

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 407

By: Brecheen

4
5
6 AS INTRODUCED

7 An Act relating to Article V of the United States
8 Constitution; specifying application of act; defining
9 terms; specifying qualifications to serve as delegate
10 or alternate delegate to Article V Convention;
11 providing for appointment of delegates and alternate
12 delegates; providing for chairperson; requiring
13 Legislature to adopt resolution to provide
14 instructions; allowing amendment thereof; specifying
15 circumstances under which and in which order
16 alternate delegates serve; providing for recall of
17 delegates or alternate delegates; specifying
18 circumstances under which vote is void; providing for
19 forfeiture of appointment under certain
20 circumstances; specifying circumstances under which
21 application for Article V Convention not effective;
22 prohibiting certain actions and providing penalties;
23 providing for venue and duties of prosecution;
24 providing for mileage and travel expenses; requiring
certain oath; creating Article V Convention delegate
advisory group; providing for membership and duties
thereof; requiring certain determinations; providing
for codification; and providing an effective date.

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

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

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

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

6 As used in this act:

7 1. "Advisory group" means the Article V Convention delegate
8 advisory group established in Section 14 of this act;

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

11 3. "Article V Convention" means a convention for proposing
12 amendments to the Constitution of the United States called for by
13 the states under Article V of the Constitution of the United States;

14 4. "Chamber" means either the Senate or the House of
15 Representatives;

16 5. "Delegate" means an individual appointed as provided by law
17 to represent this state at an Article V Convention;

18 6. "House of Representatives" means the Oklahoma State House of
19 Representatives; and

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

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

24

1 A. An individual shall satisfy the following to be appointed as
2 a delegate to an Article V Convention:

3 1. The individual shall reside in this state;

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

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

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

8 and

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

10 B. An individual appointed as an alternate delegate shall have
11 the same qualifications as a delegate as provided under subsection A
12 of this section.

13 C. Whenever an Article V Convention is called, the Legislature
14 shall appoint the five (5) delegates allocated to represent this
15 state and an equal number of alternate delegates. If the
16 Legislature is not in session during the time during which delegates
17 to an Article V Convention shall be appointed, the Governor shall
18 call the Legislature into special session under Section 27A of
19 Article V of the Oklahoma Constitution for the purpose of appointing
20 delegates and alternate delegates.

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

23 1. Two delegates shall be appointed by majority vote of the
24 Senate where at least one delegate appointed pursuant to this

1 paragraph shall be a member of the Senate at the time of
2 appointment;

3 2. Two delegates shall be appointed by majority vote of the
4 House of Representatives where at least one delegate appointed
5 pursuant to this paragraph shall be a member of the House of
6 Representatives at the time of appointment; and

7 3. One delegate shall be appointed by receiving, in each
8 chamber, the vote of a majority of all the members elected to that
9 chamber.

10 E. The alternate delegates provided for by subsection C of this
11 section shall consist of a first alternate delegate, second
12 alternate delegate, third alternate delegate, fourth alternate
13 delegate and fifth alternate delegate who shall be appointed as
14 follows:

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

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

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

22 F. The delegates appointed pursuant to subsection D of this
23 section shall elect from amongst the delegates a chairperson. Such
24 delegate shall serve as chairperson for as long as such person is a

1 delegate or until a new chairperson is elected at any time as
2 provided for by this subsection. Such chairperson shall report to
3 the Legislature on all matters pertaining to the activities of the
4 delegates and the Article V Convention.

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

8 A. At the time delegates and alternative delegates are
9 appointed, the Legislature shall adopt a joint resolution to provide
10 instructions to the delegates and alternate delegates regarding the
11 following:

- 12 1. The rules of procedure; and
- 13 2. Any other matter relating to the Article V Convention that
14 the Legislature considers necessary.

15 B. The Legislature may amend the instructions at any time by
16 joint resolution.

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

20 An alternate delegate shall act in the place of a delegate when
21 a delegate is absent from the Article V Convention or shall replace
22 a delegate if a delegate vacates the office. An alternate delegate
23 shall act in the place of or replace a delegate in such order of
24 sequence:

- 1 1. First alternate delegate;
- 2 2. Second alternate delegate;
- 3 3. Third alternate delegate;
- 4 4. Fourth alternate delegate; and
- 5 5. Fifth alternate delegate.

6 At the time that an alternate delegate is needed to act in the place
7 of or to replace a delegate, the alternate delegate in the order of
8 sequence not already acting in the place of or replacing a delegate
9 shall act in the place of the delegate.

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

13 The Legislature, Senate or House of Representatives,
14 respectively, may recall any delegate or alternate delegate it has
15 appointed and replace such delegate or alternate delegate with an
16 individual appointed under this act at any time.

