

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H.B. 648
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40309-MC-136

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

Sponsors: Representative Riddell.

Referred to:

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.

35 (3) Committee. – A delegation of persons commissioned to an interstate
36 convention.



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

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

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

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

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

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

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