



February 22, 2013

SENATE BILL No. 224

DIGEST OF SB 224 (Updated February 19, 2013 8:01 pm - DI 51)

Citations Affected: IC 2-8; IC 4-6; IC 35-32; IC 35-51.

Synopsis: Duties of Article V convention delegates. Describes the duties of delegates and alternate delegates to a convention called under Article V of the Constitution of the United States. Provides that a vote cast by a delegate or an alternate delegate that is outside the scope of the instructions given by the general assembly is void. Provides that a delegate or alternate delegate who votes or attempts to vote outside the scope of the instructions given by the general assembly forfeits the delegate's appointment by virtue of that vote or attempt to vote. Provides that the call by the general assembly for an Article V convention is withdrawn if all delegates and alternate delegates vote or attempt to vote outside the scope of the instructions given by the general assembly. Provides that a delegate or alternate delegate who knowingly or intentionally votes or attempts to vote outside the scope of the instructions commits a Class D felony. Establishes an advisory group to evaluate whether a delegate or an alternate delegate has acted outside the scope of instructions.

Effective: July 1, 2013.

Long

January 7, 2013, read first time and referred to Committee on Rules and Legislative Procedure.
February 21, 2013, amended, reported favorably — Do Pass.

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SB 224—LS 6212/DI 13+



February 22, 2013

First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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SENATE BILL No. 224

A BILL FOR AN ACT to amend the Indiana Code concerning the general assembly.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 2-8 IS ADDED TO THE INDIANA CODE AS A
2 NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2013]:
4 **ARTICLE 8. DELEGATES TO A CONVENTION CALLED**
5 **UNDER ARTICLE V OF THE CONSTITUTION OF THE**
6 **UNITED STATES**
7 **Chapter 1. General Provisions**
8 **Sec. 1. This article applies whenever an Article V convention is**
9 **called.**
10 **Chapter 2. Definitions**
11 **Sec. 1. The definitions in this chapter apply throughout this**
12 **article.**
13 **Sec. 2. "Alternate delegate" refers to an individual appointed as**
14 **an alternate delegate as provided by law.**
15 **Sec. 3. "Article V convention" refers to a convention for**
16 **proposing amendments to the Constitution of the United States**
17 **called for by the states under Article V of the Constitution of the**

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- 1 **United States.**
- 2 **Sec. 4. "Chamber" refers to either the house of representatives**
- 3 **or the senate.**
- 4 **Sec. 5. "Delegate" refers to an individual appointed as provided**
- 5 **by law to represent the state at an Article V convention.**
- 6 **Sec. 6. "House of representatives" refers to the house of**
- 7 **representatives of the general assembly.**
- 8 **Sec. 7. "Paired delegate" refers to the delegate with whom an**
- 9 **alternate delegate is paired as provided by law.**
- 10 **Sec. 8. "Senate" refers to the senate of the general assembly.**
- 11 **Chapter 4. Duties of Delegates and Alternate Delegates**
- 12 **Sec. 1. (a) At the time delegates and alternate delegates are**
- 13 **appointed, the general assembly shall adopt a joint resolution to**
- 14 **provide instructions to the delegates and alternate delegates**
- 15 **regarding the following:**
- 16 **(1) The rules of procedure.**
- 17 **(2) Any other matter relating to the Article V convention that**
- 18 **the general assembly considers necessary.**
- 19 **(b) The general assembly may amend the instructions at any**
- 20 **time by joint resolution.**
- 21 **Sec. 2. An alternate delegate:**
- 22 **(1) shall act in the place of the alternate delegate's paired**
- 23 **delegate when the alternate delegate's paired delegate is**
- 24 **absent from the Article V convention; and**
- 25 **(2) replaces the alternate delegate's paired delegate if the**
- 26 **alternate delegate's paired delegate vacates the office.**
- 27 **Sec. 3. A vote cast by a delegate or an alternate delegate at an**
- 28 **Article V convention that is outside the scope of:**
- 29 **(1) the instructions established by a joint resolution adopted**
- 30 **under section 1 of this chapter; or**
- 31 **(2) the limits placed by the general assembly in a joint**
- 32 **resolution that calls for an Article V convention for the**
- 33 **purpose of proposing amendments to the Constitution of the**
- 34 **United States on the subjects and amendments that may be**
- 35 **considered by the Article V convention;**
- 36 **is void.**
- 37 **Sec. 4. (a) A delegate or alternate delegate who votes or**
- 38 **attempts to vote outside the scope of:**
- 39 **(1) the instructions established by a joint resolution adopted**
- 40 **under section 1 of this chapter; or**
- 41 **(2) the limits placed by the general assembly in a joint**
- 42 **resolution that calls for an Article V convention for the**

