

HOUSE BILL NO. HB0099

Article V convention limitations.

Sponsored by: Representative(s) Laursen, Allen and Lindholm
and Senator(s) Driskill, Hicks, Perkins and
Peterson

A BILL

for

1 AN ACT relating to administration of government; specifying
2 limitations on delegates to an Article V convention;
3 providing penalties for violation of oath; clarifying state
4 convention refers to a state ratifying convention;
5 providing definitions; and providing for an effective date.

6

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

8

9 **Section 1.** W.S. 9-21-101 and 9-21-102 are created to
10 read:

11

12

CHAPTER 21

13

LIMITATIONS ON DELEGATES TO A CONVENTION FOR PROPOSING

14

AMENDMENTS

15

1 **9-21-101. Definitions.**

2

3 (a) As used in this chapter:

4

5 (i) "Article V application" means a joint
6 resolution passed by the state legislature of Wyoming on
7 the same subject or containing the same proposed amendment
8 text as thirty-three (33) other states requiring congress
9 to call an article V convention;

10

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

14

15 (iii) "Delegate" or "alternate" means a
16 legislator selected under W.S. 9-21-102(g) to represent the
17 state of Wyoming at an article V convention;

18

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

22

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

5

6 **9-21-102. Limitations of authority for delegates to**
7 **an article V convention.**

8

9 (a) No delegate from Wyoming to an article V
10 convention shall have authority to vote to allow
11 consideration of, or to approve, an unauthorized amendment
12 for ratification to the constitution of the United States.

13

14 (b) Any delegate from Wyoming to an article V
15 convention shall be directed to vote for procedures and
16 rules mandating that the convention remain a convention of
17 states where each state is represented by one (1) vote.

18

19 (c) Any vote made in violation of subsection (a) or
20 (b) of this section shall be null and void and the delegate
21 making the vote shall be immediately recalled by an
22 official or executive branch committee authorized by a

1 resolution of the legislature and replaced by an alternate
2 as provided in subsection (g) of this section.

3

4 (d) Each delegate or alternate from Wyoming to an
5 article V convention shall be required to take the
6 following oath or affirmation: "I do solemnly swear or
7 affirm that to the best of my abilities I will, as a
8 delegate or alternate to an article V convention, uphold
9 the constitution and laws of the United States of America
10 and Wyoming. I will not vote to allow consideration of or
11 to approve any unauthorized amendment proposed for
12 ratification to the constitution of the United States of
13 America. I understand and accept any penalties that may be
14 imposed on me by Wyoming law for violating this oath."

15

16 (e) Any delegate who violates the oath contained in
17 subsection (d) of this section shall be guilty of a felony
18 punishable by imprisonment for not more than five (5)
19 years, a fine of not more than ten thousand dollars
20 (\$10,000.00), or both. Additionally, any delegate who
21 violates the oath contained in subsection (d) of this
22 section shall be ineligible to serve as a delegate and any
23 certification of the delegate shall be null and void.

1

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

8

9 (g) The secretary of state shall notify the president
10 of the senate and the speaker of the house in writing of
11 the need to assign delegates or alternates to the article V
12 convention. The members of the senate shall elect three (3)
13 members of the senate to serve as delegates and the members
14 of the house shall elect three (3) members of the house of
15 representatives to serve as delegates. The president of the
16 senate and the speaker of the house shall assign alternates
17 if necessary. If a delegate becomes unable or ineligible to
18 serve under this section, the alternate delegate determined
19 under this section shall immediately be entitled to
20 represent Wyoming as a delegate in place of the delegate
21 who has become unable or ineligible to serve and the
22 secretary of state shall immediately provide certification
23 to the new delegate.

1

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

7

8 (j) The provisions of this section shall be enforced
9 by the attorney general. A Wyoming citizen may file an
10 action to enforce the requirements of this chapter and
11 shall be entitled to reasonable attorney's fees if
12 successful.

13

14 **Section 2.** W.S. 22-20-201 through 22-20-203,
15 22-20-204(b), 22-20-205, 22-20-208 and 22-20-209 are
16 amended to read:

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18 **22-20-201. Proclamation of governor calling state**
19 **ratifying convention.**

20

21 (a) If the congress of the United States of America
22 enacts any law requiring any question of repealing,
23 amending or altering the constitution of the United States

1 of America, or any part thereof, to be submitted to a
2 ratifying convention of delegates chosen by the qualified
3 electors of the state and does not prescribe the manner and
4 method of calling, holding and conducting the convention
5 and of canvassing the returns of the votes of the delegates
6 thereto and determining, declaring and publishing the
7 result of the vote of the delegates to the ratifying
8 convention on any question voted upon, for which the
9 ratifying convention is called, it is the duty of the
10 governor to make a public proclamation:

11

12 (i) Calling the state ratifying convention;

13

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

16

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

19

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

23

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

4
5 **22-20-202. Election of delegates to county convention**
6 **and state ratifying convention.**

7
8 In each of the election precincts in each of the counties
9 of this state there shall be held a meeting of the
10 qualified electors of the precinct at the time fixed by the
11 proclamation. A qualified elector in the precinct shall
12 preside at each precinct meeting, and an election shall be
13 held in which not less than one (1) delegate from each
14 precinct and (1) one additional delegate for each six
15 hundred (600) or major portion thereof of the inhabitants
16 of the precinct shall be elected as delegates to a
17 convention to be held at the county seat of the county.
18 Upon the day fixed by the governor for holding the county
19 convention the delegates thereto shall assemble and elect
20 one (1) delegate for each county, and one (1) delegate for
21 each five thousand (5000) or major fraction thereof of the
22 inhabitants of the county as delegates to the state
23 ratifying convention specified in W.S. 22-20-201.

1

2 **22-20-203. Convening of county convention; presiding**
3 **officer; certification of results.**

4

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

14

15 **22-20-204. Rules of practice for county conventions;**
16 **convention ballots.**

17

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

21

22 **22-20-205. Determining apportionment of**
23 **representation at convention.**

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

6

7 **22-20-208. Convening of state convention; costs and**
8 **expenses; certification of results.**

9

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

14

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

18

19 (c) It is the duty of the officers of the state
20 ratifying convention to certify, under oath, to the
21 secretary of state, the result of the vote cast at the
22 ratifying convention on each question submitted thereto.
23 When the result of the vote of the delegates to the state

1 ratifying convention is certified to the secretary of
2 state, it is then the duty of the secretary of state to
3 certify the result to the president and secretary of state
4 of the United States, and to the president of the senate
5 and the speaker of the house of representatives of the
6 congress of the United States.

7
8 **22-20-209. Procedure when congress directs manner of**
9 **holding convention.**

10
11 (a) If congress, either in the resolution submitting
12 the question or by statute, prescribes the manner in which
13 the ~~conventions~~ratifying convention shall be constituted,
14 the provisions of this chapter are inoperative, and the
15 ratifying convention shall be constituted and shall operate
16 as the resolution or act of congress directs. All officers
17 of the state who may be authorized or directed by the
18 resolution or statute to take any action to constitute a
19 ratifying convention for this state are authorized and
20 directed to act in accordance therewith and in obedience
21 thereto with the same force and effect as if acting under a
22 statute of this state.

1 (b) If an article V convention is called as provided
2 in W.S. 9-21-102, the provisions of this chapter are
3 inoperative to the extent that they conflict with a
4 convention conducted in accordance with W.S. 9-21-102.

5

6 **Section 2.** This act is effective July 1, 2016.

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8

(END)