THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL
No. 867 Session of 2017

INTRODUCED BY EICHELBERGER, WHITE, YUDICHAK, DiSANTO, FOLMER, STEFANO, RAFFERTY, BARTOLOTTA, REGAN, WAGNER AND BREWSTER, OCTOBER 17, 2017

REFERRED TO STATE GOVERNMENT, OCTOBER 17, 2017

AN ACT

Providing for a Constitutional Convention with limited powers, for a referendum on the question and for the selection, nomination and election of delegates; defining the powers, duties and operation of the Constitutional Convention; conferring powers and imposing duties on the Governor, the Secretary of the Commonwealth, officers of the General Assembly and county boards of elections; providing for a referendum on the Constitutional Convention's report; and making an appropriation.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Limited Constitutional Convention Act.

Section 2. Referendum.

(a) General rule.—At the next primary or general election occurring at least 90 days after the effective date of this act the following question shall be submitted to the electorate of the Commonwealth to determine the electorate's will regarding a Constitutional Convention with limited powers:

Shall a Constitutional Convention be called in accordance
with, and subject to, the limitations and requirements contained in Act Number of the Session of the General Assembly, to prepare for submission to the electorate proposals for the revision of Articles II, III, IV and V of the Constitution of Pennsylvania, as provided in section 8 of this act?

(b) Duties of county boards of elections.--

(1) The county board of elections in each county shall print in bound form separate official ballots in sufficient numbers to furnish to the election officers in each election district of the county, one ballot to be supplied to each elector at the primary election and also specimen ballots equal in number to one-fifth of the official ballots.

(2) In districts where voting machines are used, the question may appear on the face of the machine where the machine is properly equipped for that purpose; otherwise, a separate printed ballot shall be used.

(3) The results of the election shall be tabulated by the proper election officers of each county and duly certified to the Secretary of the Commonwealth.

Section 3. Convention, membership, qualifications and vacancies.

(a) Convention.--

(1) If a majority of the electors voting upon the question shall favor the holding of a Constitutional Convention with limited powers, a Constitutional Convention shall be called by the Governor. It shall consist of 163 members.

(2) Three district delegates shall be elected from each senatorial district, as provided in this act. Each elector
may vote for not more than two candidates for the office of delegate. The three candidates receiving the highest number of votes shall be elected to the office of delegate.

(3) The Lieutenant Governor, the President pro tempore of the Senate, the Majority Leader of the Senate, the Majority Whip of the Senate, the Minority Leader of the Senate, the Minority Whip of the Senate, the Minority Caucus Chairperson of the Senate, the Speaker of the House of Representatives, the Majority Leader of the House of Representatives, the Majority Whip of the House of Representatives, the Minority Leader of the House of Representatives, the Minority Whip of the House of Representatives and the Minority Caucus Chairperson of the House of Representatives shall be members ex officio of the Constitutional Convention and shall have the powers of elected delegates.

(b) Qualifications of delegate.--To serve as a delegate to the Constitutional Convention, an individual must:

(1) Be at least 21 years of age.

(2) Have been a citizen and resident of this Commonwealth for at least four years.

(3) Have resided in and been a registered elector of the individual's respective senatorial district at least one year prior to election as delegate.

(4) Reside in the delegate's respective senatorial district during the delegate's term of service.

(c) Vacancies.--In case of a vacancy in the office of delegate occurring after the election, if:

(1) The member is an ex officio member, the vacancy shall be filled by the individual assuming the office.
(2) The member was nominated in accordance with section 4, all the remaining delegates shall elect a successor meeting the qualification prescribed herein.

Section 4. Nomination of delegates and withdrawals.

(a) Nomination.--Candidates for delegates to the convention shall be nominated by petition in accordance with this section. A petition must be signed by at least 100 qualified electors of the candidate's senatorial district, and petitions shall not include any reference to the political affiliation of the candidate.

