

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 648

Short Title: Faithful Article V Commissioner Act. (Public)

Sponsors: Representatives Riddell, Bell, Saine, and Hardister (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary 1, if favorable, Rules, Calendar, and Operations of the House

April 18, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE FAITHFUL ARTICLE V COMMISSIONER ACT.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Chapter 120 of the General Statutes is amended by adding a new
5 Article to read:

6 "Article 31A.

7 "Faithful Article V Commissioner Act.

8 **"§ 120-272.100. Faithful Article V Commissioner Act.**

9 (a) Findings. – The General Assembly finds as follows:

10 (1) In the years since the Declaration of Independence, and both before and after
11 ratification of the United States Constitution, the states and state legislatures
12 have, from time to time, met in interstate conventions (however denominated)
13 to consult upon and propose or adopt measures to address prescribed
14 problems. This continued a pre-Independence practice of American colonies
15 meeting in intercolonial conventions and congresses.

16 (2) The United States Constitution recognizes the authority of states and state
17 legislatures to commission commissioners to interstate conventions, subject
18 to the limitations set forth in the Constitution. It does so implicitly in Article
19 I, Section 9, and explicitly through Article V (authorizing conventions for
20 proposing amendments), and by reserving this previously existing state power
21 to the states through the Tenth Amendment.

22 (3) The authority to meet in convention is generally a power reserved to the states
23 by the Constitution; in the case of a convention for proposing amendments,
24 the power is granted to the several state legislatures through Article V of the
25 Constitution.

26 (4) Leading American Founders recognized the authority of states to coordinate
27 their efforts in ways that necessarily or properly included interstate
28 conventions.

29 (b) Definitions. – The following definitions apply in this section:

30 (1) Application. – An application for a convention for proposing amendments
31 relied upon by Congress in calling such a convention.

32 (2) Commission. – The document or documents whereby the state legislature
33 empowers a commissioner to an interstate convention and fixes the scope of
34 his or her authority.



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- 1 (3) Committee. – A delegation of persons commissioned to an interstate
2 convention.
- 3 (4) Convention for proposing amendments. – An interstate convention consisting
4 of committees commissioned by the legislatures of the several states and
5 called by Congress on the application of at least two-thirds of such legislatures
6 under the authority of Article V of the United States Constitution.
- 7 (5) Instructions. – Directions given to commissioners by the commissioning
8 authority or by that authority's agent designated for that purpose. Instructions
9 are given contemporaneously with or subsequent to a commission and may be
10 amended before or during an interstate convention.
- 11 (6) Interstate convention. – A diplomatic meeting, however denominated, of
12 committees from three or more states or state legislatures to consult upon and
13 propose or adopt measures pertaining to one or more issues previously
14 prescribed by applications, by the convention call, or by the commissioning
15 authority.
- 16 (c) Purposes. – The purposes of this section are to (i) clarify the scope of authority of
17 commissioners and committees representing the legislature of this State at interstate conventions,
18 (ii) provide for enforcing limits on such authority, (iii) provide methods of selecting and replacing
19 commissioners to conventions, and (iv) prescribe an oath to be taken by interstate convention
20 commissioners.
- 21 (d) Commissioners. – The following provisions apply to the number, selection, and
22 removal of commissioners:
- 23 (1) Commissioners to a convention for proposing amendments shall be selected
24 by a joint resolution passed by a majority vote of both houses of the North
25 Carolina General Assembly. The number of commissioners in this State's
26 committee shall be seven commissioners plus alternates. Three
27 commissioners to be chosen by the North Carolina Senate, three
28 commissioners chosen by the North Carolina House of Representatives, and
29 one at-large commissioner chosen by the General Assembly upon the joint
30 recommendation of the President Pro Tempore of the Senate and the Speaker
31 of the House of Representatives.
- 32 (2) A commissioner to a convention for proposing amendments may be recalled
33 and removed at any time for cause by a resolution passed by a majority vote
34 of the house or houses which made the appointment. If the legislature is not
35 in session, a commissioner may be suspended from their duties by agreement
36 of the President Pro Tempore of the Senate and the Speaker of the House of
37 Representatives. That suspension will be temporary until such time as a vote
38 by the appropriate appointing legislative body fails to uphold the suspension
39 or selects a permanent replacement.
- 40 (3) To serve as a commissioner or alternate an individual must meet all of the
41 following qualifications:
- 42 a. Be a citizen of the United States.
- 43 b. Reside in this State.
- 44 c. Be at least 21 years of age.
- 45 d. Not be a convicted felon.
- 46 e. Not be a registered lobbyist under the laws of this State.
- 47 f. Not hold any federal office nor be a federal employee or contractor.
- 48 g. Not hold any statewide elected office.
- 49 (4) Commissioners and alternates are subject to the same ethical laws of the State
50 as members of the North Carolina General Assembly. For purposes of

1 determining those requirements, applicable references to "legislators" shall be
2 interpreted as "commissioners" or "alternates."

3 (5) Of the commissioners and alternates selected, no more than four
4 commissioners and four alternates shall be sitting members of the North
5 Carolina General Assembly.

6 (e) Vacancies. – Vacancies in committees representing the State legislature at a
7 convention for proposing amendments shall be filled by the designated alternate. A new alternate
8 commissioner shall be approved by the appropriate appointing body of the North Carolina
9 General Assembly. If the legislature is not in session, a new alternate commissioner may be
10 approved by written agreement of the President Pro Tempore of the Senate and the Speaker of
11 the House of Representatives. That appointment will be temporary until such time as a vote by
12 the appropriate appointing legislative body selects a permanent replacement.

13 (f) Limitations on Commissioners' Powers. – No commissioner shall exceed the scope
14 of authority granted by his or her commission or violate his or her instructions. In the case of a
15 convention for proposing amendments, the scope of authority granted by any commission and
16 instructions shall not be deemed to exceed the narrowest of (i) the scope of the congressional
17 call, (ii) the scope of the narrowest application among those cited by Congress as mandating the
18 convention call, or (iii) the actual terms of the application.

19 (g) Oath. – No person may serve as a commissioner until the person has taken the
20 following oath: "I do solemnly swear (or affirm) that I accept and will act according to the limits
21 of authority specified in my commission, by any present or subsequent instructions, and by the
22 Faithful Article V Commissioner Act. I understand that violating this oath may subject me to
23 penalties provided by law."

24 (h) Unauthorized Action. – A person exceeds the scope of authority at an interstate
25 convention if, while serving as a delegate at an interstate convention, he or she votes for, votes
26 to consider, or otherwise promotes any action of the convention not within the scope defined in
27 subsection (f) of this section; provided, however, that a delegate may vote for or otherwise
28 support a measure clearly identified as a nonbinding recommendation rather than as a formal
29 proposal. A person exceeding the scope of authority under this section is guilty of a Class I
30 felony."

31 **SECTION 2.** This act is effective when it becomes law.