



**SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 107**

May 11, 2017 - Offered by Senator KAPENGA.

- 1 **AN ACT to create** 13.176 of the statutes; **relating to:** appointing delegates for
2 a convention under Article V of the United States Constitution.

Analysis by the Legislative Reference Bureau

Under Article V of the United States Constitution, upon the application of the legislatures of at least two-thirds of the states, Congress must call a convention for the purpose of proposing amendments to the U.S. Constitution. Under this substitute amendment, if Congress calls such a convention, the legislature and the governor must appoint nine delegates to attend the convention as representatives of this state, but only after the legislature has adopted a joint resolution applying to Congress for an Article V convention.

Under this substitute amendment, if a delegate votes or takes any other action at the convention to consider or approve an unauthorized amendment, the delegate may be immediately dismissed by the approval of a majority of the other appointed delegates for this state and replaced with a new appointee. The substitute amendment defines an "unauthorized amendment" as an amendment that is outside the scope of the application or the call of the convention.

The substitute amendment also requires the legislature to create a joint committee of correspondence that is responsible for communications with delegates to the convention. The delegates are to presume that the committee approves any proposed adoption or modification of rules governing the convention if the committee does not render a decision on the proposed adoption or modification of such rules

within six hours of receiving notice from the delegates. If the joint committee of correspondence does not render a decision on any proposed final amendment within six hours of receiving notification from the delegates, the delegates shall presume that the committee determined that the amendment is not an unauthorized amendment and may vote on the proposed final amendment. If the joint committee of correspondence decides within the six-hour period that a proposed final amendment is an unauthorized amendment, the delegates may not vote on the amendment and may not participate further in the convention.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 13.176 of the statutes is created to read:

2 **13.176 Article V convention. (1)** In this section:

3 (a) “Alternate delegate” means an individual appointed under sub. (2) (b) to fill
4 a vacancy in the delegation appointed under sub. (2) (a).

5 (b) “Article V application” means a joint resolution, as authorized under article
6 V of the U.S. Constitution, adopted by both houses of the Wisconsin legislature
7 applying to Congress for an article V convention for proposing amendments.

8 (c) “Article V convention” means a convention called by Congress upon
9 application of the legislatures of at least two-thirds of the states for the purpose of
10 proposing amendments to the U.S. Constitution, as authorized by article V of the
11 U.S. Constitution.

12 (d) “Delegate” means an individual appointed under sub. (2) (a) to represent
13 the state of Wisconsin at an article V convention.

14 (e) “Unauthorized amendment” means a proposed amendment to the U.S.
15 Constitution that is outside the scope of the subject matter of the article V
16 application.

1 **(2)** (a) If Congress calls an article V convention, the legislature and the
2 governor shall appoint 9 delegates to attend the convention as follows, but only after
3 the legislature has passed an article V application:

4 1. The speaker of the assembly shall appoint 3 members of the assembly.

5 2. The president of the senate shall appoint 3 members of the senate.

6 3. The governor shall appoint 1 member of either the assembly or the senate.

7 4. The minority leader of the assembly shall appoint 1 member of the assembly.

8 5. The minority leader of the senate shall appoint 1 member of the senate.

9 (b) The legislature and the governor shall appoint 6 alternate delegates to
10 attend the convention as follows:

11 1. The speaker of the assembly shall appoint 2 members of the assembly.

12 2. The president of the senate shall appoint 2 members of the senate.

13 3. The governor shall appoint 1 member of either the assembly or the senate.

14 4. The minority leader of the assembly and the minority leader of the senate
15 shall appoint 1 member of the assembly or of the senate.

16 (c) Any vacancy in the delegation appointed under par. (a) shall be filled by an
17 alternate delegate appointed under par. (b) within 24 hours after the vacancy occurs.