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1 purpose of proposing amendments to the Constitution of the
2 United States on the subjects and amendments that may be
3 considered by the Article V convention;
4 forfeits the delegate's appointment by virtue of that vote or attempt
5 to vote.

6 (b) The paired alternate delegate of a delegate who forfeits
7 appointment under subsection (a) becomes the delegate at the time
8 the forfeiture of the appointment occurs.

9 Sec. 5. The application of the general assembly to call an Article
10 V convention for proposing amendments to the Constitution of the
11 United States ceases to be a continuing application and shall be
12 treated as having no effect if all of the delegates and alternate
13 delegates vote or attempt to vote outside the scope of:

- 14 (1) the instructions established by a joint resolution adopted
15 under section 1 of this chapter; or
- 16 (2) the limits placed by the general assembly in a joint
17 resolution that calls for an Article V convention for the
18 purpose of proposing amendments to the Constitution of the
19 United States on the subjects and amendments that may be
20 considered by the Article V convention.

21 Sec. 6. A delegate or alternate delegate who knowingly or
22 intentionally votes or attempts to vote outside the scope of:

- 23 (1) the instructions established by a joint resolution adopted
24 under section 1 of this chapter; or
- 25 (2) the limits placed by the general assembly in a joint
26 resolution that calls for an Article V convention for the
27 purpose of proposing amendments to the Constitution of the
28 United States on the subjects and amendments that may be
29 considered by the Article V convention;

30 commits a Class D felony.

31 Chapter 5. Article V Convention Delegate Advisory Group

32 Sec. 1. As used in this chapter, "advisory group" refers to the
33 Article V convention delegate advisory group established by
34 section 2 of this chapter.

35 Sec. 2. The Article V convention delegate advisory group is
36 established.

37 Sec. 3. The advisory group consists of the following members:

- 38 (1) The chief justice of the supreme court.
- 39 (2) The chief judge of the court of appeals.
- 40 (3) The judge of the tax court.

41 Sec. 4. The chief justice of the supreme court is the chair of the
42 advisory group.

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1 **Sec. 5. The advisory group shall meet at the call of the chair.**

2 **Sec. 6. The advisory group shall establish the policies and**
 3 **procedures that the advisory group determines necessary to carry**
 4 **out this chapter.**

5 **Sec. 7. (a) Upon request of a delegate or alternate delegate, the**
 6 **advisory group shall advise the delegate or alternate delegate**
 7 **whether there is reason to believe that an action or an attempt to**
 8 **take an action by a delegate or alternate delegate would:**

9 **(1) violate the instructions established by a joint resolution**
 10 **adopted under IC 2-8-4-1; or**

11 **(2) exceed the limits placed by the general assembly in a joint**
 12 **resolution that calls for an Article V convention for the**
 13 **purpose of proposing amendments to the Constitution of the**
 14 **United States on the subjects and amendments that may be**
 15 **considered by the Article V convention.**

16 **(b) The advisory group may render an advisory determination**
 17 **under this section in any summary manner considered appropriate**
 18 **by the advisory group.**

19 **(c) The advisory group shall render an advisory determination**
 20 **under this section within twenty-four (24) hours after receiving a**
 21 **request for a determination.**

