

HB 139 - AS INTRODUCED

2017 SESSION

17-0097

05/04

HOUSE BILL **139**

AN ACT limiting the authority of delegates to Article V conventions.

SPONSORS: Rep. Itse, Rock. 10; Rep. Spillane, Rock. 2; Rep. Ulery, Hills. 37; Sen. Giuda, Dist 2; Sen. Reagan, Dist 17

COMMITTEE: Legislative Administration

ANALYSIS

This bill establishes a procedure for the selection of delegates to an Article V convention. The bill limits delegates' authority to consideration of amendments that are within the legitimate scope of the Article V applications. Delegates who consider unauthorized amendments may be recalled by the secretary of state.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struck through]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Seventeen

AN ACT limiting the authority of delegates to Article V conventions.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Chapter; Constitutional Convention; Authority of New Hampshire Delegates. Amend
2 RSA by inserting after chapter 20-B the following new chapter:

3 CHAPTER 20-C

4 AUTHORITY OF NEW HAMPSHIRE DELEGATES
5 TO CONSTITUTIONAL CONVENTION

6 20-C:1 Definitions. In this chapter:

7 I. “Article V convention” means a convention for the purpose of proposing amendments,
8 called by the states pursuant to Article V of the Constitution for the United States of America.

9 II. “Article V petition” means a concurrent resolution by the general court of
10 New Hampshire calling for a convention pursuant to the Constitution for the United States of
11 America, Article V.

12 III. “Delegate” means a person from the state of New Hampshire, selected by law to
13 represent the people and state of New Hampshire at an Article V convention.

14 IV. “Permitted scope” means the topic of an amendment or specific language of an
15 amendment that may be considered by the Article V convention.

16 V. “Unauthorized amendment” means any amendment outside the scope permitted by the
17 general court of New Hampshire. If New Hampshire is one of the states whose application has
18 prompted the call for the convention, then the permitted scope shall be the purposes specified in its
19 petition. If the New Hampshire general court was not one of the two-thirds of the several states
20 that applied for a convention, then the lawful scope and authority of the delegates shall be
21 established by the resolution which names the delegates. The general court shall adopt a scope and
22 authority by concurrent resolution that is consonant with the tenor of the purposes contained in the
23 relevant applications from the sister states.

24 20-C:2 Selection of Delegates.

25 I. Whenever an Article V convention is convened, the New Hampshire general court shall
26 select delegates as follows. Four members of the delegation shall be appointed by the house of
27 representatives. Three members of the delegation shall be appointed by the senate. No person
28 holding any office or position with the government of the United States of America, including
29 members of Congress, the judiciary, or executive branch, shall be named a delegate.

30 II. A list of 7 alternate delegates shall be selected and given priority as follows. The first
31 alternate delegate shall be appointed by the senate. The second shall be appointed by the house of

1 representatives. This method of alternating appointments shall continue until the full number is
2 reached.

3 III. In the event that any delegate is unable or unwilling to serve or continue to serve, or if
4 the delegate becomes disqualified as provided herein, the secretary of state shall immediately notify
5 the first-named alternate that he or she has been appointed a delegate. The secretary of state shall
6 also immediately notify the presiding officer of the convention that a replacement delegate has been
7 named.

8 IV. The expenses of the delegates to the convention shall be paid at the same per diem rate
9 as received by members of the general court.

10 20-C:3 Authority of Delegates.

11 I. No delegate from New Hampshire to the Article V convention shall have the authority to
12 allow consideration, consider, or approve an unauthorized amendment. Improper support includes,
13 but is not limited to, making or seconding a motion, voting for, or otherwise taking any formal
14 action in favor of an unauthorized amendment to the Constitution.

15 II. Any vote taken by a delegate from New Hampshire at the Article V convention in
16 violation of paragraph I shall be null and void. Any delegate making this vote shall be immediately
17 disqualified from serving as a delegate to the Article V convention. Any other delegate from
18 New Hampshire who believes that such disqualifying action has been taken by another delegate
19 shall immediately report the same to the secretary of state. Upon receiving written or other
20 recorded evidence of improper support by a delegate, the secretary of state shall take immediate
21 action to revoke the credentials of the offending delegate and immediately issue new credentials to
22 the first-named alternate.

23 III. Every delegate from New Hampshire to the Article V convention called for by the
24 Article V application shall be required to take the following oath:

25 "I do solemnly swear or affirm that to the best of my abilities, I will, as a delegate to the Article V
26 convention, uphold the Constitution and laws of the United States of America and the state of
27 New Hampshire. I will accept and will act according to the limits of the authority as a delegate
28 granted to me by New Hampshire law, and I will not vote to consider or approve any unauthorized
29 amendment to the Constitution for the United States of America. I understand and accept any
30 penalties that may be imposed on me by New Hampshire law for violating this oath."

31 IV. The secretary of state shall certify the selection of the New Hampshire delegates in
32 writing to the Article V convention and shall provide a copy of the certification to each delegate. No
33 delegate shall have authority to vote or otherwise serve as a delegate at the Article V convention
34 without the certification.

35 V. The secretary of state shall notify the Article V convention and any delegate involved of
36 the automatic revocation of that delegate's certification should the delegate violate his or her pledge
37 to act only within the limits of the authority granted by the state of New Hampshire.

38 20-C:4 Enforcement by Attorney General; Right to Private Action.

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1 I. The provisions of this chapter shall be enforced by the department of justice.

2 II. A New Hampshire citizen may file an action to enforce the requirements of this chapter
3 and shall be entitled to reasonable attorney's fees if successful.

4 2 Effective Date. This act shall take effect 60 days after its passage.