

HOUSE BILL 1202

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CF SB 1073

By: **Delegates Fisher, Arentz, Chisholm, McComas, M. Morgan, T. Morgan, Otto, Rose, Schmidt, Stonko, Tomlinson, Valentine, and Wivell**

Introduced and read first time: February 8, 2024

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Amendments Convention Called Under Article V of the U.S. Constitution –**
3 **Delegation to the Convention**

4 FOR the purpose of requiring the General Assembly to appoint a delegation to an
5 amendments convention called under Article V of the U.S. Constitution and an
6 advisory committee in accordance with certain requirements and under certain
7 circumstances; providing for the qualifications, oath, compensation, and duties of
8 commissioners; authorizing the General Assembly or the advisory committee to
9 remove or recall a commissioner under certain circumstances; establishing the
10 operations of the delegation and the advisory committee; authorizing a commissioner
11 to request certain advice from the advisory committee; requiring the advisory
12 committee to make a certain determination under certain circumstances; and
13 generally relating to an amendments convention called under the U.S. Constitution.

14 BY adding to
15 Article – State Government
16 Section 10–1701 through 10–1707 to be under the new subtitle “Subtitle 17.
17 Oversight of Delegation to Constitutional Convention”
18 Annotated Code of Maryland
19 (2021 Replacement Volume and 2023 Supplement)

20 Preamble

21 WHEREAS, Article V of the U.S. Constitution provides a two–step procedure for
22 adoption of an amendment; and

23 WHEREAS, The first requirement for the adoption of an amendment under Article
24 V is the proposal of an amendment either by a two–thirds vote of both Houses of Congress,
25 or by a convention called by application of two–thirds of the states; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



WHEREAS, The second requirement for the adoption of an amendment under Article V is ratification of an amendment by three-fourths of the states; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Government

SUBTITLE 17. OVERSIGHT OF DELEGATION TO CONSTITUTIONAL CONVENTION.

10–1701.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “ADVISORY COMMITTEE” MEANS THE ADVISORY COMMITTEE ESTABLISHED UNDER § 10–1706 OF THIS SUBTITLE.

(C) “COMMISSIONER” MEANS AN INDIVIDUAL APPOINTED AS COMMISSIONER OR INTERIM COMMISSIONER UNDER THIS SUBTITLE TO REPRESENT THE STATE AT A CONVENTION.

(D) “COMMISSIONING RESOLUTION” MEANS A RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY THAT APPOINTS THE DELEGATION AND SETS FORTH THE INSTRUCTIONS FOR THE DELEGATION.

(E) “CONVENTION” MEANS AN AMENDMENTS CONVENTION CALLED UNDER ARTICLE V OF THE U.S. CONSTITUTION.

(F) “DELEGATION” MEANS THE COMMISSIONERS AND INTERIM COMMISSIONERS APPOINTED UNDER THIS SUBTITLE TO REPRESENT THE STATE AT A CONVENTION.

(G) “HOUSE” MEANS THE HOUSE OF DELEGATES.

(H) “INTERIM COMMISSIONER” MEANS A PERSON APPOINTED BY THE ADVISORY COMMITTEE TO FILL A VACANCY IN THE DELEGATION.

(I) “PRESIDENT” MEANS THE PRESIDENT OF THE SENATE.

(J) “SENATE” MEANS THE SENATE OF MARYLAND.

(K) “SPEAKER” MEANS THE SPEAKER OF THE HOUSE.

1 **10-1702.**

2 **IN THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY FOLLOWING**
3 **THE FULFILLMENT OF THE REQUIRED NUMBER OF STATES INVOKING ARTICLE V OF**
4 **THE U.S. CONSTITUTION TO CONVENE AN AMENDMENTS CONVENTION, THE**
5 **GENERAL ASSEMBLY SHALL APPOINT A DELEGATION TO THE CONVENTION AND AN**
6 **ADVISORY COMMITTEE IN ACCORDANCE WITH THIS SUBTITLE.**

7 **10-1703.**

8 **(A) (1) THE DELEGATION TO A CONVENTION CALLED UNDER ARTICLE V**
9 **OF THE U.S. CONSTITUTION SHALL CONSIST OF SEVEN COMMISSIONERS APPOINTED**
10 **IN ACCORDANCE WITH THIS SUBTITLE.**

11 **(2) THE COMMISSIONERS SHALL BE APPOINTED BY A RESOLUTION**
12 **PASSED BY A MAJORITY OF THOSE PRESENT AND VOTING IN A JOINT SESSION OF THE**
13 **GENERAL ASSEMBLY.**

