

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

H.B. 648  
Apr 17, 2023  
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH40309-MC-136

Short Title: Faithful Article V Commissioner Act. (Public)

Sponsors: Representative Riddell.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO ENACT THE FAITHFUL ARTICLE V COMMISSIONER ACT.  
3 The General Assembly of North Carolina enacts:

4 SECTION 1. Chapter 120 of the General Statutes is amended by adding a new  
5 Article to read:

6 "Article 31A.

7 "Faithful Article V Commissioner Act.

8 **"§ 120-272.100. Faithful Article V Commissioner Act.**

9 (a) Findings. – The General Assembly finds as follows:

10 (1) In the years since the Declaration of Independence, and both before and after  
11 ratification of the United States Constitution, the states and state legislatures  
12 have, from time to time, met in interstate conventions (however denominated)  
13 to consult upon and propose or adopt measures to address prescribed  
14 problems. This continued a pre-Independence practice of American colonies  
15 meeting in intercolonial conventions and congresses.

16 (2) The United States Constitution recognizes the authority of states and state  
17 legislatures to commission commissioners to interstate conventions, subject  
18 to the limitations set forth in the Constitution. It does so implicitly in Article  
19 I, Section 9, and explicitly through Article V (authorizing conventions for  
20 proposing amendments), and by reserving this previously existing state power  
21 to the states through the Tenth Amendment.

22 (3) The authority to meet in convention is generally a power reserved to the states  
23 by the Constitution; in the case of a convention for proposing amendments,  
24 the power is granted to the several state legislatures through Article V of the  
25 Constitution.

26 (4) Leading American Founders recognized the authority of states to coordinate  
27 their efforts in ways that necessarily or properly included interstate  
28 conventions.

29 (b) Definitions. – The following definitions apply in this section:

30 (1) Application. – An application for a convention for proposing amendments  
31 relied upon by Congress in calling such a convention.

32 (2) Commission. – The document or documents whereby the state legislature  
33 empowers a commissioner to an interstate convention and fixes the scope of  
34 his or her authority.

35 (3) Committee. – A delegation of persons commissioned to an interstate  
36 convention.



- 1           (4)    Convention for proposing amendments. – An interstate convention consisting  
2           of committees commissioned by the legislatures of the several states and  
3           called by Congress on the application of at least two-thirds of such legislatures  
4           under the authority of Article V of the United States Constitution.
- 5           (5)    Instructions. – Directions given to commissioners by the commissioning  
6           authority or by that authority's agent designated for that purpose. Instructions  
7           are given contemporaneously with or subsequent to a commission and may be  
8           amended before or during an interstate convention.
- 9           (6)    Interstate convention. – A diplomatic meeting, however denominated, of  
10          committees from three or more states or state legislatures to consult upon and  
11          propose or adopt measures pertaining to one or more issues previously  
12          prescribed by applications, by the convention call, or by the commissioning  
13          authority.
- 14          (c)    Purposes. – The purposes of this section are to (i) clarify the scope of authority of  
15          commissioners and committees representing the legislature of this State at interstate conventions,  
16          (ii) provide for enforcing limits on such authority, (iii) provide methods of selecting and replacing  
17          commissioners to conventions, and (iv) prescribe an oath to be taken by interstate convention  
18          commissioners.
- 19          (d)    Commissioners. – The following provisions apply to the number, selection, and  
20          removal of commissioners:
- 21               (1)    Commissioners to a convention for proposing amendments shall be selected  
22               by a joint resolution passed by a majority vote of both houses of the North  
23               Carolina General Assembly. The number of commissioners in this State's  
24               committee shall be seven commissioners plus alternates. Three  
25               commissioners to be chosen by the North Carolina Senate, three  
26               commissioners chosen by the North Carolina House of Representatives, and  
27               one at-large commissioner chosen by the General Assembly upon the joint  
28               recommendation of the President Pro Tempore of the Senate and the Speaker  
29               of the House of Representatives.
- 30               (2)    A commissioner to a convention for proposing amendments may be recalled  
31               and removed at any time for cause by a resolution passed by a majority vote  
32               of the house or houses which made the appointment. If the legislature is not  
33               in session, a commissioner may be suspended from their duties by agreement  
34               of the President Pro Tempore of the Senate and the Speaker of the House of  
35               Representatives. That suspension will be temporary until such time as a vote  
36               by the appropriate appointing legislative body fails to uphold the suspension  
37               or selects a permanent replacement.
- 38               (3)    To serve as a commissioner or alternate an individual must meet all of the  
39               following qualifications:
- 40                   a.    Be a citizen of the United States.
- 41                   b.    Reside in this State.
- 42                   c.    Be at least 21 years of age.
- 43                   d.    Not be a convicted felon.
- 44                   e.    Not be a registered lobbyist under the laws of this State.
- 45                   f.    Not hold any federal office nor be a federal employee or contractor.
- 46                   g.    Not hold any statewide elected office.
- 47               (4)    Commissioners and alternates are subject to the same ethical laws of the State  
48               as members of the North Carolina General Assembly. For purposes of  
49               determining those requirements, applicable references to "legislators" shall be  
50               interpreted as "commissioners" or "alternates."

1           (5) Of the commissioners and alternates selected, no more than four  
2           commissioners and four alternates shall be sitting members of the North  
3           Carolina General Assembly.

4           (e) Vacancies. – Vacancies in committees representing the State legislature at a  
5           convention for proposing amendments shall be filled by the designated alternate. A new alternate  
6           commissioner shall be approved by the appropriate appointing body of the North Carolina  
7           General Assembly. If the legislature is not in session, a new alternate commissioner may be  
8           approved by written agreement of the President Pro Tempore of the Senate and the Speaker of  
9           the House of Representatives. That appointment will be temporary until such time as a vote by  
10           the appropriate appointing legislative body selects a permanent replacement.

11           (f) Limitations on Commissioners' Powers. – No commissioner shall exceed the scope  
12           of authority granted by his or her commission or violate his or her instructions. In the case of a  
13           convention for proposing amendments, the scope of authority granted by any commission and  
14           instructions shall not be deemed to exceed the narrowest of (i) the scope of the congressional  
15           call, (ii) the scope of the narrowest application among those cited by Congress as mandating the  
16           convention call, or (iii) the actual terms of the application.

17           (g) Oath. – No person may serve as a commissioner until the person has taken the  
18           following oath: "I do solemnly swear (or affirm) that I accept and will act according to the limits  
19           of authority specified in my commission, by any present or subsequent instructions, and by the  
20           Faithful Article V Commissioner Act. I understand that violating this oath may subject me to  
21           penalties provided by law."

22           (h) Unauthorized Action. – A person exceeds the scope of authority at an interstate  
23           convention if, while serving as a delegate at an interstate convention, he or she votes for, votes  
24           to consider, or otherwise promotes any action of the convention not within the scope defined in  
25           subsection (f) of this section; provided, however, that a delegate may vote for or otherwise  
26           support a measure clearly identified as a nonbinding recommendation rather than as a formal  
27           proposal. A person exceeding the scope of authority under this section is guilty of a Class I  
28           felony."

29           **SECTION 2.** This act is effective when it becomes law.