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SENATE BILL No. 210

Proposed Changes to introduced printing by AM021001

DIGEST OF PROPOSED AMENDMENT

Delegate. Clarifies that a reference to a "delegate" for purposes of an Article V convention means a "commissioner" as defined by the Indiana Code.

A BILL FOR AN ACT to amend the Indiana Code concerning the general assembly.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 2-8.2-6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]:

Chapter 6. Compact for a Safe and Equal Convention of States

Sec. 1. For purposes of this chapter, "compact" means the compact for a safe and equal convention of the states adopted under section 7 of this chapter.

Sec. 2. For purposes of this chapter, "commission" means the formal resolution, enactment, or other document that:

- (1) sets forth the identity of a state's delegates to a convention;
- (2) establishes the delegate's credentials; and
- (3) provides specific instructions as to how delegates shall vote or otherwise perform their duties at the convention.

Sec. 3. For purposes of this chapter, "convention" or "convention of the states" means a convention called by the Congress of the United States under its mandatory, ministerial duty under Article V of the Constitution of the United States upon receiving applications for a convention to propose amendments on a particular topic or topics from two-thirds (2/3) of the several

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1 states.

2 Sec. 4. (a) For purposes of this chapter, "state" means one (1)
3 of the several states of the United States.

4 (b) In the context of Article V, the state may only act through
5 its state legislative body. No other official or agency, including the
6 governor of any state, may take any action for the state as it
7 pertains to the exercise of Article V power, which is a matter
8 reserved by the text of the Constitution of the United States
9 exclusively for the legislature of each state.

10 Sec. 5. (a) For purposes of this chapter, "member state" means
11 a state that has adopted the compact through resolution or another
12 legislative vehicle that the state normally employs when it exercises
13 power under Article V of the Constitution of the United States to
14 apply for a convention of the states or to ratify a proposed
15 amendment to the Constitution of the United States.

16 (b) For a state to qualify as a member state with respect to any
17 other state under the compact, each state must have adopted and
18 agreed to be bound by substantially identical compact language.

19 [Sec. 5.5. For purposes of this chapter, a reference to a
20 "delegate" means a "commissioner" as defined by IC 2-8.2-2-5.

21] Sec. 6. The general assembly finds the following:

22 (1) The founders of the Constitution of the United States
23 empowered state legislatures to be guardians of liberty by
24 giving state legislatures the power to propose amendments to
25 the Constitution of the United States by calling for a
26 convention of the states whenever two-thirds (2/3) of the
27 states apply for a convention for the same topic or purpose.

28 (2) The legislatures of each state have the sole power and
29 discretion to name their delegates and to give them
30 instructions as may be necessary and lawful.

31 (3) The history surrounding the ratification of the
32 Constitution of the United States and the first uses of the
33 states' Article V power clearly demonstrate that said
34 assemblies were described as a convention of the states.

35 (4) It is inherent in the nature of a convention of the states,
36 as a meeting of equal sovereigns, that the states vote on the
37 basis of equality.

38 (5) The agreement between the states concerning the subject
39 matter of a convention of the states is demonstrated by
40 two-thirds (2/3) of the several states applying for a
41 convention for the same purpose or topic.

42 (6) Litigation surrounding the attempt by the Congress of the



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United States to change the deadline for the ratification of the proposed Equal Rights Amendment has established a clear rule that once a given phase of the Article V amendment process has been completed, its product cannot be altered.

(7) The Supreme Court of the United States has recognized that states have the inherent power to form agreements between themselves for mutually beneficial purposes.

(8) The Compact Clause in Article I, Section 10, Clause 3 of the Constitution of the United States affirms the sovereign power of the several states to enter into binding, enforceable agreements.

(9) The Supreme Court of the United States has repeatedly affirmed that an interstate compact does not require congressional approval "if it does not impermissibly enhance state power at the expense of federal supremacy".

(10) The Congress of the United States has no power to name, control, or instruct any state's delegates to a convention of the states.

(11) The Congress of the United States has no power to change the inherent rule that all voting at a convention of the states shall be on the basis of the equal sovereignty of the states, namely one-state, one-vote.

