

HOUSE BILL 2412

By Lundberg

AN ACT relative to a limited constitutional convention to determine the method for choosing appellate court judges.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1.

(a) In order to ascertain the will of the people with respect to whether or not a limited constitutional convention should be called, there shall be submitted to the people of the state at the regular general election to be held on Thursday, August 5, 2010, under the general election laws of the state in the several counties, the following question, which shall be printed in full on each ballot or voting machine, in words and figures as follows:

**CONSTITUTIONAL REFERENDUM**

**Question:** Shall a convention be held to alter or reform the following parts and subject matter of the present Constitution of the State of Tennessee, the convention to be limited to consideration of, and action upon, the parts and subject matter specified herein and whose actions with respect thereto shall become effective only after each amendment proposed by the convention is separately submitted to, and ratified by, a vote of the people?

Article VI, Section 3; Article VI, Section 4; and Article VII, Section 5; to determine the method for choosing appellate court judges;

\_\_\_\_\_ **FOR THE CONVENTION**

\_\_\_\_\_ **AGAINST THE CONVENTION**

Voters will indicate their choice by placing a cross mark (x) opposite one or the other of the above expressions.

(b) The proper officers in all counties shall immediately after the election make a return to the secretary of state of the number of votes cast in their respective counties "For the Convention" and the number of votes cast "Against the Convention"; and, after comparison of the returns by the secretary of state and the attorney general and reporter, the governor shall, by proclamation, announce the results.

(c) If the people approve the question and thereby authorize the limited convention, then delegates shall be elected at the regular general election to be held on Tuesday, November 2, 2010, under the general election laws of the state in the several counties. There shall be twenty-seven (27) delegates, with three (3) such delegates to be elected by the qualified voters of each of the nine (9) congressional districts within the state.

(d)

(1) Any person who is at least twenty-one (21) years of age, a citizen of the United States, a citizen of Tennessee for at least three (3) years, and a resident of the district for at least one (1) year may become a candidate for delegate to the convention upon filing with the county election commission of his or her county of residence a nominating petition containing not less than twenty-five (25) signatures of legally qualified voters of the district. In the case of a candidate from a congressional district comprising more than one (1) county, only one (1) qualifying petition need be filed by the candidate, and that in the candidate's home county, with a certified copy thereof to be filed with the election commission of each of the other counties in the congressional district.

(2) Notwithstanding any provision of law to the contrary, every person desiring to become a delegate to the convention shall qualify by filing a qualifying petition or petitions by 12:00 o'clock noon, prevailing time, on Thursday, August 19, 2010. The names of candidates for the delegates to the convention shall be placed on the official ballot alphabetically without reference to political affiliation. Each voter shall cast a ballot for one (1) delegate. The three (3) candidates from each congressional district who receive the greatest number of votes shall be the delegates from that congressional district.

(3) The returns from the various counties shall be certified to the secretary of state and canvassed by the secretary of state, the governor, and the attorney general and reporter in the same manner and form as the returns are required to be certified from the election in which the people vote for or against the call of the convention, as provided in subsection (b). The governor shall, by proclamation, announce the names of those elected as delegates to the convention. Delegates to the convention, elected and certified, shall receive a certificate of election signed by the governor and attested by the secretary of state under the great seal of the state.

(e)

(1) The delegates elected to the convention shall assemble in the chamber of the senate in Nashville at 12:00 o'clock noon on Monday, November 15, 2010, and organize by electing one (1) of their members as president, another as secretary, and by electing such other officers as they deem necessary. If a majority of the delegates are not present on that date, then those present shall adjourn from day to day until a majority appears, when the convention shall be organized. The convention, when organized, may adopt its

own rules of procedure and employ such clerks, stenographers, reporters, sergeants-at-arms, and other assistants as the convention considers necessary, and fix the amount of their compensation.

(2) The compensation of the delegates to the convention shall be a per diem allowance and mileage allowance in such amounts as may prevail, during the time the convention meets, for members of the general assembly, which shall be paid by the state in the same manner that members of the general assembly are paid, upon certification by the president and secretary of the convention. In case there shall be a vacancy in the membership of the convention, it shall be filled by election of the legislative body of the county of residence of the delegate whose seat becomes vacant.

(f) It is the duty of the secretary of state to make publication in at least one (1) general circulation newspaper published in each county of the fact that a constitutional convention election is to be held in the state on Thursday, August 5, 2010. Any county not having a general circulation newspaper shall be considered to have been notified by publication in the newspaper published in counties immediately adjacent thereto. The secretary of state shall also certify to the various election commissioners of the different counties the form for the ballot, with reference to the constitutional convention election agreeable to the terms of this section, and furnish the election commissioners with any other printed information pertaining to the election that is material or necessary. If the people vote in favor of the convention, then it is the duty of the secretary of state to issue a call for the election of delegates to the convention. The election shall be held in the various counties on Tuesday, November 2, 2010, and the secretary of state shall certify to the various county election commissioners the form of the ballot to be used in the election of delegates as provided in subdivision (d)(2). All ballots used in the 2010

regular August election shall include the above question as to holding the limited constitutional convention, and the ballots used in the 2010 regular November election shall include the names of the candidates for delegates to such convention, if such convention is approved.

(g) The final action of the convention with respect to the alteration or reformation of Article VI, Section 3; Article VI, Section 4; and Article VII, Section 5; relative to determining the method for choosing appellate court judges, shall be duly certified by the president and the secretary of the convention, and the original certified copy shall be transmitted to the secretary of state.

(h) Any amendment adopted by the convention, falling within the limits prescribed by this act for such convention, shall be submitted to the voters of the state for ratification or rejection of each separate amendment at an election to be held in such manner and on such date after the final adjournment of the convention as may be fixed and determined by the convention. The official ballot to be used in any such election shall be arranged so that the voter can vote separately for the ratification or rejection of each and every amendment. Any election so held shall be held under the general election laws of the state. When the election to ratify or reject any amendment to the constitution has been held, the various county election commissioners shall certify the results thereof in each county to the secretary of state, who, together with the governor and attorney general, shall canvass the returns, and the governor shall issue a proclamation showing the results of the election on the ratification or rejection of the amendments. All amendments ratified and approved in the election held for that purpose shall be proclaimed by the governor as a part of the constitution of the state, and such proclamation shall be filed in the office of the secretary of state.

(i) All expenses in connection with the holding of any of the elections authorized by this section shall be paid by the commissioner of finance and administration on warrant drawn upon the treasurer upon certification by the secretary of state to the correctness of each account. No compensation shall be paid by the state to the various county election commissioners for their services or for rental space or quarters in the various counties for places for holding any elections herein authorized.

(j) Notwithstanding any provision of law to the contrary:

(1) Every person acting as a lobbyist or employer of a lobbyist at the constitutional convention shall be subject to the provisions of Title 3, Chapter 6, as if the convention constitutes an annual session of the general assembly;

(2) Every person who serves as a delegate to or an employee of the constitutional convention shall be subject to the provisions of Title 2, Chapter 10, Part 1, as if the convention constitutes an annual session of the general assembly and such person is a member or an employee of the general assembly; and

(3) Every person serving as a delegate to, or an employee of, the constitutional convention (as well as such person's immediate family), shall be subject to the provisions of § 3-6-304 and § 3-6-305, as if the convention constitutes an annual session of the general assembly and such person is serving as a member or employee of the general assembly.

SECTION 2. This act shall take effect July 1, 2009, the public welfare requiring it.