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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 763 Session of  
2011

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INTRODUCED BY CONKLIN, BRENNAN, CALTAGIRONE, CARROLL, DALEY,  
DePASQUALE, GIBBONS, HORNAMAN, MIRABITO, MULLERY, MUNDY, MURT  
AND READSHAW, FEBRUARY 24, 2011

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REFERRED TO COMMITTEE ON STATE GOVERNMENT, FEBRUARY 24, 2011

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AN ACT

1 Providing for a Citizens Constitutional Convention, for a  
2 referendum on the question and for the selection of  
3 delegates; defining the powers and duties of the convention;  
4 providing for operation of the convention; conferring powers  
5 and imposing duties on the Governor, the Secretary of the  
6 Commonwealth, and the Chief Justice of the Supreme Court;  
7 providing for a referendum on the convention's report; and  
8 making an appropriation.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Citizens  
8 Constitutional Convention Act of 2011.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall  
11 have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 "Committee." The preparatory committee established under  
14 this act.

15 "Convention." The Citizens Constitutional Convention  
16 authorized by this act.

17 "Delegate." A citizen of this Commonwealth who is selected  
18 to serve at the convention or as an alternate to the convention.

19 "Independent entity." A corporation, partnership,  
20 institution of higher learning, or other entity that does not  
21 receive funds from the Commonwealth either directly or  
22 indirectly and that does not seek to influence the passage of  
23 legislation or regulations by the Commonwealth either directly  
24 or indirectly.

25 "Public official." A person elected by the public, elected  
26 or appointed by a governmental body or an appointed official in  
27 the executive, legislative or judicial branch of this  
28 Commonwealth or any of its political subdivisions. The term  
29 shall not include members of advisory boards that have no  
30 authority to do any of the following:

1           (1) Expend public funds, other than reimbursement for  
2           personal expenses.

3           (2) Otherwise exercise the power of the Commonwealth or  
4           any of its subdivisions.

5           "Secretary." The Secretary of the Commonwealth.

6           Section 3. Referendum.

7           (a) Question.--At the general election on November 8, 2011,  
8           the following question shall be submitted to the electorate of  
9           this Commonwealth to determine its will regarding a  
10          Constitutional Convention:

11          Shall a Constitutional Convention be called in accordance  
12          with and subject to the limitations and requirements  
13          contained in the Citizens Constitutional Convention Act of  
14          2011 to prepare for submission to the electorate proposals  
15          for the revision of the Constitution of Pennsylvania?

16               (1) If a Constitutional Convention is authorized by this  
17               referendum, shall the delegates be permitted to recommend  
18               changes to Article I, the Declaration of Rights?

19               (2) If a Constitutional Convention is authorized by this  
20               referendum, shall the delegates be permitted to recommend  
21               changes to Article II, the Legislature?

22               (3) If a Constitutional Convention is authorized by this  
23               referendum, shall the delegates be permitted to recommend  
24               changes to Article III, Legislation?

25               (4) If a Constitutional Convention is authorized by this  
26               referendum, shall the delegates be permitted to recommend  
27               changes to Article IV, the Executive?

28               (5) If a Constitutional Convention is authorized by this  
29               referendum, shall the delegates be permitted to recommend  
30               changes to Article V, the Judiciary?

1 (6) If a Constitutional Convention is authorized by this  
2 referendum, shall the delegates be permitted to recommend  
3 changes to Article VI, Public Officers?

4 (7) If a Constitutional Convention is authorized by this  
5 referendum, shall the delegates be permitted to recommend  
6 changes to Article VII, Elections?

7 (8) If a Constitutional Convention is authorized by this  
8 referendum, shall the delegates be permitted to recommend  
9 changes to Article VIII, Taxation and Finance?

10 (9) If a Constitutional Convention is authorized by this  
11 referendum, shall the delegates be permitted to recommend  
12 changes to Article IX, Local Government?

13 (10) If a Constitutional Convention is authorized by  
14 this referendum, shall the delegates be permitted to  
15 recommend changes to Article X, Private Corporations?

16 (11) If a Constitutional Convention is authorized by  
17 this referendum, shall the delegates be permitted to  
18 recommend changes to Article XI, Amendments?