(12) The Congress of the United States has no power to designate topics for a convention of the states, but rather has a ministerial duty to call the convention upon receipt of applications from two-thirds (2/3) of the several states for a convention to propose amendments on the same topic or subject.

(13) The member states to the compact wish to affirm the two (2) inherent rules so that all states will be empowered to exercise their Article V power to apply for a convention with assurance that the topic or subject matter of the convention may not be changed by the Congress of the United States, any state, or the convention itself, and that states will vote as states, enjoying equal suffrage at the convention.

(14) The compact is applicable to any convention of the states no matter the topic or subject for which it is called.

Sec. 7. The compact for a safe and equal convention of the states is adopted for the purpose of entering into a binding agreement between the State of Indiana and other member states to instruct their delegates to any convention of the states called by



the Congress of the United States under Article V of the Constitution of the United States in accordance with this chapter.

Sec. 8. (a) Each state that adopts the compact and agrees to be bound by the compact intends to ensure that at any convention of the states, called for any purpose, that the following two (2) inherent Article V convention rules are followed without exception:

(1) All voting is conducted on the basis of one-state, one-vote.

(2) The convention shall not consider any proposed amendment on any topic other than the topics or subjects specifically enumerated in the applications of two-thirds (2/3) of the several states which formed the basis for the call of the convention.

(b) In consideration of the mutual promises and obligations expressed by each member state, it is firmly resolved and adopted by every state approving the compact that the state agrees to be bound by the compact notwithstanding any law to the contrary.

Sec. 9. (a) Each state shall instruct and bind each member of its delegation to a convention to vote for and take any and all appropriate action necessary to ensure the adoption of and faithful compliance with the following three (3) rules for a convention of the states:

(1) All voting at any convention shall be on the basis of one-state, one-vote.

(2) No proposed amendment to the Constitution of the United States may be introduced, reviewed, debated, or adopted if it is outside the scope of the topic or subject established by the applications of two-thirds (2/3) of the several states which led to the calling of the convention by the Congress of the United States.

(3) This subsection may not be amended, repealed, overridden, or otherwise avoided in any manner by any other motion, action, rule, or vote by the convention or by a ruling of the presiding officer.

(b) Nothing in this chapter limits the power of a state to instruct or bind its delegation in any other manner not inconsistent with this chapter.

(c) Nothing in this section prohibits a state from adopting other legal sanctions, penalties, or punishments for any delegate who acts unfaithfully in violation of the delegate's duties, instructions, or other obligations.

Sec. 10. (a) The commission of each member state delegate must:



(1) include the member state's instructions to the delegate to vote for and take any and all appropriate action necessary to ensure the adoption of and faithful compliance with the rules set forth in section 8(a) of this chapter;

(2) explicitly list the rules set forth in section 8(a) of this chapter; and

(3) state that any action taken by the delegate in violation of section 8 of this chapter is void as an ultra vires action, according to common law principles of agency.

(b) Upon receiving his or her commission, each delegate shall sign an oath that includes an acknowledgment that the delegate is subject to immediate removal from the state's delegation by the legislature if said delegate fails to comply with section 8 of this chapter in any manner.

Sec. 11. The compact enters into force when twenty-six (26) states have adopted the compact.

Sec. 12. (a) Except as provided in subsection (c), a state may withdraw from the compact if it provides twelve (12) months' notice to the presiding officers of both houses of the legislatures of all member states. This notice requirement applies even if the compact has not entered into force.

(b) Withdrawal under subsection (a) may be accomplished only through the same form of legislative action that was employed for the initial adoption of the compact.

(c) A member state may not withdraw from the compact after the date of the passage of the thirty-fourth application for a convention of the states on the same topic or subject.

Sec. 13. Each member state expressly waives sovereign immunity for an action by any other member state to enforce the compact in any court with lawful jurisdiction of the subject matter.

Sec. 14. The principal clerk of the house of representatives shall transmit duly authenticated copies of the compact to the presiding officers of each house of the legislatures of all sister states. As a courtesy, the principal clerk of the house of representatives shall transmit duly authenticated copies of the compact to the presiding officers of each house of the Congress of the United States. [

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