

House Bill 930 (AS PASSED HOUSE AND SENATE)

By: Representatives Barr of the 103<sup>rd</sup>, Brockway of the 102<sup>nd</sup>, Clark of the 98<sup>th</sup>, Cooke of the 18<sup>th</sup>, Ramsey of the 72<sup>nd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 1 of Title 50 of the Official Code of Georgia Annotated, relating to  
2 general provisions regarding state government, so as to provide definitions; to provide for  
3 the method of selecting delegates and alternate delegates to an Article V convention; to  
4 provide for the qualifications of delegates and alternate delegates; to provide for the recall  
5 of delegates and alternate delegates; to provide for oaths; to provide for expenses; to provide  
6 that the General Assembly shall adopt standards and instructions for Article V convention  
7 delegates; to provide for replacement of delegates by alternate delegates; to provide for the  
8 void of votes of delegates and alternate delegates under certain circumstances; to provide for  
9 the forfeiture of the appointment as a delegate or alternate delegate under certain  
10 circumstances; to provide for the revocation of a resolution calling for an Article V  
11 convention under certain circumstances; to prohibit certain votes by delegates and alternate  
12 delegates; to provide for penalties; to provide for an advisory group and its composition,  
13 powers, duties, and procedures; to provide for related matters; to provide an effective date;  
14 to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 SECTION 1.

17 Chapter 1 of Title 50 of the Official Code of Georgia Annotated, relating to general  
18 provisions regarding state government, is amended by designating all of the existing text as  
19 Article 1 and adding a new article to read as follows:

20 "ARTICLE 2

21 50-1-30.

22 This article shall apply whenever a convention is called pursuant to Article V of the United  
23 States Constitution.

24 50-1-31.

25 As used in this article, the term:

26 (1) 'Advisory group' means the Article V convention delegate advisory group established  
 27 by Code Section 50-1-38.

28 (2) 'Alternate delegate' means an individual appointed as an alternate delegate as  
 29 provided by law.

30 (3) 'Article V convention' means a convention for proposing amendments to the  
 31 Constitution of the United States called for by the states under Article V of the  
 32 Constitution of the United States.

33 (4) 'Chamber' means either the House of Representatives or the Senate.

34 (5) 'Delegate' means an individual appointed as provided by law to represent Georgia at  
 35 an Article V convention.

36 (6) 'House of Representatives' means the House of Representatives of the Georgia  
 37 General Assembly.

38 (7) 'Senate' means the Senate of the Georgia General Assembly.

39 50-1-32.

40 (a) An individual shall satisfy the following to be appointed as a delegate to an Article V  
 41 convention:

42 (1) The individual shall reside in Georgia;

43 (2) The individual shall be a registered elector of the State of Georgia;

44 (3) The individual shall be at least 18 years of age;

45 (4) The individual shall not be registered or required to be registered as a lobbyist under  
 46 Article 4 of Chapter 5 of Title 21 or any rules and regulations adopted thereunder; and

47 (5) The individual shall not hold any federal office.

48 (b) An individual appointed as an alternate delegate shall have the same qualifications as  
 49 a delegate as provided under subsection (a) of this Code section.

50 (c) Whenever an Article V convention is called, the General Assembly shall appoint the  
 51 five delegates allocated to represent Georgia and an equal number of alternate delegates.  
 52 If the General Assembly is not in session during the time during which delegates to an  
 53 Article V convention shall be appointed, the Governor shall call the General Assembly into  
 54 special session under Article V, Section II, Paragraph VII of the Constitution of Georgia  
 55 for the purpose of appointing delegates and alternate delegates.

56 (d) The delegates provided for by subsection (c) of this Code section shall be appointed  
 57 as follows:

58 (1) Two delegates shall be appointed by majority vote of the Senate where at least one  
 59 delegate appointed pursuant to this paragraph shall be a member of the Senate at the time  
 60 of appointment;

61 (2) Two delegates shall be appointed by majority vote of the House of Representatives  
 62 where at least one delegate appointed pursuant to this paragraph shall be a member of the  
 63 House of Representatives at the time of appointment; and

64 (3) One delegate shall be appointed by receiving, in each chamber, the vote of a majority  
 65 of all the members elected to that chamber.

66 (e) The alternate delegates provided for by subsection (c) of this Code section shall consist  
 67 of a first alternate delegate, second alternate delegate, third alternate delegate, fourth  
 68 alternate delegate, and fifth alternate delegate who shall be appointed as follows:

69 (1) The first alternate delegate shall be appointed by receiving, in each chamber, the vote  
 70 of a majority of all the members elected to that chamber;

71 (2) The second and fifth alternate delegate shall be appointed by majority vote of the  
 72 Senate; and

73 (3) The third and fourth alternate delegate shall be appointed by majority vote of the  
 74 House of Representatives.