22 **(d) The advisory group shall transmit a copy of an advisory**
 23 **determination under this section in the most expeditious manner**
 24 **possible to the delegate or alternative delegate who requested the**
 25 **advisory determination.**

26 **(e) If the advisory group renders an advisory determination**
 27 **under this section, the advisory group may also take an action**
 28 **permitted under section 8 of this chapter.**

29 **Sec. 8. (a) On its own motion or upon request of the speaker of**
 30 **the house of representatives, the president pro tempore of the**
 31 **senate, or the attorney general, the advisory group shall advise the**
 32 **attorney general whether there is reason to believe that a vote or**
 33 **an attempt to vote by a delegate or alternate delegate has:**

34 **(1) violated the instructions established by a joint resolution**
 35 **adopted under IC 2-8-4-1; or**

36 **(2) exceeded the limits placed by the general assembly in a**
 37 **joint resolution that calls for an Article V convention for the**
 38 **purpose of proposing amendments to the Constitution of the**
 39 **United States on the subjects and amendments that may be**
 40 **considered by the Article V convention.**

41 **(b) The advisory group shall issue the advisory determination**
 42 **under this section by one (1) of the following summary procedures:**

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- (1) Without notice or an evidentiary proceeding.
- (2) After a hearing conducted by the advisory group.
- (c) The advisory group shall render an advisory determination under this section within twenty-four (24) hours after receiving a request for an advisory determination.
- (d) The advisory group shall transmit a copy of an advisory determination under this section in the most expeditious manner possible to the attorney general.

Sec. 9. Immediately, upon receipt of an advisory determination under section 8 of this chapter that finds that a vote or attempt to vote by a delegate or alternate delegate is a violation described in section 8(a)(1) of this chapter or in excess of the authority of the delegate or alternate delegate, as described in section 8(a)(2) of this chapter, the attorney general shall inform the delegates, alternate delegates, the speaker of the house of representatives, the president pro tempore of the senate, and the Article V convention that:

- (1) the vote or attempt to vote did not comply with Indiana law, is void, and has no effect; and
- (2) the credentials of the delegate or alternate delegate who is the subject of the determination are revoked.

SECTION 2. IC 4-6-2-1.1, AS AMENDED BY P.L.126-2012, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1.1. The attorney general has concurrent jurisdiction with the prosecuting attorney in the prosecution of the following:

- (1) Actions in which a person is accused of committing, while a member of an unlawful assembly as defined in IC 35-45-1-1, a homicide (IC 35-42-1).
- (2) Actions in which a person is accused of assisting a criminal (IC 35-44.1-2-5), if the person alleged to have been assisted is a person described in subdivision (1).
- (3) Actions in which a sheriff is accused of any offense that involves a failure to protect the life of a prisoner in the sheriff's custody.
- (4) **Actions in which a violation of IC 2-8-4-6 (concerning constitutional convention delegates) has occurred.**

SECTION 3. IC 35-32-2-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 7. A person may be tried for a violation of IC 2-8-4-6 in:**

- (1) Marion County; or
- (2) the county where the person resides.

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1 SECTION 4. IC 35-51-2-1, AS ADDED BY P.L.70-2011,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: Sec. 1. The following statutes define crimes in IC 2:
4 IC 2-4-1-4 (Concerning legislative investigations).
5 IC 2-7-6-2 (Concerning lobbying).
6 IC 2-7-6-3 (Concerning lobbying).
7 IC 2-7-6-4 (Concerning lobbying).
8 **IC 2-8-4-6 (Concerning constitutional convention delegates).**

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COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 224, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning the general assembly.

Page 1, delete line 1, begin a new paragraph and insert:

"SECTION 1. IC 2-8 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]:

ARTICLE 8. DELEGATES TO A CONVENTION CALLED UNDER ARTICLE V OF THE CONSTITUTION OF THE UNITED STATES

Chapter 1. General Provisions

Sec. 1. This article applies whenever an Article V convention is called.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Alternate delegate" refers to an individual appointed as an alternate delegate as provided by law.