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

20 Notwithstanding any other provision of law to the contrary, no
21 delegate or alternate delegate to an Article V Convention or to any
22 process which seeks to propose amendments to the Constitution of the
23 United States called for by the states under Article V of the
24 Constitution of the United States shall be appointed unless such

1 delegate or alternate delegate is appointed as provided for by this
2 act and this act shall be the only means by which this state
3 participates in an Article V Convention or such process.

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

7 A vote cast by a delegate or an alternate delegate at an Article
8 V Convention shall be void if it is outside of the scope of:

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

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

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

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

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

22 2. The limits placed by the Legislature in a joint resolution
23 that calls for an Article V Convention for the purpose of proposing
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1 amendments to the Constitution of the United States on the subjects
2 and amendments that may be considered by the Article V Convention.

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

6 The application of the Legislature to call an Article V
7 Convention for proposing amendments to the Constitution of the
8 United States ceases to be a continuing application and shall be
9 treated as having no effect if all of the delegates and alternate
10 delegates vote or attempt to vote outside of the scope of:

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

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

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

20 A. A delegate or alternate delegate shall be guilty of a felony
21 if he or she knowingly or intentionally votes or attempts to vote
22 outside of the scope of:

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

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

5 Upon conviction of a violation of this section, a delegate or
6 alternative delegate shall be punished by imprisonment in the State
7 Penitentiary for not less than one (1) year. If such delegate or
8 alternate delegate is a member of the Legislature, the House of the
9 Legislature of which the delegate or alternate delegate is a member
10 may consider proceedings to expel the member pursuant to the
11 provisions of Section 30 of Article V of the Oklahoma Constitution.

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

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

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

19 A delegate or alternate delegate shall be entitled to receive
20 the same mileage and travel expenses paid to legislative members of
21 interim study committees, but shall not be entitled to a salary or
22 per diem for service as a delegate or alternate delegate. All funds
23 necessary to pay expenses under this section shall be paid from
24 funds appropriated to the Legislature.

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

4 Each delegate and alternate delegate shall, after appointment
5 and before the delegate or alternate delegate shall exercise any
6 function as a delegate or alternate delegate, execute an oath in
7 writing that the delegate or alternate delegate shall:

8 1. Support the Constitution of the United States and the
9 Constitution of Oklahoma;

10 2. Faithfully abide by and execute any instructions to
11 delegates and alternate delegates adopted by the Legislature and as
12 may be amended by the Legislature at any time; and

13 3. Otherwise faithfully discharge the duties of delegate or
14 alternate delegate.

15 The executed oath shall be filed with the Secretary of State.
16 After the oath is filed with the Secretary of State, the Governor
17 shall issue a commission to the delegate or alternate delegate.

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

21 A. The Article V Convention delegate advisory group is
22 established. The advisory group shall consist of the Chief Justice
23 of the Supreme Court of Oklahoma, the Chief Judge of the Court of
24 Civil Appeals of Oklahoma and the presiding judge of the judicial

1 district that includes Oklahoma County. The Chief Justice of the
2 Supreme Court of Oklahoma shall be the chairperson of the advisory
3 group. The advisory group shall meet upon the call of the
4 chairperson. The advisory group shall establish policies and
5 procedures that the advisory group determines necessary to carry out
6 its duties under this section.

7 B. Upon the request of a delegate or alternate delegate, the
8 advisory group shall advise the delegate or alternate delegate
9 whether there is reason to believe that an action or an attempt to
10 take an action by a delegate or alternate delegate would:

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

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

18 C. The advisory group may render an advisory determination
19 under this section in any summary manner considered appropriate by
20 the advisory group.

21 D. The advisory group shall render an advisory determination
22 under subsection B of this section within twenty-four (24) hours
23 after receiving a request for a determination. The advisory group
24 shall transmit a copy of an advisory determination under this

1 section in the most expeditious manner possible to the delegate or
2 alternate delegate who requested the advisory determination.

3 E. If the advisory group renders an advisory determination
4 under this section, the advisory group may also take an action
5 permitted under subsection F of this section.

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

- 11 a. violated the instructions established by a joint
12 resolution adopted under Section 4 of this act, or
- 13 b. exceeded the limits placed by the Legislature in a
14 joint resolution that calls for an Article V
15 Convention for the purpose of proposing amendments to
16 the Constitution of the United States on the subjects
17 and amendments that may be considered by the Article V
18 Convention.

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

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

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

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

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

16 a. the vote or attempt to vote did not comply with
17 Oklahoma law, is void, and has no effect, and

18 b. the credentials of the delegate or alternate delegate
19 who is the subject of the determination are revoked.

20 SECTION 15. This act shall become effective November 1, 2017.

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