75 (f) The delegates appointed pursuant to subsection (d) of this Code section shall elect from  
 76 amongst the delegates a chairperson. Such delegate shall serve as chairperson for as long  
 77 as such person is a delegate or until a new chairperson is elected at any time as provided  
 78 for by this subsection. Such chairperson shall report to the General Assembly on all  
 79 matters pertaining to the activities of the delegates and the Article V convention.

80 50-1-33.

81 (a) At the time delegates and alternative delegates are appointed, the General Assembly  
 82 shall adopt a joint resolution to provide instructions to the delegates and alternate delegates  
 83 regarding the following:

84 (1) The rules of procedure; and

85 (2) Any other matter relating to the Article V convention that the General Assembly  
 86 considers necessary.

87 (b) The General Assembly may amend the instructions at any time by joint resolution.

88 50-1-34.

89 An alternate delegate shall act in the place of a delegate when a delegate is absent from the  
 90 Article V convention or shall replace a delegate if a delegate vacates the office. An  
 91 alternate delegate shall act in the place of or replace a delegate in such order of sequence:

92 (1) First alternate delegate;

93 (2) Second alternate delegate;

94 (3) Third alternate delegate;

95 (4) Fourth alternate delegate; and

96 (5) Fifth alternate delegate.

97 At the time that an alternate delegate is needed to act in the place of or to replace a  
 98 delegate, the alternate delegate in the order of sequence not already acting in the place of  
 99 or replacing a delegate shall act in the place of the delegate.

100 50-1-35.

101 The General Assembly, Senate, or House of Representatives, respectively, may recall any  
 102 delegate or alternate delegate it has appointed and replace such delegate or alternate  
 103 delegate with an individual appointed under this article at any time.

104 50-1-36.

105 Notwithstanding any other provision of law to the contrary, no delegate or alternate  
 106 delegate to an Article V convention or to any process which seeks to propose amendments  
 107 to the Constitution of the United States called for by the states under Article V of the  
 108 Constitution of the United States shall be appointed unless such delegate or alternate  
 109 delegate is appointed as provided for by this article and this article shall be the only means  
 110 by which this state participates in an Article V convention or such process.

111 50-1-37.

112 A vote cast by a delegate or an alternate delegate at an Article V convention that is outside  
 113 of the scope of:

114 (1) The instructions established by a joint resolution adopted under Code  
 115 Section 50-1-32; or

116 (2) The limits placed by the General Assembly in a joint resolution that calls for an  
 117 Article V convention for the purpose of proposing amendments to the Constitution of the  
 118 United States on the subjects and amendments that may be considered by the Article V  
 119 convention

120 is void.

121 50-1-38.

122 A delegate or alternate delegate who votes or attempts to vote outside of the scope of:

123 (1) The instructions established by a joint resolution adopted under Code  
 124 Section 50-1-32; or

125 (2) The limits placed by the General Assembly in a joint resolution that calls for an  
 126 Article V convention for the purpose of proposing amendments to the Constitution of the  
 127 United States on the subjects and amendments that may be considered by the Article V  
 128 convention  
 129 forfeits the delegate's appointment by virtue of that vote or attempt to vote.

130 50-1-39.

131 The application of the General Assembly to call an Article V convention for proposing  
 132 amendments to the Constitution of the United States ceases to be a continuing application  
 133 and shall be treated as having no effect if all of the delegates and alternate delegates vote  
 134 or attempt to vote outside of the scope of:

135 (1) The instructions established by a joint resolution adopted under Code Section  
 136 50-1-22; or

137 (2) The limits placed by the General Assembly in a joint resolution that calls for an  
 138 Article V convention for the purpose of proposing amendments to the Constitution of the  
 139 United States on the subjects and amendments that may be considered by the Article V  
 140 convention.

141 50-1-40.

142 (a) A delegate or alternate delegate who knowingly or intentionally votes or attempts to  
 143 vote outside of the scope of:

144 (1) The instructions established by a joint resolution adopted under Code  
 145 Section 50-1-32; or

146 (2) The limits placed by the General Assembly in a joint resolution that calls for an  
 147 Article V convention for the purpose of proposing amendments to the Constitution of the  
 148 United States on the subjects and amendments that may be considered by the Article V  
 149 convention

150 shall be guilty of a misdemeanor and, upon conviction thereof, may be punished by  
 151 imprisonment for not more than one year or a fine not to exceed \$1,000.00, or both.

152 (b) Venue of prosecutions under this Code section shall be in the county of the defendant's  
 153 residence.

154 (c) The Attorney General and the appropriate district attorney are authorized to prosecute  
 155 violations of this Code section.

156 50-1-41.

