

1 **SENATE FLOOR VERSION**

2 February 25, 2015

3 **AS AMENDED**

4 SENATE BILL NO. 53

5 By: Standridge and Brecheen of  
6 the Senate

7 [ Article V of the United States Constitution -  
8 delegate or alternate delegate - appointment -  
9 instructions - alternate delegates - recall of  
10 delegates or alternate delegates - forfeiture of  
11 appointment - mileage and travel expenses - oath -  
12 Article V convention delegate advisory group -  
13 codification - effective date ]

14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 26.43 of Title 75, unless there  
17 is created a duplication in numbering, reads as follows:

18 This act shall apply whenever a convention is called pursuant to  
19 Article V of the United States Constitution.

20 SECTION 2. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 26.44 of Title 75, unless there  
22 is created a duplication in numbering, reads as follows:

23 As used in this act:

24 1. "Advisory group" means the Article V convention delegate  
25 advisory group established in Section 14 of this act;

1       2. "Alternate delegate" means an individual appointed as an  
2 alternate delegate as provided by law;

3       3. "Article V convention" means a convention for proposing  
4 amendments to the Constitution of the United States called for by  
5 the states under Article V of the Constitution of the United States;

6       4. "Chamber" means either the Senate or the House of  
7 Representatives;

8       5. "Delegate" means an individual appointed as provided by law  
9 to represent this state at an Article V convention;

10       6. "House of Representatives" means the Oklahoma State House of  
11 Representatives; and

12       7. "Senate" means the Oklahoma State Senate.

13       SECTION 3.       NEW LAW       A new section of law to be codified  
14 in the Oklahoma Statutes as Section 26.45 of Title 75, unless there  
15 is created a duplication in numbering, reads as follows:

16       A. An individual shall satisfy the following to be appointed as  
17 a delegate to an Article V convention:

18       1. The individual shall reside in this state;

19       2. The individual shall be a registered voter of this state;

20       3. The individual shall be at least eighteen (18) years of age;

21       4. The individual shall not be registered or required to be  
22 registered as a lobbyist under the Rules of the Ethics Commission;

23 and

24       5. The individual shall not hold any federal office.

1 B. An individual appointed as an alternate delegate shall have  
2 the same qualifications as a delegate as provided under subsection A  
3 of this section.

4 C. Whenever an Article V convention is called, the Legislature  
5 shall appoint the five (5) delegates allocated to represent this  
6 state and an equal number of alternate delegates. If the  
7 Legislature is not in session during the time during which delegates  
8 to an Article V convention shall be appointed, the Governor shall  
9 call the Legislature into special session under Section 27A of  
10 Article V of the Oklahoma Constitution for the purpose of appointing  
11 delegates and alternate delegates.

12 D. The delegates provided for by subsection C of this section  
13 shall be appointed as follows:

14 1. Two delegates shall be appointed by majority vote of the  
15 Senate where at least one delegate appointed pursuant to this  
16 paragraph shall be a member of the Senate at the time of  
17 appointment;

18 2. Two delegates shall be appointed by majority vote of the  
19 House of Representatives where at least one delegate appointed  
20 pursuant to this paragraph shall be a member of the House of  
21 Representatives at the time of appointment; and

22 3. One delegate shall be appointed by receiving, in each  
23 chamber, the vote of a majority of all the members elected to that  
24 chamber.

1 E. The alternate delegates provided for by subsection C of this  
2 section shall consist of a first alternate delegate, second  
3 alternate delegate, third alternate delegate, fourth alternate  
4 delegate, and fifth alternate delegate who shall be appointed as  
5 follows:

6 1. The first alternate delegate shall be appointed by  
7 receiving, in each chamber, the vote of a majority of all the  
8 members elected to that chamber;

9 2. The second and fifth alternate delegate shall be appointed  
10 by majority vote of the Senate; and

11 3. The third and fourth alternate delegate shall be appointed  
12 by majority vote of the House of Representatives.

13 F. The delegates appointed pursuant to subsection D of this  
14 section shall elect from amongst the delegates a chairperson. Such  
15 delegate shall serve as chairperson for as long as such person is a  
16 delegate or until a new chairperson is elected at any time as  
17 provided for by this subsection. Such chairperson shall report to  
18 the Legislature on all matters pertaining to the activities of the  
19 delegates and the Article V convention.

20 SECTION 4. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 26.46 of Title 75, unless there  
22 is created a duplication in numbering, reads as follows:

23 A. At the time delegates and alternative delegates are  
24 appointed, the Legislature shall adopt a joint resolution to provide

1 instructions to the delegates and alternate delegates regarding the  
2 following:

- 3 1. The rules of procedure; and
- 4 2. Any other matter relating to the Article V convention that  
5 the Legislature considers necessary.