(b) Petitions.--The Secretary of the Commonwealth shall prescribe the form of the petition in accordance with this section. The Secretary of the Commonwealth shall certify the names of the nominees to the county boards as provided by law no later than 60 days prior to the next upcoming primary or general election occurring after passage of the referendum.

(c) Prohibition.--Except as provided in section 3(a)(3), the following may not serve as a delegate:

(1) The Governor, a current member of the General Assembly or other official elected Statewide.

(2) A current member of the Congress of the United States.

(3) A sitting judge of a court.

(d) Filing of petitions.--

(1) The petitions shall be filed in the office of the Secretary of the Commonwealth not later than 75 days prior to the next upcoming primary or general election occurring after passage of the referendum. A filing fee of $25 shall be paid by each candidate to the Secretary of the Commonwealth by certified check or money order.
The following shall apply:

(i) An elector may sign not more than two nomination petitions for a delegate to represent the elector's district.

(ii) Every signer of a nomination petition shall:

(A) provide the signer's occupation and residence, giving city, borough or township, with street and number, if any;

(B) state that the signer is a qualified elector of the district named; and

(C) add the date of signing, expressed in words or numbers.

(iii) A nomination petition may not be circulated prior to 20 days before the last day on which the petition may be filed.

(iv) A signature may not be counted unless it bears date within 20 days of the last day of filing.

(3) Nomination petitions may be on one or more sheets, and different sheets must be used for signers resident in different counties. If more than one sheet is used, they shall be bound together when offered for filing, if they are intended to constitute one petition, and each sheet shall be numbered consecutively at the foot of each page, beginning with number one.

(4) Each sheet shall include an affidavit of the person who circulated it stating:

(i) that the person is a qualified elector of the senatorial district named in the petition;

(ii) the person's residence, giving city, borough or township, with street and number, if any;
(iii) that the signers of the petition were aware of the contents of the petition;
(iv) that the signers' respective residences are correctly stated in the petition;
(v) that each signer resides in the district named in the affidavit;
(vi) that each person signed on the date set opposite the person's name; and
(vii) that, to the best of affiant's knowledge and belief, the signers are qualified electors of the district.

(e) Affidavits.--Each candidate for delegate shall file with the Secretary of the Commonwealth an affidavit stating:
(1) the candidate's residence, with street and number, if any, and the candidate's post office address;
(2) that the candidate is eligible for the office of delegate to the Constitutional Convention;
(3) that, if elected, the candidate will faithfully observe the limitations and requirements imposed upon the Constitutional Convention by this act; and
(4) that the candidate has been a citizen and resident of this Commonwealth for at least four years and has been a registered elector for at least one year in the district which the candidate seeks to represent.

(f) Withdrawal.--
(1) A candidate for election as a delegate to the Constitutional Convention may withdraw the candidate's name by a request in writing, signed by the candidate and acknowledged before an officer empowered to administer oaths, filed in the office of the Secretary of the Commonwealth not
later than 5 p.m. on the fifth day next succeeding the last
day for filing nomination petitions.

(2) In the event of the death or withdrawal of a
candidate occurring prior to the time prescribed by this
subsection, substitute nominations shall be made in
accordance with the provisions of this section.

Section 5. Election of delegates.

(a) Procedure.--

(1) If approved by the electorate, elections for
delegates to the Constitutional Convention shall be held at
the next upcoming primary or general election.

(2) The Secretary of the Commonwealth shall forward to
the county board of elections of each county the names of the
candidates for the office of delegate.

(3) Each elector voting at the election shall be
entitled to vote for two candidates for the office of
delegate from the elector's district.

(4) The three candidates receiving the highest number of
votes in each district shall be the elected delegates of that
district.

(5) Within 15 days, the county boards of elections shall
make to the Secretary of the Commonwealth the proper
certification of returns of votes cast for the candidates for
election for the office of delegate.

