

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**Introduced**

## **House Bill 2114**

BY DELEGATES OVERINGTON, GEARHART, FRICH AND

SOBONYA

[Introduced January 10, 2018; Referred  
to the Committee on the Judiciary.]



1 A BILL to amend the Code of West Virginia, 1931, as amended, be amended by adding thereto  
2 a new article, designated §3-11A-1, §3-11A-2, §3-11A-3 and §3-11A-4, all relating to  
3 providing a procedure for West Virginia to select delegates to an Article V convention for  
4 proposing amendments to the Constitution of the United States of America; defining terms;  
5 setting forth delegate duties and responsibilities; and providing a felony criminal penalty  
6 for violation of a delegate's oath.

*Be it enacted by the Legislature of West Virginia:*

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
2 article, designated §3-11A-1, §3-11A-2, §3-11A-3 and §3-11A-4, all to read as follows:

**ARTICLE 11A. AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES.**

**§3-11A-1. Conventions for proposing amendments to the Constitution of the United  
States; committees; delegates.**

1 (a) Committee of Correspondence for Article V Conventions for Proposing Amendments.  
2 The Legislature shall designate one or more legislative committees for purposes of  
3 communicating, exchanging information and otherwise engaging in discussion and dialogue with  
4 the several states and Congressional delegation regarding acts, resolutions and issues related to  
5 the Article V Convention rules, process, potential amendments, interstate compacts, developing  
6 common credentials and instructions for delegates and procedures for an Article V Convention  
7 for proposing amendments. It may vest this function in the Joint Committee on Government and  
8 Finance, in existing committees of each house, or in such other legislative committee as it may  
9 see fit to establish.

10 (b) Prohibiting Delegates from Attending a Convention for Proposing Amendments if  
11 Congress Mandates Proportional Representation. — Delegates from West Virginia may only be  
12 authorized to attend an Article V Convention for proposing amendments where each state has  
13 one equal vote.

**§3-11A-2. Definitions.**

1           For the purposes of this article:

2           (1) "Article V Convention" means a "Convention for proposing Amendments" as expressly  
3 provided in Article V of the Constitution of the United States of America;

4           (2) "Article V Application" means a Joint Resolution passed by the Legislature on the same  
5 subject or containing the same proposed amendment text as thirty-three other sovereign states  
6 requiring Congress to call an Article V Convention by setting the time and place;

7           (3) "Delegate" or "alternate" means a person selected by the Legislature or any other  
8 method provided by law to represent the State of West Virginia at an Article V Convention;

9           (4) "Legislative Instructions" means instructions given by the State Legislature to  
10 delegates and alternates before and during an Article V Convention; and

11           (5) "Unauthorized amendment" means a proposed amendment that is outside the subject  
12 matter of the application, the call, the commission, or any Legislative Instructions.

**§3-11A-3. Delegates duties and responsibilities.**

1           (a) Delegates from West Virginia to an Article V Convention may not vote to allow  
2 consideration of or vote to approve an unauthorized amendment for ratification to the United  
3 States of America Constitution.

4           (b) Any delegate casting a vote to allow consideration or approval of an unauthorized  
5 amendment shall be immediately recalled by an official or committee authorized by a Resolution  
6 of the Legislature and replaced by an alternate.

7           (c) Every candidate for delegate or alternate from West Virginia to the Article V Convention  
8 shall take the following oath:

9           "I do solemnly swear or affirm that to the best of my abilities, I will, as a delegate or  
10 alternate to an Article V Convention, uphold the Constitution and laws of the United States of  
11 America and the State of West Virginia. I will not vote to allow consideration of or to approve any  
12 unauthorized amendment proposed for ratification to the United States of America Constitution".

13           (d) The Legislature or an official or committee authorized by a Resolution of the Legislature  
14 shall certify in writing to the Article V Convention the selection of delegates and alternates, the  
15 recall and replacement of a delegate with and alternate and the nullification of unauthorized votes  
16 cast by the delegate of West Virginia.

**§3-11A-4. Violation of oath; criminal penalty.**

1           Any Delegate who violates the oath contained in this article is guilty of a felony and, upon  
2 conviction thereof shall be fined not more than \$1,000 or confined in a state correctional facility  
3 not less than one year, or both fined and confined.

NOTE: The purpose of this bill is to provide a procedure for West Virginia to select delegates to an Article V Convention for proposing amendments to the Constitution of the United States of America. The bill defines terms. The bill sets forth delegate duties and responsibilities. The bill provides a felony criminal penalty for violation of a delegate's oath.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.