6 B. The Legislature may amend the instructions at any time by  
7 joint resolution.

8 SECTION 5. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 26.47 of Title 75, unless there  
10 is created a duplication in numbering, reads as follows:

11 An alternate delegate shall act in the place of a delegate when  
12 a delegate is absent from the Article V convention or shall replace  
13 a delegate if a delegate vacates the office. An alternate delegate  
14 shall act in the place of or replace a delegate in such order of  
15 sequence:

- 16 1. First alternate delegate;
- 17 2. Second alternate delegate;
- 18 3. Third alternate delegate;
- 19 4. Fourth alternate delegate; and
- 20 5. Fifth alternate delegate.

21 At the time that an alternate delegate is needed to act in the place  
22 of or to replace a delegate, the alternate delegate in the order of  
23 sequence not already acting in the place of or replacing a delegate  
24 shall act in the place of the delegate.

1 SECTION 6. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 26.48 of Title 75, unless there  
3 is created a duplication in numbering, reads as follows:

4 The Legislature, Senate, or House of Representatives,  
5 respectively, may recall any delegate or alternate delegate it has  
6 appointed and replace such delegate or alternate delegate with an  
7 individual appointed under this act at any time.

8 SECTION 7. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 26.49 of Title 75, unless there  
10 is created a duplication in numbering, reads as follows:

11 Notwithstanding any other provision of law to the contrary, no  
12 delegate or alternate delegate to an Article V convention or to any  
13 process which seeks to propose amendments to the Constitution of the  
14 United States called for by the states under Article V of the  
15 Constitution of the United States shall be appointed unless such  
16 delegate or alternate delegate is appointed as provided for by this  
17 act and this act shall be the only means by which this state  
18 participates in an Article V convention or such process.

19 SECTION 8. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 26.50 of Title 75, unless there  
21 is created a duplication in numbering, reads as follows:

22 A vote cast by a delegate or an alternate delegate at an Article  
23 V convention shall be void if it is outside of the scope of:

24

1        1. The instructions established by a joint resolution adopted  
2 under Section 4 of this act; or

3        2. The limits placed by the Legislature in a joint resolution  
4 that calls for an Article V convention for the purpose of proposing  
5 amendments to the Constitution of the United States on the subjects  
6 and amendments that may be considered by the Article V convention.

7        SECTION 9.        NEW LAW        A new section of law to be codified  
8 in the Oklahoma Statutes as Section 26.51 of Title 75, unless there  
9 is created a duplication in numbering, reads as follows:

10        A delegate or alternate delegate forfeits his or her appointment  
11 if he or she votes or attempts to vote outside of the scope of:

12        1. The instructions established by a joint resolution adopted  
13 under Section 4 of this act; or

14        2. The limits placed by the Legislature in a joint resolution  
15 that calls for an Article V convention for the purpose of proposing  
16 amendments to the Constitution of the United States on the subjects  
17 and amendments that may be considered by the Article V convention.

18        SECTION 10.        NEW LAW        A new section of law to be codified  
19 in the Oklahoma Statutes as Section 26.52 of Title 75, unless there  
20 is created a duplication in numbering, reads as follows:

21        The application of the Legislature to call an Article V  
22 convention for proposing amendments to the Constitution of the  
23 United States ceases to be a continuing application and shall be  
24

1 treated as having no effect if all of the delegates and alternate  
2 delegates vote or attempt to vote outside of the scope of:

3 1. The instructions established by a joint resolution adopted  
4 under Section 4 of this act; or

5 2. The limits placed by the Legislature in a joint resolution  
6 that calls for an Article V convention for the purpose of proposing  
7 amendments to the Constitution of the United States on the subjects  
8 and amendments that may be considered by the Article V convention.

9 SECTION 11. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 26.53 of Title 75, unless there  
11 is created a duplication in numbering, reads as follows:

12 A. A delegate or alternate delegate shall be guilty of a  
13 misdemeanor if he or she knowingly or intentionally votes or  
14 attempts to vote outside of the scope of:

15 1. The instructions established by a joint resolution adopted  
16 under Section 4 of this act; or

17 2. The limits placed by the Legislature in a joint resolution  
18 that calls for an Article V convention for the purpose of proposing  
19 amendments to the Constitution of the United States on the subjects  
20 and amendments that may be considered by the Article V convention.

21 Upon conviction of a violation of this section, a delegate or  
22 alternative delegate may be punished by imprisonment for not more  
23 than one (1) year or a fine not to exceed One Thousand Dollars  
24 (\$1,000.00), or both. If such delegate or alternate delegate is a



1 member of the Legislature, the House of the Legislature of which the  
2 delegate or alternate delegate is a member may consider proceedings  
3 to expel the member pursuant to the provisions of Section 30 of  
4 Article V of the Oklahoma Constitution.

5 B. Venue of prosecutions under this section shall be in the  
6 county of the defendant's residence.

7 C. The Attorney General and the appropriate district attorney  
8 are authorized to prosecute violations of this section.

9 SECTION 12. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 26.54 of Title 75, unless there  
11 is created a duplication in numbering, reads as follows:

12 A delegate or alternate delegate shall be entitled to receive  
13 the same mileage and travel expenses paid to legislative members of  
14 interim study committees, but shall not be entitled to a salary or  
15 per diem for service as a delegate or alternate delegate. All funds  
16 necessary to pay expenses under this section shall be paid from  
17 funds appropriated to the Legislature.