Sec. 3. "Article V convention" refers to a convention for proposing amendments to the Constitution of the United States called for by the states under Article V of the Constitution of the United States.

Sec. 4. "Chamber" refers to either the house of representatives or the senate.

Sec. 5. "Delegate" refers to an individual appointed as provided by law to represent the state at an Article V convention.

Sec. 6. "House of representatives" refers to the house of representatives of the general assembly.

Sec. 7. "Paired delegate" refers to the delegate with whom an alternate delegate is paired as provided by law.

Sec. 8. "Senate" refers to the senate of the general assembly.

Chapter 4. Duties of Delegates and Alternate Delegates

Sec. 1. (a) At the time delegates and alternate delegates are appointed, the general assembly shall adopt a joint resolution to provide instructions to the delegates and alternate delegates regarding the following:

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- (1) The rules of procedure.
 - (2) Any other matter relating to the Article V convention that the general assembly considers necessary.
- (b) The general assembly may amend the instructions at any time by joint resolution.

Sec. 2. An alternate delegate:

- (1) shall act in the place of the alternate delegate's paired delegate when the alternate delegate's paired delegate is absent from the Article V convention; and
- (2) replaces the alternate delegate's paired delegate if the alternate delegate's paired delegate vacates the office.

Sec. 3. A vote cast by a delegate or an alternate delegate at an Article V convention that is outside the scope of:

- (1) the instructions established by a joint resolution adopted under section 1 of this chapter; or
- (2) the limits placed by the general assembly in a joint resolution that calls for an Article V convention for the purpose of proposing amendments to the Constitution of the United States on the subjects and amendments that may be considered by the Article V convention;

is void.

Sec. 4. (a) A delegate or alternate delegate who votes or attempts to vote outside the scope of:

- (1) the instructions established by a joint resolution adopted under section 1 of this chapter; or
- (2) the limits placed by the general assembly in a joint resolution that calls for an Article V convention for the purpose of proposing amendments to the Constitution of the United States on the subjects and amendments that may be considered by the Article V convention;

forfeits the delegate's appointment by virtue of that vote or attempt to vote.

(b) The paired alternate delegate of a delegate who forfeits appointment under subsection (a) becomes the delegate at the time the forfeiture of the appointment occurs.

Sec. 5. The application of the general assembly to call an Article V convention for proposing amendments to the Constitution of the United States ceases to be a continuing application and shall be treated as having no effect if all of the delegates and alternate delegates vote or attempt to vote outside the scope of:

- (1) the instructions established by a joint resolution adopted under section 1 of this chapter; or

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(2) the limits placed by the general assembly in a joint resolution that calls for an Article V convention for the purpose of proposing amendments to the Constitution of the United States on the subjects and amendments that may be considered by the Article V convention.

Sec. 6. A delegate or alternate delegate who knowingly or intentionally votes or attempts to vote outside the scope of:

(1) the instructions established by a joint resolution adopted under section 1 of this chapter; or

(2) the limits placed by the general assembly in a joint resolution that calls for an Article V convention for the purpose of proposing amendments to the Constitution of the United States on the subjects and amendments that may be considered by the Article V convention;

commits a Class D felony.

Chapter 5. Article V Convention Delegate Advisory Group

Sec. 1. As used in this chapter, "advisory group" refers to the Article V convention delegate advisory group established by section 2 of this chapter.

Sec. 2. The Article V convention delegate advisory group is established.

Sec. 3. The advisory group consists of the following members:

- (1) The chief justice of the supreme court.
- (2) The chief judge of the court of appeals.
- (3) The judge of the tax court.

Sec. 4. The chief justice of the supreme court is the chair of the advisory group.

Sec. 5. The advisory group shall meet at the call of the chair.

Sec. 6. The advisory group shall establish the policies and procedures that the advisory group determines necessary to carry out this chapter.

