

HB 148 – VERSION ADOPTED BY BOTH BODIES

4Mar2015... 0378h

2015 SESSION

15-0207  
05/09

HOUSE BILL            **148**

AN ACT                limiting the authority of delegates to Article V conventions.

SPONSORS:            Rep. Itse, Rock 10; Rep. Hoell, Merr 23; Rep. Ingbretson, Graf 15;  
Rep. Ulery, Hills 37; Rep. Tucker, Rock 23; Sen. Reagan, Dist 17

COMMITTEE:          State-Federal Relations and Veterans Affairs

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AMENDED ANALYSIS

This bill establishes a procedure for the selection of delegates to an Article V convention. The bill limits delegates' authority to consideration of amendments that are within the legitimate scope of the Article V applications. Delegates who consider unauthorized amendments may be recalled by the secretary of state.

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Explanation:          Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struck through~~].  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Fifteen*

AN ACT limiting the authority of delegates to Article V conventions.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 New Chapter; Constitutional Convention; Authority of New Hampshire Delegates. Amend  
2 RSA by inserting after chapter 20-B the following new chapter:

3 CHAPTER 20-C

4 AUTHORITY OF NEW HAMPSHIRE DELEGATES

5 TO CONSTITUTIONAL CONVENTION

6 20-C:1 Definitions. In this chapter:

7 I. "Article V convention" means a convention for the purpose of proposing amendments,  
8 called by the states pursuant to Article V of the Constitution for the United States of America.

9 II. "Article V petition" means a concurrent resolution by the general court of New Hampshire  
10 calling for a convention pursuant to the Constitution for the United States of America, Article V.

11 III. "Delegate" means a person from the state of New Hampshire, selected by law to  
12 represent the people and state of New Hampshire at an Article V convention.

13 IV. "Permitted scope" means the topic of an amendment or specific language of an  
14 amendment that may be considered by the Article V convention.

15 V. "Unauthorized amendment" means any amendment outside the scope permitted by the  
16 general court of New Hampshire. If New Hampshire is one of the states whose application has  
17 prompted the call for the convention, then the permitted scope shall be the purposes specified in its  
18 petition. If the New Hampshire general court was not one of the two-thirds of the several states that  
19 applied for a convention, then the lawful scope and authority of the delegates shall be established by  
20 the resolution which names the delegates. The general court shall adopt a scope and authority by  
21 concurrent resolution that is consonant with the tenor of the purposes contained in the relevant  
22 applications from the sister states.

23 20-C:2 Selection of Delegates.

24 I. Whenever an Article V convention is convened, the New Hampshire general court shall  
25 select delegates as follows. Four members of the delegation shall be appointed by the house of  
26 representatives. Three members of the delegation shall be appointed by the senate. No person  
27 holding any office or position with the government of the United States of America, including  
28 members of Congress, the judiciary, or executive branch, shall be named a delegate.

29 II. A list of 7 alternate delegates shall be selected and given priority as follows. The first  
30 alternate delegate shall be appointed by the senate. The second shall be appointed by the house of

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1 representatives. This method of alternating appointments shall continue until the full number is  
2 reached.

3 III. In the event that any delegate is unable or unwilling to serve or continue to serve, or if  
4 the delegate becomes disqualified as provided herein, the secretary of state shall immediately notify  
5 the first-named alternate that he or she has been appointed a delegate. The secretary of state shall  
6 also immediately notify the presiding officer of the convention that a replacement delegate has been  
7 named.

8 IV. The expenses of the delegates to the convention shall be paid at the same per diem rate  
9 as received by members of the general court.

10 20-C:3 Authority of Delegates.

11 I. No delegate from New Hampshire to the Article V convention shall have the authority to  
12 allow consideration, consider, or approve an unauthorized amendment. Improper support includes,  
13 but is not limited to, making or seconding a motion, voting for, or otherwise taking any formal action  
14 in favor of an unauthorized amendment to the Constitution.

15 II. Any vote taken by a delegate from New Hampshire at the Article V convention in  
16 violation of paragraph I shall be null and void. Any delegate making this vote shall be immediately  
17 disqualified from serving as a delegate to the Article V convention. Any other delegate from New  
18 Hampshire who believes that such disqualifying action has been taken by another delegate shall  
19 immediately report the same to the secretary of state. Upon receiving written or other recorded  
20 evidence of improper support by a delegate, the secretary of state shall take immediate action to  
21 revoke the credentials of the offending delegate and immediately issue new credentials to the first-  
22 named alternate.

23 III. Every delegate from New Hampshire to the Article V convention called for by the Article  
24 V application shall be required to take the following oath:

25 “I do solemnly swear or affirm that to the best of my abilities, I will, as a delegate to the Article V  
26 convention, uphold the Constitution and laws of the United States of America and the state of New  
27 Hampshire. I will accept and will act according to the limits of the authority as a delegate granted to  
28 me by New Hampshire law, and I will not vote to consider or approve any unauthorized amendment  
29 to the Constitution for the United States of America. I understand and accept any penalties that  
30 may be imposed on me by New Hampshire law for violating this oath.”

31 IV. The secretary of state shall certify the selection of the New Hampshire delegates in  
32 writing to the Article V convention and shall provide a copy of the certification to each delegate. No  
33 delegate shall have authority to vote or otherwise serve as a delegate at the Article V convention  
34 without the certification.

35 V. The secretary of state shall notify the Article V convention and any delegate involved of  
36 the automatic revocation of that delegate’s certification should the delegate violate his or her pledge  
37 to act only within the limits of the authority granted by the state of New Hampshire.

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1           20-C:4 Enforcement by Attorney General; Right to Private Action.

2           I. The provisions of this chapter shall be enforced by the department of justice.

3           II. A New Hampshire citizen may file an action to enforce the requirements of this chapter  
4 and shall be entitled to reasonable attorney's fees if successful.

5           2 Effective Date. This act shall take effect 60 days after its passage.