18 SECTION 13. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 26.55 of Title 75, unless there  
20 is created a duplication in numbering, reads as follows:

21 Each delegate and alternate delegate shall, after appointment  
22 and before the delegate or alternate delegate shall exercise any  
23 function as a delegate or alternate delegate, execute an oath in  
24 writing that the delegate or alternate delegate shall:

1           1. Support the Constitution of the United States and the  
2 Constitution of Oklahoma;

3           2. Faithfully abide by and execute any instructions to  
4 delegates and alternate delegates adopted by the Legislature and as  
5 may be amended by the Legislature at any time; and

6           3. Otherwise faithfully discharge the duties of delegate or  
7 alternate delegate.

8           The executed oath shall be filed with the Secretary of State.  
9 After the oath is filed with the Secretary of State, the Governor  
10 shall issue a commission to the delegate or alternate delegate.

11           SECTION 14.           NEW LAW           A new section of law to be codified  
12 in the Oklahoma Statutes as Section 26.56 of Title 75, unless there  
13 is created a duplication in numbering, reads as follows:

14           A. The Article V convention delegate advisory group is  
15 established. The advisory group shall consist of the Chief Justice  
16 of the Supreme Court of Oklahoma, the Chief Judge of the Court of  
17 Civil Appeals of Oklahoma, and the presiding judge of the judicial  
18 district that includes Oklahoma County. The Chief Justice of the  
19 Supreme Court of Oklahoma shall be the chairperson of the advisory  
20 group. The advisory group shall meet upon the call of the  
21 chairperson. The advisory group shall establish policies and  
22 procedures that the advisory group determines necessary to carry out  
23 its duties under this section.

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1 B. Upon the request of a delegate or alternate delegate, the  
2 advisory group shall advise the delegate or alternate delegate  
3 whether there is reason to believe that an action or an attempt to  
4 take an action by a delegate or alternate delegate would:

5 1. Violate the instructions established by a joint resolution  
6 adopted under Section 4 of this act; or

7 2. Exceed the limits placed by the Legislature in a joint  
8 resolution that calls for an Article V convention for the purpose of  
9 proposing amendments to the Constitution of the United States on the  
10 subjects and amendments that may be considered by the Article V  
11 convention.

12 C. The advisory group may render an advisory determination  
13 under this section in any summary manner considered appropriate by  
14 the advisory group.

15 D. The advisory group shall render an advisory determination  
16 under subsection B of this section within twenty-four (24) hours  
17 after receiving a request for a determination. The advisory group  
18 shall transmit a copy of an advisory determination under this  
19 section in the most expeditious manner possible to the delegate or  
20 alternate delegate who requested the advisory determination.

21 E. If the advisory group renders an advisory determination  
22 under this section, the advisory group may also take an action  
23 permitted under subsection F of this section.

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1 F. 1. On its own motion or upon request of the President Pro  
2 Tempore of the Senate, the Speaker of the House of Representatives,  
3 or the Attorney General, the advisory group shall advise the  
4 Attorney General whether there is reason to believe that a vote or  
5 attempt to vote by a delegate or alternate delegate has:

- 6 a. violated the instructions established by a joint  
7 resolution adopted under Section 4 of this act, or
- 8 b. exceeded the limits placed by the Legislature in a  
9 joint resolution that calls for an Article V  
10 convention for the purpose of proposing amendments to  
11 the Constitution of the United States on the subjects  
12 and amendments that may be considered by the Article V  
13 convention.

14 2. The advisory group shall issue the advisory determination  
15 under this subsection by one of the following summary procedures:

- 16 a. without notice or an evidentiary proceeding, or
- 17 b. after a hearing conducted by the advisory group.

18 3. The advisory group shall render an advisory determination  
19 under this subsection within twenty-four (24) hours after receiving  
20 a request for an advisory determination.

21 4. The advisory group shall transmit a copy of an advisory  
22 determination under this subsection in the most expeditious manner  
23 possible to the Attorney General.  
24

1           5. Immediately upon receipt of an advisory determination under  
2 this subsection that finds a vote or attempt to vote by a delegate  
3 or alternate delegate is a violation described in subparagraph a of  
4 paragraph 1 of subsection F of this section or is in excess of the  
5 authority of the delegate or alternate delegate as described in  
6 subparagraph b of paragraph 1 of subsection F of this section, the  
7 Attorney General shall inform the delegates, alternate delegates,  
8 the President Pro Tempore of the Senate, the Speaker of the House of  
9 Representatives, and the Article V convention that:

- 10           a. the vote or attempt to vote did not comply with
- 11                 Oklahoma law, is void, and has no effect, and
- 12           b. the credentials of the delegate or alternate delegate
- 13                 who is the subject of the determination are revoked.

14           SECTION 15. This act shall become effective November 1, 2015.

15           COMMITTEE REPORT BY: COMMITTEE ON RULES  
16           February 25, 2015 - DO PASS AS AMENDED

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