Sec. 7. (a) Upon request of a delegate or alternate delegate, the advisory group shall advise the delegate or alternate delegate whether there is reason to believe that an action or an attempt to take an action by a delegate or alternate delegate would:

- (1) violate the instructions established by a joint resolution adopted under IC 2-8-4-1; or
- (2) exceed the limits placed by the general assembly in a joint resolution that calls for an Article V convention for the purpose of proposing amendments to the Constitution of the United States on the subjects and amendments that may be considered by the Article V convention.

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

(c) The advisory group shall render an advisory determination under this section within twenty-four (24) hours after receiving a request for a determination.

(d) The advisory group shall transmit a copy of an advisory determination under this section in the most expeditious manner possible to the delegate or alternative delegate who requested the advisory determination.

(e) If the advisory group renders an advisory determination under this section, the advisory group may also take an action permitted under section 8 of this chapter.

Sec. 8. (a) On its own motion or upon request of the speaker of the house of representatives, the president pro tempore of the senate, or the attorney general, the advisory group shall advise the attorney general whether there is reason to believe that a vote or an attempt to vote by a delegate or alternate delegate has:

(1) violated the instructions established by a joint resolution adopted under IC 2-8-4-1; or

(2) exceeded the limits placed by the general assembly in a joint resolution that calls for an Article V convention for the purpose of proposing amendments to the Constitution of the United States on the subjects and amendments that may be considered by the Article V convention.

(b) The advisory group shall issue the advisory determination under this section by one (1) of the following summary procedures:

(1) Without notice or an evidentiary proceeding.

(2) After a hearing conducted by the advisory group.

(c) The advisory group shall render an advisory determination under this section within twenty-four (24) hours after receiving a request for an advisory determination.

(d) The advisory group shall transmit a copy of an advisory determination under this section in the most expeditious manner possible to the attorney general.

Sec. 9. Immediately, upon receipt of an advisory determination under section 8 of this chapter that finds that a vote or attempt to vote by a delegate or alternate delegate is a violation described in section 8(a)(1) of this chapter or in excess of the authority of the delegate or alternate delegate, as described in section 8(a)(2) of this chapter, the attorney general shall inform the delegates, alternate delegates, the speaker of the house of representatives, the president

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pro tempore of the senate, and the Article V convention that:

- (1) the vote or attempt to vote did not comply with Indiana law, is void, and has no effect; and**
- (2) the credentials of the delegate or alternate delegate who is the subject of the determination are revoked.**

SECTION 2. IC 4-6-2-1.1, AS AMENDED BY P.L.126-2012, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1.1. The attorney general has concurrent jurisdiction with the prosecuting attorney in the prosecution of the following:

- (1) Actions in which a person is accused of committing, while a member of an unlawful assembly as defined in IC 35-45-1-1, a homicide (IC 35-42-1).
- (2) Actions in which a person is accused of assisting a criminal (IC 35-44.1-2-5), if the person alleged to have been assisted is a person described in subdivision (1).
- (3) Actions in which a sheriff is accused of any offense that involves a failure to protect the life of a prisoner in the sheriff's custody.
- (4) Actions in which a violation of IC 2-8-4-6 (concerning constitutional convention delegates) has occurred.**

SECTION 3. IC 35-32-2-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 7. A person may be tried for a violation of IC 2-8-4-6 in:**

- (1) Marion County; or**
- (2) the county where the person resides.**

SECTION 4. IC 35-51-2-1, AS ADDED BY P.L.70-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. The following statutes define crimes in IC 2:

- IC 2-4-1-4 (Concerning legislative investigations).
- IC 2-7-6-2 (Concerning lobbying).
- IC 2-7-6-3 (Concerning lobbying).
- IC 2-7-6-4 (Concerning lobbying).
- IC 2-8-4-6 (Concerning constitutional convention delegates)."**

and when so amended that said bill do pass.

(Reference is to SB 224 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 8, Nays 4.

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