

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

394T0117

HOUSE BILL NO. 1222

Introduced by: Representatives Steele, Bolin, Boomgarden, Cronin, Deelstra, Dennert, Gosch, Greenfield, Haggard, Hickey, Hoffman, Jensen, Kirschman, Kopp, Nelson (Stace), Olson (Betty), Russell, Stricherz, Venner, Verchio, and Wick and Senators Novstrup (Al), Brown, Fryslye, Johnston, Olson (Russell), Peters, Rave, and Rhoden

1 FOR AN ACT ENTITLED, An Act to limit the authority of South Dakota delegates to an
2 Article V convention to amend the United States Constitution, to prohibit any delegate from
3 exceeding such authority, and to provide certain penalties therefor.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. Terms, as used in this Act, mean:

- 6 (1) "Convention," a convention for proposing amendments applied for and called under
7 the authority of Article V of the United States Constitution;
- 8 (2) "Delegate," any person elected or appointed to serve as a delegate to a limited
9 convention from the state of South Dakota;
- 10 (3) "Limited amendment convention" or "limited convention," a convention called for
11 by Congress upon the qualifying application of two-thirds of the states for the same
12 pertinent amendment;
- 13 (4) "Pertinent amendment," any or all proposed draft amendments to the United States



1 Constitution, whether verbatim or substance, as set forth in an application of any
2 state for a limited convention;

3 (5) "Qualifying application," a resolution or application of any state calling for a limited
4 convention for the sole purpose of deciding whether or not to propose any specific
5 amendment drawn from pertinent amendments as set forth in an application of any
6 state for a limited convention; and

7 (6) "Unauthorized amendment," any potential amendment considered or proposed by a
8 limited convention other than the pertinent amendments.

9 Section 2. No delegate, while serving as a delegate from the State of South Dakota to a
10 limited convention, may vote to consider, approve, or propose an unauthorized amendment.
11 However, any delegate may debate, deliberate, amend, consider, and approve any pertinent
12 amendments, as defined in this Act, in order to facilitate the best reformulation of the wording
13 and substance of any or all of the proposed draft amendments, as set forth in an application of
14 any state for a limited convention.

15 Section 3. Prior to receiving certification from the secretary of state, each delegate shall take
16 the following oath: "I do solemnly swear (or affirm) that I accept and shall act according to the
17 limits of authority provided by the Limited Amendment Convention Act of 2012, and that I will
18 not vote to consider, approve, or propose any unauthorized amendment. I understand and accept
19 that violating this oath may subject me to penalties provided by law."

20 Section 4. No person may qualify as a candidate for the position of delegate prior to taking
21 the oath specified in section 3 of this Act.

22 Section 5. Any vote taken by a delegate at a limited convention in violation of this Act is
23 null and void. The credentials of any delegate casting such vote are also voided by such act, and
24 the delegate is immediately disqualified from further service.

1 Section 6. Each delegate shall advocate that the limited convention adopt, as its first act or
2 at the earliest opportunity, rules that shall include, and shall be consistent with, the following:

3 (1) That the sole and exclusive purpose of the convention is to consider the pertinent
4 amendments;

5 (2) That following a final vote on a motion to propose the specific amendment drawn
6 from the pertinent amendments during the course of the convention's deliberations,
7 the business of the convention shall immediately terminate and the convention shall
8 be dissolved; and

9 (3) That any unauthorized amendment proposed by the convention is null and void.

10 Section 7. The Executive Board of the Legislative Research Council shall, upon a showing
11 that any delegate has violated his or her oath, promptly revoke the delegate's certification and
12 recall the delegate from the convention.

13 Section 8. Any delegate who knowingly violates the oath taken pursuant to section 3 of this
14 Act is subject to a Class 6 felony. The attorney general shall prosecute any violation of this
15 section.

16 Section 9. The secretary of state shall certify in writing the selection of each delegate to the
17 limited amendment convention after the delegate takes the oath pursuant to section 3 of this Act.
18 The secretary of state shall provide a copy of the certification to each delegate and to the officers
19 of the limited convention. No delegate may vote or otherwise serve at the limited amendment
20 convention without the secretary of state's certification.

21 Section 10. A challenge to the validity of any unauthorized amendment may be brought in
22 any circuit court of this state by any adversely affected party, including the Legislature of the
23 state, either house thereof, or the attorney general, acting on behalf of the state.

24 Section 11. The Legislature of the State of South Dakota may neither consider nor ratify any

1 unauthorized amendment within the meaning of this Act.

2 Section 12. This Act may be cited as the Limited Amendment Convention Act of 2012.