutes, is created
150 to read:

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

156 Section 12. Section 11.934, Florida Statutes, is created to
157 read:

158 11.934 Instructions to delegates.—

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

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

166 Section 13. Section 11.9341, Florida Statutes, is created
167 to read:

168 11.9341 Duties of alternate delegates.—An alternate
169 delegate:

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

172 (2) Replaces the paired delegate if the alternate
173 delegate's paired delegate vacates the office.

174 Section 14. Section 11.9342, Florida Statutes, is created

576-04220-14

20141008c1

175 to read:

176 11.9342 Vote cast outside the scope of instructions or
177 limits; status of vote.—A vote cast by a delegate or an
178 alternate delegate at an Article V convention is void if the
179 vote is outside the scope of:

180 (1) The instructions established by a concurrent resolution
181 adopted pursuant to s. 11.934; or

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

187 Section 15. Section 11.9343, Florida Statutes, is created
188 to read:

189 11.9343 Vote cast outside the scope of instructions or
190 limits; appointment forfeited.—

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

194 (a) The instructions established by a concurrent resolution
195 adopted pursuant to s. 11.934; or

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

201 (2) If a delegate forfeits an appointment under subsection
202 (1), the paired alternate delegate of the delegate becomes the
203 delegate at the time the forfeiture of the appointment occurs.

576-04220-14

20141008c1

204 Section 16. Section 11.9344, Florida Statutes, is created
205 to read:

206 11.9344 Vote cast outside the scope of instructions or
207 limits; status of application.—The application of the
208 Legislature to call an Article V convention for proposing
209 amendments to the Constitution of the United States ceases to be
210 a continuing application and shall be treated as having no
211 effect if all of the delegates and alternate delegates vote or
212 attempt to vote outside the scope of:

213 (1) The instructions established by a concurrent resolution
214 adopted pursuant to s. 11.934; or

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

220 Section 17. Section 11.9345, Florida Statutes, is created
221 to read:

222 11.9345 Vote cast outside the scope of instructions;
223 criminal liability.—A delegate or alternate delegate commits a
224 felony of the third degree, punishable as provided in s. 775.082
225 or s. 775.083, who signs an oath of office as required by s.
226 11.9336 in the state and who thereafter violates the oath by
227 knowingly or intentionally voting or attempting to vote outside
228 the scope of:

229 (1) The instructions established by a concurrent resolution
230 adopted pursuant to s. 11.934; or

231 (2) The limits placed by the Legislature in a concurrent
232 resolution or memorial that calls for an Article V convention

576-04220-14

20141008c1

233 for the purpose of proposing one or more amendments to the
234 Constitution of the United States on the subjects and amendments
235 that may be considered by the Article V convention.

236 Section 18. Section 11.935, Florida Statutes, is created to
237 read:

238 11.935 Article V convention advisory group.—

239 (1) As used in this section, the term "advisory group"
240 means the Article V convention delegate advisory group.

241 (2) The advisory group consists of the following members:

242 (a) An attorney appointed by the President of the Senate.

243 (b) An attorney appointed by the Speaker of the House of
244 Representatives.

245 (c) An attorney selected by agreement of the attorneys
246 appointed under paragraphs (a) and (b), who shall serve as chair
247 of the advisory group.

248 (3) The advisory group shall meet at the call of the chair
249 and shall establish the policies and procedures that the
250 advisory group determines necessary to carry out ss. 11.93-
251 11.9352.

252 (4) Upon the request of a delegate or alternate delegate,
253 the advisory group shall advise the delegate or alternate
254 delegate whether there is reason to believe that an action or an
255 attempt to take an action by a delegate or alternate delegate
256 would:

257 (a) Violate the instructions established by a concurrent
258 resolution adopted by the Legislature under s. 11.934; or

259 (b) Exceed the limits placed by the Legislature in a
260 concurrent resolution or memorial that calls for an Article V
261 convention for the purpose of proposing one or more amendments

576-04220-14

20141008c1

262 to the Constitution of the United States on the subjects and
263 amendments that may be considered by the Article V convention.

264 (5) The advisory group:

265 (a) May render an advisory determination under this section
266 in any summary manner considered appropriate by the advisory
267 group.

268 (b) Shall render an advisory determination under this
269 section within 24 hours after receiving a request for a
270 determination.

271 (c) Shall transmit a copy of an advisory determination
272 under this section in the most expeditious manner possible to
273 the delegate or alternate delegate who requested the advisory
274 determination.

275 (d) If the advisory group renders an advisory determination
276 under this section, the advisory group may also take an action
277 permitted under s. 11.9351.

278 Section 19. Section 11.9351, Florida Statutes, is created
279 to read:

280 11.9351 Oversight of delegates with respect to
281 instructions.-

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

287 (a) Violated the instructions established by a concurrent
288 resolution adopted by the Legislature under s. 11.934; or

289 (b) Exceeded the limits placed by the Legislature in a
290 concurrent resolution or memorial that calls for an Article V

576-04220-14

20141008c1

291 convention for the purpose of proposing one or more amendments
292 to the Constitution of the United States on the subjects and
293 amendments that may be considered by the Article V convention.

294 (2) The advisory group shall issue the advisory
295 determination under this section by one of the following summary
296 procedures:

297 (a) Without notice or an evidentiary proceeding; or
298 (b) After a hearing conducted by the advisory group.

299 (3) The advisory group shall render an advisory
300 determination under this section within 24 hours after receiving
301 a request for an advisory determination.

302 (4) The advisory group shall transmit a copy of an advisory
303 determination in the most expeditious manner possible to the
304 Attorney General.

305 Section 20. Section 11.9352, Florida Statutes, is created
306 to read:

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

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

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

576-04220-14

20141008c1

320

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