157 A delegate or alternate delegate shall be entitled to receive the same mileage and travel  
 158 expenses paid to legislative members of interim study committees, but shall not be entitled

159 to a salary or per diem for service as a delegate or alternate delegate. All funds necessary  
 160 to pay expenses under this Code section shall be paid from funds appropriated to the  
 161 General Assembly.

162 50-1-42.

163 Each delegate and alternate delegate shall, after appointment and before the delegate or  
 164 alternate delegate shall exercise any function as a delegate or alternate delegate, execute  
 165 an oath in writing that the delegate or alternate delegate shall:

166 (1) Support the Constitution of the United States and the Constitution of Georgia;

167 (2) Faithfully abide by and execute any instructions to delegates and alternate delegates  
 168 adopted by the General Assembly and as may be amended by the General Assembly at  
 169 any time; and

170 (3) Otherwise faithfully discharge the duties of delegate or alternate delegate.

171 The executed oath shall be filed with the Secretary of State. After the oath is filed with the  
 172 Secretary of State, the Governor shall issue a commission to the delegate or alternate  
 173 delegate.

174 50-1-43.

175 (a) The Article V convention delegate advisory group is established. The advisory group  
 176 shall consist of the Chief Justice of the Supreme Court of Georgia, the Chief Judge of the  
 177 Court of Appeals of Georgia, and the chief judge of the Superior Court of Fulton County.  
 178 The Chief Justice of the Supreme Court of Georgia shall be the chairperson of the advisory  
 179 group. The advisory group shall meet upon the call of the chairperson. The advisory group  
 180 shall establish policies and procedures that the advisory group determines necessary to  
 181 carry out their duties under this Code section.

182 (b) Upon the request of a delegate or alternate delegate, the advisory group shall advise  
 183 the delegate or alternate delegate whether there is reason to believe that an action or an  
 184 attempt to take an action by a delegate or alternate delegate would:

185 (1) Violate the instructions established by a joint resolution adopted under Code  
 186 Section 50-1-32; or

187 (2) Exceed the limits placed by the General Assembly in a joint resolution that calls for  
 188 an Article V convention for the purpose of proposing amendments to the Constitution of  
 189 the United States on the subjects and amendments that may be considered by the Article  
 190 V convention.

191 (c) The advisory group may render an advisory determination under this Code section in  
 192 any summary manner considered appropriate by the advisory group.

193 (d) The advisory group shall render an advisory determination under subsection (b) of this  
194 Code section within 24 hours after receiving a request for a determination. The advisory  
195 group shall transmit a copy of an advisory determination under this Code section in the  
196 most expeditious manner possible to the delegate or alternate delegate who requested the  
197 advisory determination.

198 (e) If the advisory group renders an advisory determination under this Code section, the  
199 advisory group may also take an action permitted under subsection (f) of this Code section.

200 (f)(1) On its own motion or upon request of the Speaker of the House of Representatives,  
201 President Pro Tempore of the Senate, or the Attorney General, the advisory group shall  
202 advise the Attorney General whether there is reason to believe that a vote or attempt to  
203 vote by a delegate or alternate delegate has:

204 (A) Violated the instructions established by a joint resolution adopted under Code  
205 Section 50-1-32; or

206 (B) Exceeded the limits placed by the General Assembly in a joint resolution that calls  
207 for an Article V convention for the purpose of proposing amendments to the  
208 Constitution of the United States on the subjects and amendments that may be  
209 considered by the Article V convention.

210 (2) The advisory group shall issue the advisory determination under this subsection by  
211 one of the following summary procedures:

212 (A) Without notice or an evidentiary proceeding; or

213 (B) After a hearing conducted by the advisory group.

214 (3) The advisory group shall render an advisory determination under this subsection  
215 within 24 hours after receiving a request for an advisory determination.

216 (4) The advisory group shall transmit a copy of an advisory determination under this  
217 subsection in the most expeditious manner possible to the Attorney General.

218 (5) Immediately upon receipt of an advisory determination under this subsection that  
219 finds a vote or attempt to vote by a delegate or alternate delegate is a violation described  
220 in subparagraph (f)(1)(A) of this Code section or is in excess of the authority of the  
221 delegate or alternate delegate as described in subparagraph (f)(1)(B) of this Code section,  
222 the Attorney General shall inform the delegates, alternate delegates, the Speaker of the  
223 House of Representatives, the President Pro Tempore of the Senate, and the Article V  
224 convention that:

225 (A) The vote or attempt to vote did not comply with Georgia law, is void, and has no  
226 effect; and

227 (B) The credentials of the delegate or alternate delegate who is the subject of the  
228 determination are revoked."

229 **SECTION 2.**

230 This Act shall become effective on January 1, 2015.

231 **SECTION 3.**

232 All laws and parts of laws in conflict with this Act are repealed.