(b) Certification of results to Governor.--At the same time
as certification of the other election results, the Secretary of
the Commonwealth shall certify to the Governor the names of the
delelges elected to the Constitutional Convention.

(c) Tie vote.--In the case of a tie vote, the election shall
be determined in accordance with the provisions of section 1418.
of the act of June 3, 1937 (P.L.1333, No.320), known as the
Pennsylvania Election Code.

Section 6. Preparatory Committee and appropriation.

(a) Establishment.--The Lieutenant Governor, the President
pro tempore of the Senate, the Majority Leader of the Senate,
the Majority Whip of the Senate, the Minority Leader of the
Senate, the Minority Whip of the Senate, the Minority Caucus
Chairperson of the Senate, the Speaker of the House of
Representatives, the Majority Leader of the House of
Representatives, the Majority Whip of the House of
Representatives, the Minority Leader of the House of
Representatives, the Minority Whip of the House of
Representatives and the Minority Caucus Chairperson of the House
of Representatives shall constitute a Preparatory Committee to
make arrangements for the Constitutional Convention.

(b) Authority.--

(1) The committee shall have authority immediately
following an affirmative vote by the electorate on the
question of holding a Constitutional Convention to lease or
otherwise obtain suitable meeting and office space, to
purchase or lease office supplies, equipment, books and other
publications and other materials necessary for the work of
the Constitutional Convention and to hire or engage
secretaries, technical assistants, printers and other
employees or consultants as may be deemed necessary for the
preparatory work of the Constitutional Convention.

(2) The committee shall initiate studies, inquiries,
surveys or analyses the committee may deem relevant through
the committee's own personnel or in cooperation with public
or private agencies, including institutes, universities,
foundations or research organizations. In so doing, the committee may hold public or private hearings.

(3) The committee may issue subpoenas under the hand and seal of the chairperson commanding any person to appear before it and to answer questions touching matters properly being inquired into by the committee and to produce books, papers, records and documents that the committee deems necessary. The subpoenas may be served upon any person and shall have the force and effect of subpoenas issued out of the courts of this Commonwealth.

(4) A person who willfully neglects or refuses to testify before the committee or to produce any book, paper, record or document shall be subject to the penalties provided by the laws of this Commonwealth in the case.

(5) Each member of the committee shall have power to administer oaths and affirmations to witnesses appearing before the committee.

(6) The committee may request and shall receive from any department, division, board, bureau, commission or agency of the Commonwealth or a political subdivision thereof facilities, assistance and data as it deems necessary or desirable to carry out properly the committee's powers and duties.

(7) The committee may enter into agreements and perform acts that may be necessary, desirable or proper to carry out the provisions of this act.

(8) The committee shall prepare budgets for the holding of the Constitutional Convention. The recommended budgets shall be submitted to the General Assembly in sufficient time for the General Assembly to pass the necessary appropriation.
acts.

(9) The members of the committee shall receive no compensation for service but shall be allowed their actual and necessary expenses incurred in the performance of their duties.

(10) The authority of the Preparatory Committee shall expire upon election of convention officers, except to sign documents necessary to obtain payments from the State Treasury for any commitments made under the authority of this section prior thereto and to submit any report to the Constitutional Convention.

(c) Appropriation.--

(1) The sum of $200,000 is appropriated to the Preparatory Committee for the purposes specified in this section.

(2) A fund shall be established in the State Treasury for the purpose of accepting the sum under paragraph (1) and future appropriations for the expenses of the convention, as well as donations from the public.

Section 7. Organization of convention.

(a) Convening.--

(1) The Constitutional Convention shall convene in the Hall of the House of Representatives in Harrisburg, Dauphin County, Pennsylvania, on July 1 at 12 o'clock noon. The Constitutional Convention shall be called to order by the Governor.

(2) The Secretary of the Commonwealth shall certify the returns of the elections for delegates to the Constitutional Convention and issue certificates of election to those elected.
(3) The Chief Justice of the Supreme Court of Pennsylvania or the Chief Justice's appointee shall then administer the oath of office in the following form: "I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States and the Constitution of this Commonwealth and that I will discharge the duties of my office with fidelity."