19 (b) Referendum.--The secretary shall certify questions to  
20 the county boards. The election shall be conducted in accordance  
21 with the act of June 3, 1937 (P.L.1333, No.320), known as the  
22 Pennsylvania Election Code.

23 (c) Secretary.--If a majority of the electors casting votes  
24 on the question under subsection (a) vote in the affirmative,  
25 the secretary shall transmit notice of the vote, including any  
26 prohibitions under subsection (a)(1) through (11), to the  
27 Legislative Reference Bureau for publication as a notice in the  
28 Pennsylvania Bulletin.

29 Section 4. Convention, membership, qualifications and  
30 vacancies.

1 (a) Call.--If a majority of the electors voting upon the  
2 question set forth in section 3(a) vote in the affirmative, a  
3 convention shall be called by the Governor.

4 (b) Delegates.--Within seven days of the approval of the  
5 question set forth in section 3(a), the secretary shall issue a  
6 request for proposals from independent entities for the purposes  
7 of:

8 (1) determining a system for selecting delegates to the  
9 Constitutional Convention that will result in a body of no  
10 fewer than 150 nor more than 200 delegates who, in the  
11 aggregate, accurately represent the citizenry of this  
12 Commonwealth geographically, demographically and  
13 economically: and

14 (2) managing the Constitutional Convention as required  
15 by section 5(c), including the operation of the convention,  
16 communications with the public, and creating the official  
17 record of the convention beginning with introduction of this  
18 act and ending within six months of the referendum where  
19 citizens accept or reject the convention's recommendations.  
20 Within 30 days of the approval of the question set forth in  
21 section 3(a), the secretary shall award a contract to an  
22 independent entity for the purpose of delegate selection and  
23 convention management. Any subcontractors the independent entity  
24 will employ must be disclosed in its proposal to the secretary  
25 and must be subject to the same criteria as those applied to the  
26 independent entity defined in section 2. Within 120 days of the  
27 approval of the question set forth in section 3(a), the  
28 independent entity shall select delegates and alternate  
29 delegates in accordance with the proposal submitted to the  
30 secretary and shall publish for the delegates and the public

1 proposed rules of procedure for the convention.

2 (c) Qualifications.--A delegate must meet the following  
3 qualifications:

4 (1) Be at least 18 years of age prior to November 8,  
5 2011.

6 (2) Have been a citizen and resident of this  
7 Commonwealth for at least four years before the election.

8 (3) Reside in the geographic area the delegate  
9 represents during the delegate's term of service.

10 (d) Salary.--Delegates shall be entitled to a salary equal  
11 to the salary of a member of the General Assembly during their  
12 term of service, payable monthly.

13 (e) Expenses.--Delegates shall be entitled to reimbursement  
14 for the following expenses:

15 (1) Actual mileage traveled in a personal vehicle in the  
16 performance of their duties during their term of service,  
17 documented, reported and payable monthly at the applicable  
18 Federal rate, including commuting mileage.

19 (2) Actual expenses for other modes of ground  
20 transportation in the performance of their duties during  
21 their term of service, documented, reported and payable  
22 monthly, including commuting expenses.

23 (3) Actual expenses for overnight lodging required for  
24 the convenience of delegates traveling more than 50 miles  
25 from their residence in the performance of their duties  
26 during their term of service, documented, reported and  
27 payable monthly.

28 (4) All documentation used to reimburse delegates for  
29 eligible expenses shall be public records. Access to, and  
30 copies of, the records shall be without cost to the

1 requester.

2 (f) Terms of service.--Terms of service for delegates shall  
3 commence on the date of their oath of office. Terms shall expire  
4 30 days following publication of the recommendations authorized  
5 by the delegates to the convention.

6 (g) Exclusions.--The following shall apply:

7 (1) No delegate shall, during his or her term of  
8 service, be appointed to or hold any civil office under this  
9 Commonwealth to which a salary, fee or perquisite is  
10 attached.

11 (2) No member of Congress or other person holding any  
12 office, except that of attorney-at-law or in the National  
13 Guard or a reserve component of the armed forces of the  
14 United States, under the United States or this Commonwealth  
15 to which a salary, fee or perquisite is attached shall be a  
16 delegate during their continuance in office.

