

ONE HUNDRED FIFTH LEGISLATURE - SECOND SESSION - 2018
COMMITTEE STATEMENT
LB1058

Hearing Date: Wednesday February 07, 2018
Committee On: Government, Military and Veterans Affairs
Introducer: Halloran
One Liner: Adopt the Faithful Delegate to Federal Article V Convention Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 6 Senators Brewer, Briese, Hilgers, Lowe, Murante, Thibodeau
Nay: 2 Senators Blood, Wayne
Absent:
Present Not Voting:

Verbal Testimony:

Proponents:

Senator Steve Halloran
Joe Stephans
Ernie Sears
Larry Storer
Mae James

Representing:

Introducer
Convention of States Action
Convention of States Action
Self
Balanced Budget Amendment Task Force

Opponents:

Kathy Wilmot
Renee Fry
John Cartier

Representing:

Self
Open Sky Policy Institute
Civic Nebraska

Neutral:

Representing:

Summary of purpose and/or changes:

LB 1058 adopts the Faithful Delegate to Federal Article V Convention Act.

Sections 1 through 3 provide the Act's title, definitions, and purpose.

Section 4 establishes procedures for the selection of delegates to an Article V convention.

- If no number of delegates to be sent from each state is established by Congress or an agreement of the states, it requires the Legislature to elect 5 delegates and 5 alternates as soon as possible after a convention has been called by Congress.

- If the number of delegates to be sent is established, it requires the Legislature to elect that number.

- It declares that service as a delegate is an additional duty of legislative office.

- It requires the Legislature to pair an alternate with each delegate for the alternate to replace should the need arise.

Section 5 relates to the service of a delegate.

- Prevents delegates from receiving compensation, but allows them to be reimbursed for actual and necessary expenses.

- Bans delegates from accepting food, beverages, gifts, or other benefits from a person who is required to register as a lobbyist in Nebraska.

Section 6 establishes a delegate's oath of office that each delegate and alternate must file with the Secretary of State.

Section 7 requires the Legislature to adopt instruction for delegates and alternates. It bans the Legislature from adopting instructions outside of the scope of the application the Legislature sent to Congress to call for the convention.

Section 8 requires an alternate to take the place of a delegate if the delegate is absent.

Section 9 deals with delegates casting unauthorized votes at the convention.

- The section bans delegates from casting an authorized vote.
- It defines an unauthorized vote as one that is outside of the scope of the delegate's instructions.
- It declares unauthorized votes to be invalid.
- If the Legislature is in session, the section vests the body with the authority to determine whether a specific vote was unauthorized.
- If the Legislature is not in session, that power is vested in the Advisory Committee established in Section 11.
- The section states that a delegate who casts an unauthorized vote is disqualified from their office.

Section 10 requires the Speaker of the Legislature to notify the head of the Nebraska delegation to the convention and the presiding officer of the convention when a Nebraska delegate is disqualified pursuant to Section 9.

Section 11 creates the Article V Convention Advisory Committee and establishes its procedures.

- The committee consists of the members of the Executive Board and the Lieutenant Governor.
- When the Legislature is in session, the Committee has no authority to act.
- When the Legislature is not in session, the Committee's duties are as follows:
 - Advise delegates and alternates whether an action is or would be an unauthorized vote.
 - By a vote of 6 or more, determine whether a vote was an unauthorized vote.
- If the Committee has a tie vote, the Lieutenant Governor may break the tie.

Section 12 makes it a Class IV felony for a delegate or alternate to knowingly cast an unauthorized vote.

Explanation of amendments:

AM2527 makes the following changes to the bill.

In Section 2, the amendment redefines "delegate" to encompass an individual that was previously an alternate delegate that has moved into a delegate role due to a vacancy. It also redefines "unauthorized vote" to conform to the changes to sections 10 and 11.

Section 4 still establishes procedures for the selection of delegates to an Article V convention. However, the original section 4 is stricken and replaced by the following.

- Nebraska's delegates to an Article V convention shall be:
 - The Lieutenant Governor
 - The Auditor of Public Accounts
 - The Secretary of State
 - The Treasurer
 - The Speaker of the Legislature
- Nebraska's alternate delegates shall be selected by the Executive Board from the Chairpersons and Vice-Chairpersons of the Legislature's standing committees.
- The new section 4 also provides for the possibilities that the number of delegates could be fewer or greater than 5.

- If the number is fewer than 5, the delegates shall be drawn from the above list in the order they are listed
- If the number is greater than 5, the delegates shall designate an additional delegate. This authority shall be conferred in the order the delegates are listed above.
- If the number is greater than 10, the Legislature shall elect from the members of the Legislature however many additional delegates necessary to form a full delegation.

Section 5 is mostly the same. The amendment eliminates the provision on lobbying.

Section 6 is only changed to conform to the other changes made in the amendment.

Section 7 is eliminated

Section 8, now section 7 is not changed.

Section 8, section 9 in the original bill, deals with delegates casting unauthorized votes at the convention. The amended version also includes unfaithful delegate removal procedures.

- The section still bans delegates from casting an authorized vote and declares unauthorized votes to be invalid.
- If a delegate casts an unauthorized vote, he or she is automatically disqualified as a delegate.
- A delegate may be removed from that office pursuant to existing quo warranto statutes (Neb. Rev. Stat. sec. 25-21,121 to 25-21,148), except that a partial removal is not allowed, and a removal as a delegate does not impact the individual's right to hold any other office they currently hold or may hold in the future.
- Rather than the Legislature or an advisory committee advising delegates and alternates whether an action could result in an unauthorized vote, the amendment gives this responsibility to the Attorney General.

Sections 10 -12 are eliminated.

John Murante, Chairperson