

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1202 (Delegate Fisher, *et al.*)
Rules and Executive Nominations

Amendments Convention Called Under Article V of the U.S. Constitution -
Delegation to the Convention

This bill requires, in the next regular session of the General Assembly following the fulfillment of the required number of states invoking Article V of the U.S. Constitution to convene an amendments convention, that the General Assembly appoint a delegation to the convention and an advisory committee. The bill establishes requirements and responsibilities for commissioners to the delegation, in addition to establishing the composition and responsibilities of the advisory committee. **The bill takes effect June 1, 2024.**

Fiscal Summary

State Effect: General fund expenditures increase, potentially significantly, to the extent an amendments convention under Article V is called and the General Assembly must appoint commissioners and hire staff for the advisory committee. However, it is unknown if or when an amendments convention may be convened, so a reliable estimate is not feasible. Revenues are not affected.

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: “Commissioning resolution” means a resolution adopted by the General Assembly that appoints the delegation and sets forth the instructions for the delegation.

Composition and Qualifications of Commissioners

The delegation to a convention called under Article V of the U.S. Constitution must consist of seven commissioners appointed by a resolution passed by a majority of those present and voting in a joint session of the General Assembly.

When appointed and for the duration of a convention, a commissioner must meet specified criteria, including (1) being a U.S. citizen and having been a U.S. citizen for at least five years; (2) being at least 25 years old; (3) not being a federal employee or contractor, as specified; and (4) not being a State or federal elected official.

Recalling or Removing a Commissioner and Filling Vacancies

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, by a majority vote of the advisory committee, pending a vote of the General Assembly during the next regular legislative session, as specified.

The advisory committee must fill a vacancy by appointing an interim commissioner until the General Assembly appoints a permanent replacement in a vote by a joint session.

Compensation

A commissioner must receive (1) the same compensation as a member of the House of Delegates, prorated for length of time served and (2) the same allowance for expenses as provided to a member of the House. 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 or prospective benefits. The restrictions do not apply to a gift by a family member or a salary for employment that began before the commissioner’s appointment to the delegation.

Decisions and Communications of the Delegation

The delegation must choose from its members one or more individuals who must (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. 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.

A commissioner may not intentionally communicate to a person outside of 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. A commissioner may communicate an opinion on a subject that the delegation has not formally taken a position that the delegation has presented to the convention or during debates at the convention.

A decision by the delegation, including the designation of commissioners for particular duties and the determination of a State's vote, must be made by a majority of the commissioners present and voting at the time the delegation is polled.

Votes

A commissioner may not vote 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. 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.

Advisory Committee – Composition

The advisory committee must be composed of (1) one member of the House of Delegates, appointed by the Speaker of the House; (2) one member of the Senate, appointed by the President of the Senate; and (3) one member of the General Assembly, appointed jointly by the Speaker and the President with the approval of the majority of both the House of Delegates and Senate. The advisory committee must select one of its members as chair. The advisory committee may hire staff and develop procedures for monitoring the convention, including monitoring committees and subcommittees.

Advisory Committee – Responsibilities

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. The advisory committee (1) must respond to the request for advice within 24 hours after receiving the request and (2) may use any appropriate medium to notify the commissioner requesting advice of its determination.

On the request for a determination by the Speaker, the President, or the Attorney General on whether a commissioner has exceeded the scope of the commissioner's authority (1) the advisory committee must issue a determination on whether the commissioner or interim commissioner did exceed their authority and (2) the determination shall be expeditiously made and immediately communicated to the individual who requested the determination.

If the advisory committee determines that a commissioner has exceeded the scope of the commissioner's authority, the advisory committee must immediately (1) remove the commissioner and (2) notify the Speaker, the President, the Attorney General, and the presiding officers of the convention of the removal of the commissioner and the reason for the removal. If the General Assembly determines that a commissioner has exceeded the scope of the commissioner's authority, the advisory committee must recall or suspend the commissioner.

Current Law: Article V of the U.S. Constitution states that Congress may propose amendments to the U.S. Constitution with votes of two-thirds of both Houses. States may also apply to Congress to call a convention for proposing amendments, upon application of two-thirds of the states. Amendments in either case must be ratified by the legislatures of three-fourths of the states or by conventions in three-fourths of the states "as the one or the other mode of ratification may be proposed by the Congress."

State Expenditures: The bill requires the appointment of seven commissioners in the next regular session of the General Assembly following the fulfillment of the required number of states invoking Article V of the U.S. Constitution to convene an amendments convention. However, Article V has not been invoked, and it is not known if or when two-thirds of the states will call for an amendments convention.

For calendar 2024, the salary of a member of the General Assembly is \$54,437. Therefore, general fund expenditures increase by at least \$381,100 whenever an amendments convention is convened; expenditures may be more in future years if compensation for members of the House of Delegates increase. General fund expenditures further increase to the extent the advisory committee hires staff, as authorized by the bill. However, until Article V is invoked, a reliable estimate of any expenditure increase is not feasible.

Any expense reimbursements for commissioners are expected to be minimal and absorbable within existing budgeted resources.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 1073 (Senator Ready, *et al.*) - Education, Energy, and the Environment.

Information Source(s): Office of the Attorney General; Department of Legislative Services

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