(b) Procedure.--

(1) The Constitutional Convention shall organize by electing from among its delegates a president, secretary and other officers necessary for the transaction of its business.

(2) No member of the General Assembly may be an officer of the Constitutional Convention.

(3) The Constitutional Convention shall determine the rules of its own proceedings and shall be the final judge of the qualifications of its own delegates. The Constitutional Convention shall determine rules for the conduct of its delegates and provide for the censure, suspension or removal of a delegate, if necessary.

(c) Privilege.--The delegates to the Constitutional Convention shall in all cases, except treason, felony, violation of their oath of office and breach or surety of the peace, be privileged from arrest during their attendance at the session of the Constitutional Convention and in going to and returning from the Constitutional Convention and, for any speech or debate in the Constitutional Convention, they shall not be questioned in any other place.

(d) Authority.--In addition to any powers provided in this section, the Constitutional Convention shall have all of the powers given to the Preparatory Committee under section 6.
(e) Adjournment.--The Constitutional Convention shall have the power to adjourn from time to time and to meet at appropriate places in the City of Harrisburg as it shall determine.

(f) Sine die.--The Constitutional Convention shall conclude its session sine die not later than November 1.

Section 8. Substantive powers of convention, limitations and mandatory duties of convention.

(a) General rule.--Except as provided in subsection (b), the Constitutional Convention shall have the power by a vote of a majority of the 163 delegates to make recommendations to the electorate on the following subjects only:

(1) The following sections of Article II of the Constitution of Pennsylvania:
   (i) Section 3, as it relates to limits or changes in the length of terms for members of the General Assembly.
   (ii) Section 4, as it relates to the full-time or part-time nature of the General Assembly.
   (iii) Section 8, as it relates to compensation of the members of the General Assembly.
   (iv) Section 16, as it relates to the number of seats in the General Assembly and the allocation of Senatorial seats.

(2) The following sections of Article III of the Constitution of Pennsylvania:
   (i) Subarticle A, as it relates to amendments of legislation on third consideration.
   (ii) Section 13, as it relates to prohibitions on voting.
   (iii) Section 22, as it relates to no-bid contracts.
Section 24, as it relates to spending without an enacted budget in place.

Section 26, as it relates to pensions and cost-of-living increases.

(3) The following sections of Article IV of the Constitution of Pennsylvania:

(i) Section 4, as it relates to eliminating the office of Lieutenant Governor.

(ii) Section 14, as it relates to simultaneously serving as Lieutenant Governor and a member of the Senate.

(4) The following sections of Article V of the Constitution of Pennsylvania:

(i) Section 10, as it relates to independent review.

(ii) Section 17, as it relates to work outside of court service.

(iii) Section 18, as it relates to Supreme Court involvement, special tribunals and the selection of non-bar members for disciplinary board.

(b) Limitations.--

(1) A delegate may not support a proposal that goes beyond the subject matter specified under subsection (a). This prohibition specifically includes consideration at any stage of the Constitutional Convention of an amendment which in any way seeks to amend, modify or repeal a provision regarding any of the following:

(i) The Declaration of Rights of the Constitution of Pennsylvania.

(ii) The imposition of a graduated income tax by the Commonwealth or any of its political subdivisions.
(iii) Article VIII, Section 1 of the Constitution of Pennsylvania.

(2) A delegate who receives and accepts an item of value, excluding education materials, from a person in connection with service as a delegate shall be immediately disqualified and immediately replaced by an alternate.

(c) Format.--In dealing with the subject matter as prescribed by this section, the Constitutional Convention may recommend that a provision be transferred to another article, modified, deleted, repealed, substituted by an entirely new provision or continued without change.