14 **(B) WHEN APPOINTED AND FOR THE DURATION OF A CONVENTION, A**
15 **COMMISSIONER:**

16 **(1) SHALL BE A U.S. CITIZEN AND HAVE BEEN A U.S. CITIZEN FOR AT**
17 **LEAST 5 YEARS;**

18 **(2) SHALL BE A RESIDENT OF THE STATE AND HAVE BEEN A RESIDENT**
19 **OF THE STATE FOR AT LEAST 5 YEARS;**

20 **(3) SHALL BE AT LEAST 25 YEARS OLD;**

21 **(4) SHALL BE A REGISTERED VOTER IN THE STATE;**

22 **(5) MAY NOT HAVE BEEN REGISTERED OR REQUIRED TO BE**
23 **REGISTERED AS A FEDERAL LOBBYIST AT ANY TIME DURING THE IMMEDIATE 5**
24 **YEARS BEFORE APPOINTMENT AS A COMMISSIONER;**

25 **(6) (I) MAY NOT BE A FEDERAL EMPLOYEE OR CONTRACTOR, NOR**
26 **HAVE BEEN A FEDERAL EMPLOYEE OR CONTRACTOR AT ANY TIME DURING THE**
27 **IMMEDIATE 10 YEARS BEFORE APPOINTMENT AS A COMMISSIONER; BUT**

28 **(II) MAY BE AN ACTIVE OR RESERVE MEMBER OF THE UNITED**
29 **STATES ARMED FORCES OR MAY HAVE BEEN AN ACTIVE OR RESERVE MEMBER OF**
30 **THE UNITED STATES ARMED FORCES AT ANY TIME DURING THE IMMEDIATE 10**
31 **YEARS BEFORE APPOINTMENT AS A COMMISSIONER;**

(7) MAY NOT HAVE HELD A FEDERALLY ELECTED OR APPOINTED OFFICE AT ANY TIME DURING THE IMMEDIATE 10 YEARS BEFORE APPOINTMENT AS A COMMISSIONER;

(8) MAY NOT HAVE ANY FELONY CONVICTIONS FOR CRIMES INVOLVING MORAL TURPITUDE IN ANY JURISDICTION, NOR ANY FELONY CONVICTIONS FOR ANY CRIME IN ANY JURISDICTION DURING THE IMMEDIATE 10 YEARS BEFORE APPOINTMENT AS A COMMISSIONER; AND

(9) MAY NOT HOLD A STATE ELECTED OFFICE WHILE SERVING AS A COMMISSIONER.

(C) (1) EACH COMMISSIONER SHALL EXECUTE THE FOLLOWING OATH IN WRITING:

“I DO SOLEMNLY SWEAR (OR AFFIRM) THAT I ACCEPT AND WILL ACT ACCORDING TO THE LIMITS OF AUTHORITY SPECIFIED IN MY COMMISSION AND ANY PRESENT OR SUBSEQUENT INSTRUCTIONS. I UNDERSTAND THAT VIOLATING THIS OATH MAY SUBJECT ME TO PENALTIES PROVIDED BY LAW. I UNDERSTAND THAT I MAY BE RECALLED OR SUSPENDED FROM MY DUTIES BY THE GENERAL ASSEMBLY OR THE ADVISORY COMMITTEE.”.

(2) THE CLERK OF THE HOUSE SHALL:

(I) FILE A COPY OF EACH COMMISSIONER’S WRITTEN OATH WITH THE SECRETARY OF STATE; AND

(II) PROVIDE TO EACH COMMISSIONER AN OFFICIAL COPY OF THE COMMISSIONER’S EXECUTED OATH AND THE COMMISSIONING RESOLUTION, WHICH TOGETHER SHALL SERVE AS THE COMMISSIONER’S CREDENTIALS.

(D) A COMMISSIONER MAY BE RECALLED OR REMOVED AT ANY TIME AND FOR ANY REASON:

(1) BY A JOINT RESOLUTION OF THE GENERAL ASSEMBLY OR BY A MAJORITY OF THOSE PRESENT AND VOTING IN A JOINT SESSION OF THE GENERAL ASSEMBLY; OR

(2) IF THE GENERAL ASSEMBLY IS NOT IN SESSION OR AS OTHERWISE PROVIDED FOR IN THIS SUBTITLE, BY A MAJORITY VOTE OF THE ADVISORY COMMITTEE, PENDING A VOTE OF THE GENERAL ASSEMBLY DURING THE NEXT REGULAR LEGISLATIVE SESSION.

