

ENROLLED ACT NO. 123, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2017 GENERAL SESSION

AN ACT relating to a convention for proposing amendments to the United States constitution; specifying limitations on delegates to a United States constitution Article V convention; providing penalties for violation of oath; clarifying state convention refers to a state ratifying convention; modifying provisions relating to county conventions; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 9-22-101 and 9-22-102 are created to read:

CHAPTER 22
LIMITATIONS ON DELEGATES TO A CONVENTION FOR PROPOSING
AMENDMENTS

9-22-101. Definitions.

(a) As used in this chapter:

(i) "Article V application" means a joint resolution passed by the Wyoming legislature on the same subject or containing the same proposed amendment text as two-thirds (2/3) of the other states requiring the United States congress to call an article V convention;

(ii) "Article V convention" means a convention for proposing amendments as expressly provided in article V of the United States constitution;

(iii) "Delegate" or "alternate" means a legislator selected under W.S. 9-22-102(g) to represent the state of Wyoming at an article V convention;

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(iv) "Legislative instructions" means instructions given by the state legislature to delegates and alternates before and during an article V convention;

(v) "Unauthorized amendment" means a proposed amendment that is outside the permitted subject matter contained in the article V application or contrary to legislative instructions.

9-22-102. Limitations of authority for delegates to an article V convention.

(a) No delegate shall have authority to vote to allow consideration of, or to approve, an unauthorized amendment for ratification to the United States constitution.

(b) Any delegate shall be directed to vote for procedures and rules mandating that the convention remain a convention of states where each state is represented by one (1) vote.

(c) Any vote made in violation of subsection (a) or (b) of this section shall be null and void, and the delegate making the vote shall be immediately recalled by an official or executive branch committee authorized by a resolution of the legislature and replaced by an alternate as provided in subsection (g) of this section.

(d) Each delegate or alternate shall be required to take the following oath or affirmation: "I do solemnly swear or affirm that to the best of my abilities I will, as a delegate or alternate to an article V convention, uphold the constitution and laws of the United States of America and Wyoming. I will not vote to allow consideration of or to approve any unauthorized amendment proposed for

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ratification to the United States constitution. I understand and accept any penalties that Wyoming law may impose on me for violating this oath."

(e) Any delegate who violates the oath contained in subsection (d) of this section shall be guilty of a felony punishable by imprisonment for not more than five (5) years, a fine of not more than ten thousand dollars (\$10,000.00), or both. Additionally, any delegate who violates the oath contained in subsection (d) of this section shall be ineligible to serve as a delegate and any certification of the delegate shall be null and void.

(f) The secretary of state shall certify the selection of the delegates in writing to the article V convention and shall provide a copy of the certification to each delegate. No delegate shall have authority to vote or otherwise serve as a delegate at the article V convention without the certification.

(g) The secretary of state shall notify the president of the Wyoming senate and the speaker of the Wyoming house of representatives in writing of the need to assign delegates or alternates to the article V convention. The members of the senate shall elect three (3) members of the senate to serve as delegates, and the members of the house of representatives shall elect three (3) members of the house of representatives to serve as delegates. If a delegate becomes unable or ineligible to serve, the president of the senate or the speaker of the house shall assign an alternate for the delegate who has become unable or ineligible to serve. An alternate delegate assigned under this subsection shall immediately be entitled to represent Wyoming as a delegate in place of the delegate who has become unable or ineligible to serve, and the

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secretary of state shall immediately provide certification to the new delegate.

(h) The secretary of state shall notify the article V convention and any delegate involved of the revocation of that delegate's certification should the delegate violate his or her oath to act only within the limits of the authority granted by the state of Wyoming.

(j) The Wyoming attorney general shall enforce the provisions of this section.

Section 2. W.S. 22-20-201 through 22-20-203, 22-20-204(b), 22-20-205, 22-20-208 and 22-20-209 are amended to read:

22-20-201. Proclamation of governor calling state ratifying convention.

