

## 2014 SESSION

INTRODUCED

14100514D

### SENATE BILL NO. 105

Offered January 8, 2014

Prefiled December 27, 2013

A *BILL to amend the Code of Virginia by adding in Title 30 a chapter numbered 55, consisting of sections numbered 30-348, 30-349, and 30-350, relating to a convention to amend the United States Constitution; delegates.*

Patron—Ruff

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 30 a chapter numbered 55, consisting of sections numbered 30-348, 30-349, and 30-350, as follows:

#### CHAPTER 55.

#### DELEGATES TO A CONVENTION TO AMEND THE UNITED STATES CONSTITUTION.

##### § 30-348. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Application" means a joint resolution passed by the General Assembly or an application made by the legislature of any other state calling for a convention and relied on by the United States Congress in calling a convention.

"Convention" means a convention for proposing amendments to the United States Constitution called for by the states pursuant to Article V of the United States Constitution.

"Delegate" means an individual who is appointed by the General Assembly to represent the Commonwealth at a convention.

##### § 30-349. Appointment of delegates.

A. Any time a convention is called pursuant to Article V of the United States Constitution, the General Assembly or an official or entity designated by the General Assembly shall appoint the number of delegates allocated to represent the Commonwealth at the convention and an equal number of alternate delegates to such convention. All delegates and alternate delegates shall be residents of the Commonwealth.

B. At any time, the General Assembly may by joint resolution recall delegates or alternate delegates or appoint new delegates or alternate delegates.

C. As a condition to appointment as a delegate or alternate delegate, each delegate and alternate delegate shall, by oath or affirmation, agree to abide by the instructions for participation in the convention established by joint resolution of the General Assembly.

##### § 30-350. Duties of delegates attending the convention; penalty.

A. At the time delegates and alternate delegates are appointed, the General Assembly shall by joint resolution provide instructions to the delegates regarding the scope of matters they may consider and vote on at the convention, including rules of procedure and proposed amendments. The General Assembly may amend the instructions by joint resolution prior to or during the course of the convention.

B. No delegate or alternate delegate shall vote on (i) a proposed amendment that varies from the exact text of the amendment contained in the application calling for the convention or (ii) a proposed amendment that is outside the scope of the permitted subject matter as defined in the instructions adopted by the General Assembly by joint resolution.

C. Any delegate casting or attempting to cast a vote in violation of this section shall be rendered ineligible to continue to serve as a delegate and shall be immediately removed from his office and replaced by an alternate delegate. Any vote cast in violation of this section is void.

D. Any delegate who knowingly and willfully violates this section is guilty of a Class 6 felony.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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## Fiscal Impact Statement for Proposed Legislation

### *Virginia Criminal Sentencing Commission*

#### **Senate Bill No. 105**

*(Patrons – Ruff; Delegate: Bell, Richard P.)*

**LD#:** 14100514

**Date:** 12/2/2013

**Topic:** Delegates to a convention to amend the U.S. constitution

#### **Fiscal Impact Summary:**

- **State Adult Correctional Facilities:**  
None (\$0)
- **Local Adult Correctional Facilities:**  
None (\$0)
- **Adult Community Corrections Programs:**  
None (\$0)

- **Juvenile Correctional Centers:**  
None (\$0)
- **Juvenile Detention Facilities:**  
None (\$0)

#### **Summary of Proposed Legislation:**

The proposed legislation amends the *Code of Virginia* by adding §§ 30-348, 30-349 and 30-350. The proposal establishes the selection criteria and control of delegates selected for a convention to amend the U.S. constitution. Any convention delegate can be removed from office by joint resolution. The amendment requires that a delegate be immediately removed if he or she fails to abide by the instructions established by the General Assembly or votes or attempts to vote outside the instructions established by the General Assembly. Any delegate who knowingly and willfully commits a violation would be guilty of a Class 6 felony.

Article V of the United States Constitution allows two ways to amend the Constitution. First, amendments may be added after a vote of two-thirds of both the U.S. House of Representatives and the U.S. Senate followed by a ratification by three-fourths of the state legislatures. Second, the Constitution may be amended by a convention called for by two-thirds of the state legislatures. Any of the convention's proposed amendments must be ratified by three-fourths of the state legislatures. This proposal relates to the second method of amending the U.S. Constitution.

#### **Analysis:**

Currently in the *Code of Virginia*, there are no substantially similar statutes to the proposal; however, there are statutes related to misconduct by government officials and employees. According to the General District Court Case Management System (CMS) for fiscal years 2012 and 2013, no state officials were convicted of violating the State and Local Government Conflict of Interests Act, §§ 2.2-3100 — 2.2-3131. In addition, the same General District Court data indicate that there were no convictions under the General Assembly Conflicts of Interest Act, §§ 30-100 — 30-129, during this time period.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By adding a new felony offense relating to a convention to amend the U.S. Constitution, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, the proposal would only be applicable if there is a Constitutional Convention proposed by the state legislatures. Given the process that would be necessary for a Constitutional Convention to occur, any potential impact associated with the proposal would likely occur beyond the six-year forecast window required by § 30-19.1:4.

**Local adult correctional facilities.** Similarly, the proposal is not expected to increase local-responsible (jail) bed space needs.

**Adult community corrections programs.** The proposal is not expected to have an impact on adult community corrections programs.

**Virginia's sentencing guidelines.** No adjustment to the guidelines would be necessary under the proposal.

**Juvenile correctional centers.** The Department of Juvenile Justice (DJJ) reports that the proposal is not expected to increase juvenile correctional center (JCC) bed space needs.

**Juvenile detention facilities.** The Department of Juvenile Justice reports that the proposal is not expected to increase the bed space needs of juvenile detention facilities.

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**Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

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