

HOUSE BILL NO. HB0050

Limitations on delegates-constitution amendment conventions.

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

A BILL

for

1 AN ACT relating to a convention for proposing amendments to  
2 the United States constitution; specifying limitations on  
3 delegates to a United States constitution Article V  
4 convention; providing penalties for violation of oath;  
5 clarifying state convention refers to a state ratifying  
6 convention; and providing for an effective date.

7

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

9

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

12

13

CHAPTER 22

1           LIMITATIONS ON DELEGATES TO A CONVENTION FOR PROPOSING  
2    AMENDMENTS

3

4           **9-22-101. Definitions.**

5

6           (a) As used in this chapter:

7

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

13

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

17

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

21

1           (iv) "Legislative instructions" means  
2 instructions given by the state legislature to delegates  
3 and alternates before and during an article V convention;  
4

5           (v) "Unauthorized amendment" means a proposed  
6 amendment that is outside the permitted subject matter  
7 contained in the article V application or contrary to  
8 legislative instructions.  
9

10           **9-22-102. Limitations of authority for delegates to**  
11 **an article V convention.**  
12

13           (a) No delegate shall have authority to vote to allow  
14 consideration of, or to approve, an unauthorized amendment  
15 for ratification to the United States constitution.  
16

17           (b) Any delegate shall be directed to vote for  
18 procedures and rules mandating that the convention remain a  
19 convention of states where each state is represented by one  
20 (1) vote.  
21

22           (c) Any vote made in violation of subsection (a) or  
23 (b) of this section shall be null and void, and the

1 delegate making the vote shall be immediately recalled by  
2 an official or executive branch committee authorized by a  
3 resolution of the legislature and replaced by an alternate  
4 as provided in subsection (g) of this section.

5

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

16

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

1 section shall be ineligible to serve as a delegate and any  
2 certification of the delegate shall be null and void.

3

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

10

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

1 represent Wyoming as a delegate in place of the delegate  
2 who has become unable or ineligible to serve, and the  
3 secretary of state shall immediately provide certification  
4 to the new delegate.

5

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

11

12 (j) The Wyoming attorney general shall enforce the  
13 provisions of this section. A Wyoming citizen may also file  
14 an action to enforce the requirements of this chapter and  
15 shall be entitled to reasonable attorney's fees if  
16 successful.

17

18 **Section 2.** W.S. 22-20-201 through 22-20-203,  
19 22-20-204(b), 22-20-205, 22-20-208 and 22-20-209 are  
20 amended to read:

21

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

1

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

15

16 (i) Calling the state ratifying convention;

17

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

20

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

23

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

4

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

8

9           **22-20-202. Election of delegates to county convention**  
10 **and state ratifying convention.**

11

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



1 one (1) delegate for each county, and one (1) delegate for  
2 each five thousand (5,000) or major fraction thereof of the  
3 inhabitants of the county as delegates to the state  
4 ratifying convention specified in W.S. 22-20-201.

5

6 **22-20-203. Convening of county convention; presiding**  
7 **officer; certification of results.**

8

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

18

19 **22-20-204. Rules of practice for county conventions;**  
20 **convention ballots.**

21

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

4

5 **22-20-205. Determining apportionment of**  
6 **representation at conventions.**

7

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

12

13 **22-20-208. Convening of state ratifying convention;**  
14 **costs and expenses; certification of results.**

15

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

20

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

1

2 (c) It is the duty of the officers of the state  
3 ratifying convention to certify, under oath, to the  
4 secretary of state, the result of the vote cast at the  
5 ratifying convention on each question submitted thereto.  
6 When the result of the vote of the delegates to the state  
7 ratifying convention is certified to the secretary of  
8 state, it is then the duty of the secretary of state to  
9 certify the result to the president and secretary of state  
10 of the United States, and to the president of the senate  
11 and the speaker of the house of representatives of the  
12 congress of the United States.

13

14 **22-20-209. Procedure when congress directs manner of**  
15 **holding ratifying convention.**

16

17 (a) If congress, either in the resolution submitting  
18 the question or by statute, prescribes the manner in which  
19 the ~~conventions~~ratifying convention shall be constituted,  
20 the provisions of this chapter are inoperative, and the  
21 ratifying convention shall be constituted and shall operate  
22 as the resolution or act of congress directs. All officers  
23 of the state who may be authorized or directed by the

1 resolution or statute to take any action to constitute a  
2 ratifying convention for this state are authorized and  
3 directed to act in accordance therewith and in obedience  
4 thereto with the same force and effect as if acting under a  
5 statute of this state.

6  
7 (b) If an article V convention as defined in W.S.  
8 9-22-101 is called, the provisions of this chapter are  
9 inoperative to the extent that they conflict with a  
10 convention conducted in accordance with W.S. 9-22-102.

11

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

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14

(END)