18 Any vacancy in the alternate delegation appointed under par. (b) shall be filled by
19 an alternate appointee from the list maintained under sub. (3) (c) within 24 hours
20 after the vacancy occurs. If a delegate or an alternate delegate is dismissed or
21 vacates his or her appointment for any reason, the person who made the original
22 appointment shall appoint the replacement of the delegate or alternate delegate.

23 (d) The term for each delegate begins with the call of the article V convention
24 and ends on the day of the final adjournment of the convention.

1 **(3)** (a) No delegate appointed under sub. (2) (a) may vote or take any other
2 action at an article V convention to consider or approve an unauthorized
3 amendment.

4 (b) If any delegate votes or takes any other action in violation of par. (a), the
5 other delegates, at the request of any one delegate, may convene to consider
6 removing the delegate voting in violation of par. (a) and may immediately dismiss
7 that delegate by the approval of a majority of the other delegates appointed under
8 sub. (2) (a). No more than one delegate at a time may be dismissed under this
9 paragraph. If a delegate is dismissed, another delegate may not be dismissed until
10 a new delegate has been appointed to replace the first dismissed delegate.

11 (c) The speaker of the assembly, president of the senate, minority leader of the
12 assembly, minority leader of the senate, and governor shall each maintain a list of
13 alternate appointees, in addition to the alternate delegates appointed under sub. (2)
14 (b), in case a delegate is dismissed as provided under par. (b).

15 **(4)** The chief clerk of the assembly and chief clerk of the senate shall jointly
16 certify in writing to the article V convention the identity of the delegates appointed
17 under sub. (2) or dismissed under sub. (3) (b) and the filling of any delegation vacancy
18 within 24 hours after the appointment or dismissal or the filling of a vacancy.

19 **(5)** (a) After Congress calls for an article V convention, the legislature shall
20 create a joint committee of correspondence responsible for communications with the
21 delegates to the convention. The joint committee of correspondence shall be
22 comprised of 6 members appointed as follows, except that no delegate may be
23 appointed to the committee:

- 24 1. The speaker of the assembly shall appoint 2 members of the assembly.
- 25 2. The president of the senate shall appoint 2 members of the senate.

1 3. The minority leader of the assembly shall appoint 1 member of the assembly.

2 4. The minority leader of the senate shall appoint 1 member of the senate.

3 (b) 1. The delegates shall direct all communications with the legislature to the
4 joint committee of correspondence. Before any delegate may vote on a proposed
5 adoption or modification of the rules governing the convention or any proposed final
6 amendment, the delegates shall communicate with the joint committee of
7 correspondence regarding any such proposal.

8 2. If the joint committee of correspondence does not render a decision on any
9 proposed adoption or modification of rules governing the article V convention within
10 6 hours of receiving notification from the delegates, the delegates shall presume that
11 the committee approves the proposed adoption or modification of such rules. If the
12 joint committee of correspondence decides within the 6-hour period against the
13 adoption or modification of the rules governing the convention, the delegates shall
14 vote against the adoption or modification of the rules. If the adoption or modification
15 of the rules takes effect regardless of the disapproval of the joint committee and the
16 delegates, the delegates may not participate further in the convention.

17 3. If the joint committee of correspondence does not render a decision on any
18 proposed final amendment within 6 hours of receiving notification from the
19 delegates, the delegates shall presume that the committee determined that the
20 amendment is not an unauthorized amendment and may vote on the proposed final
21 amendment. If the joint committee of correspondence decides within the 6-hour
22 period that the proposed final amendment is an unauthorized amendment, the
23 delegates may not vote on the amendment and may not participate further in the
24 convention. If the joint committee of correspondence decides within the 6-hour

1 period that the proposed final amendment is within the scope of the subject matter
2 of the article V application, the delegates may vote on the amendment.

3 (c) For the purpose of determining a quorum of the committee necessary to
4 transact business, a committee member who participates in a meeting of the
5 committee by telephone or by other means of telecommunication or electronic
6 communications is considered present.

7 (END)