(a) If the congress of the United States of America ~~enacts any law requiring~~ proposes any question of repealing, amending or altering the constitution of the United States of America, or any part thereof, to be submitted to a ratifying convention of delegates chosen by the qualified electors of the state and does not prescribe the manner and method of calling, holding and conducting the convention and of canvassing the returns of the votes of the delegates thereto and determining, declaring and publishing the result of the vote of the delegates to the ratifying convention on any question voted upon, for which the ratifying convention is called, it is the duty of the governor to make a public proclamation:

(i) Calling the state ratifying convention;

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(ii) Calling for the election of delegates to the state ratifying convention;

(iii) Specifying the place where and the time when the ratifying convention shall be held;

(iv) Specifying the number of delegates (who shall be qualified electors) of which the ratifying convention shall consist; and

(v) Specifying the method and manner by and in which delegates to the ratifying convention shall be elected.

22-20-202. Election of delegates to state ratifying convention.

In each ~~of the election precincts in each of the counties~~ county of this state there shall be held a ~~meeting~~ county convention of the qualified electors of the ~~precinct~~ county at the time fixed by the proclamation. ~~A qualified elector in the precinct shall preside at each precinct meeting, and~~ An election shall be held in which not less than ~~one (1) delegate~~ five (5) delegates from each ~~precinct~~ county and (1) one additional delegate for each ~~six hundred (600)~~ five thousand (5,000) or major portion thereof of the inhabitants of the ~~precinct~~ county shall be elected as delegates to ~~a convention to be held at the county seat of the county. Upon the day fixed by the governor for holding the county convention the delegates thereto shall assemble and elect one (1) delegate for each county, and one (1) delegate for each five thousand (5,000) or major fraction thereof of the inhabitants of the county as delegates to~~ the state ratifying convention specified in W.S. 22-20-201.

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22-20-203. Convening of county convention; presiding officer; certification of results.

It is the duty of the chairman of the board of county commissioners or some other member of the board in each county to convene the county convention and preside over it until the delegates chosen thereto select a chairman of the convention. It is the duty of the chairman and secretary of the convention to certify, under oath, to the secretary of state and to the state ratifying convention, the names of the delegates to the state ratifying convention chosen by the county convention.

22-20-204. Rules of practice for county conventions; convention ballots.

(b) The vote on the selection of delegates to the ~~county and state conventions~~ ratifying convention shall be by written or printed ballot.

22-20-205. Determining appportionment of representation at conventions.

In the apportionment of representation in the county convention and state ~~conventions~~ ratifying convention, the last federal census is the basis upon which the right to representation in the conventions shall be determined.

22-20-208. Convening of state ratifying convention; costs and expenses; certification of results.

(a) If the governor issues a proclamation calling a state ratifying convention, it is the duty of the secretary of state to convene the ratifying convention and make all necessary arrangements.

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(b) The costs incidental to the holding of the state ratifying convention shall be borne and paid by the state, as appropriated by the legislature.

(c) It is the duty of the officers of the state ratifying convention to certify, under oath, to the secretary of state, the result of the vote cast at the ratifying convention on each question submitted thereto. When the result of the vote of the delegates to the state ratifying convention is certified to the secretary of state, it is then the duty of the secretary of state to certify the result to the president and secretary of state of the United States, and to the president of the senate and the speaker of the house of representatives of the congress of the United States.

22-20-209. Procedure when congress directs manner of holding ratifying convention.

(a) If congress, either in the resolution submitting the question or by statute, prescribes the manner in which the ~~conventions~~ratifying convention shall be constituted, the provisions of this chapter are inoperative, and the ratifying convention shall be constituted and shall operate as the resolution or act of congress directs. All officers of the state who may be authorized or directed by the resolution or statute to take any action to constitute a ratifying convention for this state are authorized and directed to act in accordance therewith and in obedience thereto with the same force and effect as if acting under a statute of this state.

(b) If an article V convention as defined in W.S. 9-22-101 is called, the provisions of this chapter are

ORIGINAL HOUSE
BILL NO. HB0050

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inoperative to the extent that they conflict with a
convention conducted in accordance with W.S. 9-22-102.

Section 3. This act is effective July 1, 2017.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk