

IC 2-8.2

**ARTICLE 8.2. DELEGATES TO A CONVENTION
CALLED UNDER ARTICLE V OF THE
CONSTITUTION OF THE UNITED STATES**

IC 2-8.2-1

Chapter 1. General Provisions

IC 2-8.2-1-1

Application

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

As added by P.L.183-2013, SEC.1.

IC 2-8.2-2

Chapter 2. Definitions

IC 2-8.2-2-1

Application of definitions

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

As added by P.L.183-2013, SEC.1.

IC 2-8.2-2-2

"Alternate delegate"

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

As added by P.L.183-2013, SEC.1.

IC 2-8.2-2-3

"Article V convention"

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.

As added by P.L.183-2013, SEC.1.

IC 2-8.2-2-4

"Chamber"

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

As added by P.L.183-2013, SEC.1.

IC 2-8.2-2-5

"Delegate"

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

As added by P.L.183-2013, SEC.1.

IC 2-8.2-2-6

"House of representatives"

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

As added by P.L.183-2013, SEC.1.

IC 2-8.2-2-7

"Paired delegate"

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

As added by P.L.183-2013, SEC.1.

IC 2-8.2-2-8

"Senate"

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

IC 2-8.2-3

Chapter 3. Qualifications and Appointment of Delegates and Alternate Delegates

IC 2-8.2-3-1

Qualifications; delegates

Sec. 1. (a) An individual must satisfy the following to be appointed as a delegate to an Article V convention:

- (1) The individual must reside in Indiana.
- (2) The individual must be a registered voter in Indiana.
- (3) The individual must be at least eighteen (18) years of age.
- (4) The individual is not registered or required to be registered as a lobbyist under IC 2-2.1, IC 4-2-7, IC 4-2-8, 2 U.S.C. 1603, or rules or regulations adopted under any of these laws.

(b) An individual may not be appointed as a delegate if the individual holds a federal office.

As added by P.L.183-2013, SEC.1.

IC 2-8.2-3-2

Qualifications; alternate delegates

Sec. 2. An individual appointed as an alternate delegate must have the same qualifications as an individual appointed as a delegate under section 1 of this chapter.

As added by P.L.183-2013, SEC.1.

IC 2-8.2-3-3

Appointment by general assembly

Sec. 3. (a) Whenever an Article V convention is called, the general assembly shall appoint:

- (1) the number of delegates allocated to represent Indiana; and
- (2) an equal number of alternate delegates;

under rules adopted jointly by the house of representatives and the senate. Unless established otherwise by the rules and procedures of an Article V convention, it shall be assumed that Indiana has two (2) delegates and two (2) alternate delegates designated to represent Indiana.

(b) If the general assembly is not in session during the time during which delegates to an Article V convention must be appointed, the governor shall call the general assembly into special session under Article 4, Section 9 of the Constitution of the State of Indiana for the purpose of appointing delegates and alternate delegates.

As added by P.L.183-2013, SEC.1.

IC 2-8.2-3-4

Appointment by majority vote of each chamber; pairing of delegates and alternative delegates

Sec. 4. (a) To be appointed a delegate or an alternate delegate, an individual must receive, in each chamber, the vote of a majority of all the members elected to that chamber.

(b) At the time of appointment, each alternate delegate must be

paired with a delegate as provided in a joint resolution adopted by the general assembly.

As added by P.L.183-2013, SEC.1.

IC 2-8.2-3-5

Recall; filling a vacancy

Sec. 5. (a) The general assembly may recall any delegate or alternate delegate and replace that delegate or alternate delegate with an individual appointed under this article at any time.

(b) The general assembly may fill a vacancy in the office of delegate or alternate delegate with an individual appointed under this article at any time. If the general assembly is not in session during a time in which a vacancy has occurred with respect to both a delegate and the paired alternate delegate of a delegate, the governor shall call the general assembly into special session under Article 4, Section 9 of the Constitution of the State of Indiana for the purpose of appointing a delegate and an alternate delegate to fill the vacancies.
As added by P.L.183-2013, SEC.1. Amended by P.L.205-2013, SEC.50.

IC 2-8.2-3-6

Joint resolution; method of appointment and recall

Sec. 6. The general assembly shall appoint or recall delegates or alternate delegates by joint resolution.

As added by P.L.183-2013, SEC.1.

IC 2-8.2-3-7

Reimbursement of expenses

Sec. 7. (a) A delegate or an alternate delegate is:

- (1) entitled to receive the same mileage and travel allowances paid to individuals who serve as legislative members of interim study committees established by the legislative council; and
- (2) not entitled to receive a salary or a per diem instead of salary for serving as a delegate or alternate delegate.

(b) For purposes of Article 2, Section 9 of the Constitution of the State of Indiana, the position of delegate or alternate delegate is not a lucrative office.

(c) All funds necessary to pay expenses under subsection (a) shall be paid from appropriations to the legislative council and the legislative services agency.

As added by P.L.183-2013, SEC.1.

IC 2-8.2-3-8

Oath

Sec. 8. Each delegate and alternate delegate shall, after appointment and before the delegate or alternate delegate may exercise any function as delegate or alternate delegate, execute an oath in writing that the delegate or alternate delegate will:

- (1) support the Constitution of the United States and the Constitution of the State of Indiana;

- (2) faithfully abide by and execute any instructions to delegates and alternate delegates adopted by the general assembly and as may be amended by the general assembly at any time; and
- (3) otherwise faithfully discharge the duties of delegate or alternate delegate.

As added by P.L.183-2013, SEC.1.

IC 2-8.2-3-9

Filing of oath

Sec. 9. (a) A delegate's or alternate delegate's executed oath shall be filed with the secretary of state.

(b) After a delegate's or alternate delegate's oath is filed with the secretary of state, the governor shall issue a commission to the delegate or alternate delegate as provided in IC 4-3-1-5(2).

As added by P.L.183-2013, SEC.1.

IC 2-8.2-4

Chapter 4. Duties of Delegates and Alternate Delegates

IC 2-8.2-4-1

Instructions to 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:

(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.

As added by P.L.205-2013, SEC.51.

IC 2-8.2-4-2

Duties of alternate delegates

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.

As added by P.L.205-2013, SEC.51.

IC 2-8.2-4-3

Vote cast outside the scope of instructions; status of vote

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.

As added by P.L.205-2013, SEC.51.

IC 2-8.2-4-4

Vote cast outside the scope of instructions; appointment forfeited

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

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

As added by P.L.205-2013, SEC.51.

IC 2-8.2-4-5

Vote cast outside the scope of instructions; status of application

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
- (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.

As added by P.L.205-2013, SEC.51.

IC 2-8.2-4-6

Vote cast outside the scope of instructions; criminal liability

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.

As added by P.L.205-2013, SEC.51.

IC 2-8.2-5

Chapter 5. Article V Convention Delegate Advisory Group

IC 2-8.2-5-1

"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.

As added by P.L.205-2013, SEC.52.

IC 2-8.2-5-2

Article V convention delegate advisory group established

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

As added by P.L.205-2013, SEC.52.

IC 2-8.2-5-3

Advisory group membership

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.

As added by P.L.205-2013, SEC.52.

IC 2-8.2-5-4

Chair

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

As added by P.L.205-2013, SEC.52.

IC 2-8.2-5-5

Time of meeting

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

As added by P.L.205-2013, SEC.52.

IC 2-8.2-5-6

Policies and procedures

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

As added by P.L.205-2013, SEC.52.

IC 2-8.2-5-7

Duty to advise upon request of delegate or alternate delegate

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 2-8.2-4-1; 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.

(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.

As added by P.L.205-2013, SEC.52.

IC 2-8.2-5-8

Oversight of delegates with respect to instructions

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 2-8.2-4-1; 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.

As added by P.L.205-2013, SEC.52.

IC 2-8.2-5-9

Advisory determination concerning a vote outside the scope of instructions

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.

As added by P.L.205-2013, SEC.52.