(d) Recommendations.--The Constitutional Convention shall make its recommendations regarding legislative apportionment as a replacement for the existing Article II, section 16 of the Constitution of Pennsylvania and shall arrange its recommendations on the other subjects assigned to it in separate articles.

(e) Numbering.--The Constitutional Convention's recommendations on an article shall not be numbered. If approved by the electors, the articles shall be numbered by the Governor as provided by law.

Section 9. Manner of submitting proposals to electorate.

(a) Procedure.--

(1) The recommendations of the Constitutional Convention shall be submitted to the electorate separately as determined by the Constitutional Convention. The recommendations may be in any number of sections which the Constitutional Convention deems suitable.

(2) The Constitutional Convention shall frame the ballot questions that bring the recommendations to the electorate.
(3) There shall be no fewer than one separate question for each of the articles to be recommended by the Constitutional Convention and another question for the amendment on legislative apportionment.

(b) Certification.--

(1) The changes proposed, together with the questions framed by the Constitutional Convention, shall be certified by the president and secretary of the Constitutional Convention to the Secretary of the Commonwealth not later than March 7 of the year following adjournment.

(2) The Secretary of the Commonwealth shall then advertise the proposals of the Constitutional Convention in a newspaper of general circulation, if any, in every county of this Commonwealth once during the first week in April.

(3) The Secretary of the Commonwealth shall:

(i) publish on the Department of State's publicly accessible Internet website the changes to the Constitution of Pennsylvania as proposed by the Constitutional Convention in convenient form;

(ii) send a copy to each elector requesting a copy;

and

(iii) send 10 copies through the county boards of elections to each polling place for the use of the voters during the election.

Section 10. Submission of proposals to electorate and proclamation by Governor of results.

The recommendations of the Constitutional Convention shall be submitted to the electorate for approval or rejection on a separate ballot at the next primary election. In districts where voting machines are used, the question may appear on the face of
the machine if the machine is properly equipped for that
purpose; otherwise, a separate printed ballot shall be used. A
majority vote of the electors voting on a recommendation shall
be necessary for the adoption of the recommendations of the
Constitutional Convention. If adopted, a recommendation shall
become effective as provided in the recommendation or by the
schedule attached to the recommendation. The Governor, upon
receipt from the Secretary of the Commonwealth of a certificate
of the results of the election, shall immediately make
proclamation of the results.

Section 11. Expenses of members of convention.

(a) General rule.--Members of the Constitutional Convention
shall receive an allowance for traveling expenses at the same
rate and computed on the same basis as traveling expenses for
State Senators, payable monthly.

(b) Exception.--The members of the General Assembly and
officers and employees of the Commonwealth shall be reimbursed
for the expenses under this section only if not otherwise paid
by the Commonwealth.

Section 12. Registration of lobbyists.

(a) Duty to register.--

(1) An individual who is employed or engaged for
compensation, by any other person or a partnership,
committee, association, corporation or other organization, to
advocate passage or defeat of proposals of the Constitutional
Convention or proposals of any of the Constitutional
Convention's delegates shall, before beginning those
activities, submit to the secretary of the Constitutional
Convention a registration statement made under oath or
affirmation before an officer authorized by law to administer
oaths stating:

(i) The name and business address of the lobbyist.

(ii) The name and address of the person, partnership, committee, association, corporation or other organization by whom the lobbyist is employed or engaged.

(iii) The name and address of the person, partnership, committee, association, corporation or other organization in whose interest the lobbyist will advocate the passage or defeat of proposals of the Constitutional Convention.

(iv) The duration of the lobbyist's employment.

(2) Whenever any of the facts under paragraph (1) change, the lobbyist shall file a revised registration statement.

(3) A registration statement under this subsection shall be a public record.

(b) Penalty.--A person violating any of the provisions of this section commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not more than $500 or to imprisonment for not more than one year, or both.

Section 13. Conventions open to public.

Sesssions of the Constitutional Convention as a whole shall be open to the public.

Section 14. Effective date.

This act shall take effect immediately.