(E) THE ADVISORY COMMITTEE SHALL FILL A VACANCY BY APPOINTING AN INTERIM COMMISSIONER UNTIL THE GENERAL ASSEMBLY IN A VOTE BY A JOINT SESSION APPOINTS A PERMANENT REPLACEMENT.

(F) A COMMISSIONER SHALL RECEIVE:

(1) THE SAME COMPENSATION AS A MEMBER OF THE HOUSE, PRORATED FOR LENGTH OF TIME SERVED; AND

(2) THE SAME ALLOWANCE FOR EXPENSES AS PROVIDED TO A MEMBER OF THE HOUSE.

(G) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, WHILE SERVING ON THE DELEGATION, A COMMISSIONER MAY NOT ACCEPT ANY GIFTS OR BENEFITS WITH A COMBINED VALUE OF MORE THAN \$200, INCLUDING LOANS, LODGING, FOOD, OFFERS OF PROSPECTIVE EMPLOYMENT, AND OTHER ACTUAL AND PROSPECTIVE BENEFITS.

(2) THE RESTRICTIONS IN PARAGRAPH (1) OF THIS SUBSECTION DO NOT APPLY TO:

(I) A GIFT BY A FAMILY MEMBER; OR

(II) SALARY FOR EMPLOYMENT THAT BEGAN BEFORE THE COMMISSIONER'S APPOINTMENT TO THE DELEGATION.

10-1704.

(A) THE DELEGATION SHALL CHOOSE FROM ITS MEMBERS ONE OR MORE INDIVIDUALS WHO SHALL:

(1) CHAIR THE DELEGATION;

(2) CAST THE STATE'S VOTE ON THE CONVENTION FLOOR; AND

(3) SPEAK TO THE MEDIA ON BEHALF OF THE DELEGATION.

(B) OTHER THAN THE COMMISSIONER DESIGNATED TO COMMUNICATE WITH THE MEDIA ON BEHALF OF THE DELEGATION, A COMMISSIONER MAY NOT COMMUNICATE WITH THE MEDIA ABOUT CONVENTION BUSINESS DURING THE CONVENTION OR DURING A TEMPORARY RECESS OR TEMPORARY ADJOURNMENT.

(C) (1) A COMMISSIONER MAY NOT INTENTIONALLY COMMUNICATE TO A PERSON OUTSIDE THE DELEGATION ANY SUGGESTION THAT THE DELEGATION IS DIVIDED ON A QUESTION ON WHICH THE DELEGATION HAS TAKEN A FORMAL POSITION, INCLUDING VOTES BY A COMMISSIONER.

(2) A COMMISSIONER MAY COMMUNICATE AN OPINION ON A SUBJECT THAT THE DELEGATION HAS NOT FORMALLY TAKEN A POSITION THAT THE DELEGATION HAS PRESENTED:

(I) TO THE CONVENTION; OR

(II) DURING DEBATES AT THE CONVENTION.

(D) A DECISION BY THE DELEGATION, INCLUDING THE DESIGNATION OF COMMISSIONERS FOR PARTICULAR DUTIES AND THE DETERMINATION OF A STATE'S VOTE, SHALL BE MADE BY A MAJORITY OF THE COMMISSIONERS PRESENT AND VOTING AT THE TIME THE DELEGATION IS POLLED.

10-1705.

(A) A COMMISSIONER MAY NOT VOTE FOR OR OTHERWISE PROMOTE ANY CHANGE TO THE TRADITIONAL CONVENTION RULE OF DECISION ON THE FLOOR AND IN THE COMMITTEE OF THE WHOLE THAT EACH STATE HAS ONE VOTE.

(B) A COMMISSIONER MAY NOT VOTE IN FAVOR OF ANY PROPOSED AMENDMENT THAT WOULD ALTER THE TEXT OF THE SPECIFIC GUARANTEES OF INDIVIDUAL LIBERTY ESTABLISHED BY THE U.S. CONSTITUTION, INCLUDING THE BILL OF RIGHTS AND THE 13TH, 14TH, 15TH, 19TH, 23RD, 24TH, AND 26TH AMENDMENTS.

