



HOUSE BILL 648: Faithful Article V Commissioner Act.

2023-2024 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	April 27, 2023
Introduced by:	Reps. Riddell, Bell, Saine, Hardister	Prepared by:	Debbie Griffiths
Analysis of:	First Edition		Staff Attorney

OVERVIEW: *House Bill 648 would create a new Article to Chapter 120 of the General Statutes entitled "Faithful Article V Commissioner Act". The act would (1) enumerate findings leading to the creation of the Act, (2) define terms applicable to the act, (3) state the purpose of the act, (4) detail requirements for the selection and removal of commissioners, and filling vacancies, (5) establish limitations on the commissioners' powers, (6) require each commissioner to take an oath to act within the limitations established and understand that failure to do so may subject the commission to penalties provided by law, and (6) create a Class I felony if a commissioner exceeds the scope of authority provided by the Act.*

BILL ANALYSIS: Definitions. Definitions applicable to the Act would be created including:

- Application which would be defined as an application for a convention proposing amendments relied upon by Congress in calling the convention.
- Commission which would be defined as the document(s) from the State legislature which empowers the commissioner to an interstate convention and fixes the scope of the authority.
- Committee which would be defined as the delegation of persons commissioned to an interstate convention.
- Instructions which would be defined as directions given to commissioners by the commissioning authority or its designated agent. Instructions would be given contemporaneously with or subsequent to a commission and could be amended before and during an interstate convention.

Purposes. The purposes of the Act would be to:

- Clarify the scope of authority of commissioners and committees representing the State at interstate conventions.
- Provide for enforcing the limitations on that authority.
- Provide the methods for selecting and replacing commissioners.
- Prescribe an oath to be taken by interstate convention commissioners.

Commissioners. Commissioners to a convention proposing amendments would be selected by a joint resolution passed by a majority vote of both chambers of the General Assembly. Seven commissioners plus alternates would be chosen as follows:

- Three chosen by the Senate.
- Three chosen by the House of Representatives.

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- One at-large commissioner chosen by the General Assembly upon the joint recommendation of the President Pro Tempore of the Senate and the Speaker of House.

A commissioner could be recalled and removed for cause by a majority vote of the chamber(s) which made the appointment.

The qualifications to serve as a commissioner would include:

- Being a citizen of the United States and residing in the State.
- Being at least 21 years old.
- Not being a convicted felon.
- Not being a registered lobbyist under the laws of this State.
- Not holding any statewide elected office, federal office nor being a federal contractor or employee.

Commissioners and alternates would be subject to the same ethical laws of the State as members of the General Assembly.

Vacancies. Vacancies would be filled by a designated alternate and a new alternate commissioner would be approved by the appropriate appointing body of the General Assembly.

Limitations on commissioners' powers. A commissioner could not exceed his or her scope of authority granted in the commission or violate instructions. If the convention is for proposing amendments, the scope of authority in the commission and instructions could not exceed the narrowest of the following:

- The scope of the congressional call.
- The scope of the narrowest application among those cited by Congress as mandating the convention call.
- The actual terms of the application.

Oath. Prior to serving as commissioner, the individual would be required to take an oath to act within the limits of authority contained in the commission and instructions and would be subject to penalties for failing to do so.

Unauthorized action. A person would exceed the scope of authority if the person votes for, votes to consider, or otherwise promotes any action of convention not contained in the commission or instructions as detailed in the limitations on commissioners' powers section above. A vote for or support of an item clearly identified as a nonbinding recommendation would be excepted. Exceeding the scope of authority under this Act would be a class I felony.

EFFECTIVE DATE: The act would become effective when it becomes the law.