(C) SUBJECT TO ANY ADDITIONAL INSTRUCTIONS ISSUED BY THE GENERAL ASSEMBLY EITHER IN THE COMMISSIONING RESOLUTION OR THEREAFTER, THE AUTHORITY OF A COMMISSIONER SHALL BE LIMITED BY:

(1) IF THE STATE WAS NOT ONE OF THE TWO-THIRDS OF THE STATES APPLYING FOR THE CONVENTION, THE SUBJECT MATTER ENUMERATED IN THE STATE APPLICATIONS THAT TRIGGERED THE CONVENTION; OR

(2) IF THE STATE WAS ONE OF THE TWO-THIRDS OF THE STATES APPLYING FOR THE CONVENTION, THE SUBJECT MATTER IN THE STATE'S APPLICATION.

(D) THE GENERAL ASSEMBLY MAY PROVIDE ADDITIONAL INSTRUCTIONS AT ANY TIME BY SUBSEQUENT RESOLUTION, A COPY OF WHICH THE CLERK OF THE HOUSE SHALL PROVIDE TO EACH COMMISSIONER AND TO THE ADVISORY COMMITTEE.

10-1706.

(A) THE ADVISORY COMMITTEE SHALL BE COMPOSED OF:

(1) ONE MEMBER OF THE HOUSE, APPOINTED BY THE SPEAKER;

(2) ONE MEMBER OF THE SENATE, APPOINTED BY THE PRESIDENT;

AND

(3) ONE MEMBER OF THE GENERAL ASSEMBLY, APPOINTED JOINTLY BY THE SPEAKER AND THE PRESIDENT WITH THE APPROVAL OF A MAJORITY OF BOTH THE HOUSE AND THE SENATE.

(B) THE ADVISORY COMMITTEE SHALL SELECT ONE OF ITS MEMBERS AS CHAIR.

(C) THE ADVISORY COMMITTEE MAY HIRE STAFF AND DEVELOP PROCEDURES FOR MONITORING THE CONVENTION, INCLUDING MONITORING COMMITTEES AND SUBCOMMITTEES.

10-1707.

(A) (1) A COMMISSIONER MAY REQUEST THAT THE ADVISORY COMMITTEE ADVISE THE COMMISSIONER WHETHER A PROSPECTIVE ACTION BY THE COMMISSIONER WOULD VIOLATE THE COMMISSIONING RESOLUTION OR OTHER INSTRUCTIONS.

(2) THE ADVISORY COMMITTEE:

(I) SHALL RESPOND TO THE REQUEST FOR ADVICE UNDER PARAGRAPH (1) OF THIS SUBSECTION WITHIN 24 HOURS AFTER RECEIVING THE REQUEST; AND

(II) MAY USE ANY APPROPRIATE MEDIUM TO NOTIFY THE COMMISSIONER REQUESTING ADVICE OF ITS DETERMINATION.

1 **(B) ON THE REQUEST FOR A DETERMINATION BY THE SPEAKER, THE**
2 **PRESIDENT, OR THE ATTORNEY GENERAL ON WHETHER A COMMISSIONER HAS**
3 **EXCEEDED THE SCOPE OF THE COMMISSIONER’S AUTHORITY:**

4 **(1) THE ADVISORY COMMITTEE SHALL ISSUE A DETERMINATION ON**
5 **WHETHER THE COMMISSIONER OR INTERIM COMMISSIONER DID EXCEED THE**
6 **COMMISSIONER’S OR INTERIM COMMISSIONER’S AUTHORITY; AND**

7 **(2) THE DETERMINATION SHALL BE EXPEDITIOUSLY MADE AND**
8 **IMMEDIATELY COMMUNICATED TO THE INDIVIDUAL WHO REQUESTED THE**
9 **DETERMINATION.**

10 **(C) IF THE ADVISORY COMMITTEE DETERMINES THAT A COMMISSIONER**
11 **HAS EXCEEDED THE SCOPE OF THE COMMISSIONER’S AUTHORITY, THE ADVISORY**
12 **COMMITTEE SHALL IMMEDIATELY:**

13 **(1) REMOVE THE COMMISSIONER; AND**

14 **(2) NOTIFY THE SPEAKER, THE PRESIDENT, THE ATTORNEY**
15 **GENERAL, AND THE PRESIDING OFFICERS OF THE CONVENTION OF THE REMOVAL**
16 **OF THE COMMISSIONER AND THE REASON FOR THE REMOVAL.**

17 **(D) IF THE GENERAL ASSEMBLY DETERMINES THAT A COMMISSIONER HAS**
18 **EXCEEDED THE SCOPE OF THE COMMISSIONER’S AUTHORITY, THE ADVISORY**
19 **COMMITTEE SHALL RECALL OR SUSPEND THE COMMISSIONER.**

20 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June**
21 **1, 2024.**