17 (3) Delegates shall be prohibited from serving as a  
18 public official as defined in section 2 for a period of two  
19 years after their term of service expires.

20 Section 5. Organization of convention and sessions.

21 (a) Convening.--The following shall apply:

22 (1) The convention's delegates shall convene in the Hall  
23 of the House of Representatives on April 2, 2012, at 12 noon.

24 (2) The convention shall be called to order by the  
25 Governor.

26 (3) The Chief Justice of the Supreme Court shall  
27 administer the oath of office in the following form:

28 I do solemnly swear (or affirm) that I will support, obey  
29 and defend the Constitution of the United States and the  
30 Constitution of Pennsylvania, that I will abide by the

1 limitations and requirements of the referendum conducted  
2 pursuant to the Citizens Constitutional Convention Act of  
3 2011, and that I will discharge my duties with fidelity.

4 (5) Each delegate shall sign and swear a written version  
5 of the oath of office, provided by the secretary, to be  
6 preserved with the official journals of the convention, and  
7 other copies as needed by the secretary.

8 (b) Organization.--The following shall apply:

9 (1) The convention shall be the final judge of the  
10 qualifications of its own delegates.

11 (2) The convention shall elect from among its delegates  
12 a president, first vice-president, second vice-president and  
13 a secretary.

14 (3) The convention shall organize one committee for each  
15 article of the Constitution of Pennsylvania subject to the  
16 scope of the convention.

17 (4) The convention shall organize a committee on  
18 arrangement, submission and address to the people.

19 (c) Duties of independent entity.--The following shall  
20 apply:

21 (1) The independent entity shall prescribe rules for all  
22 of the following, subject to adoption by a majority of the  
23 delegates at the commencement of working sessions:

24 (i) Procedure.

25 (ii) Conduct of delegates, including censure,  
26 suspension or removal.

27 (2) The independent entity shall be authorized to do all  
28 of the following, when required for the conduct of the  
29 business of the convention:

30 (i) Lease or otherwise obtain suitable meeting and

1 office space and to purchase or lease supplies,  
2 equipment, publications and other material necessary for  
3 the work of the convention.

4 (ii) Initiate relevant studies through its own  
5 personnel or in cooperation with any public or private  
6 agencies.

7 (iii) Hold public hearings.

8 (iv) Enter into contracts.

9 (v) Receive from the Commonwealth agencies and  
10 political subdivisions and local agencies assistance  
11 necessary or desirable to carry out properly the powers  
12 and duties under this subsection.

13 (vi) Submit a budget and additional reports to the  
14 General Assembly in sufficient time for the General  
15 Assembly to pass any necessary appropriation act required  
16 by section 12, as needed.

17 (d) Sessions.--The following shall apply:

18 (1) The organizational session shall be adjourned no  
19 later than 5 p.m. on April 4, 2012.

20 (2) Working sessions of the convention shall commence on  
21 May 1, 2012.

22 (e) Sine die adjournment.--The convention shall adjourn sine  
23 die no later than August 2, 2012.

24 Section 6. Function.

25 (a) Scope.--The convention has the power, by a vote of two-  
26 thirds of its elected delegates on final passage, to make  
27 recommendations to the electorate on all subjects contained  
28 within the Constitution of Pennsylvania except for those  
29 prohibited by the citizens through the referendum conducted  
30 pursuant to section 3(a).

1 (b) Reorganization.--In dealing with the subject matter  
2 under subsection (a), the convention may recommend amendment,  
3 addition, deletion, division, transfer, continuation without  
4 change and implementation schedules.

5 Section 7. Manner of submitting proposals to electorate.

6 (a) Convention.--The following shall apply:

7 (1) The recommendations of the convention shall be  
8 submitted to the electorate as determined by the convention.

9 (2) The convention shall frame the ballot question or  
10 questions.

11 (b) Certification.--The changes proposed and the ballot  
12 question or questions shall be certified by the president and  
13 secretary of the convention to the secretary by September 30,  
14 2011.

15 Section 8. Submission to electorate.

16 (a) Secretary.--The following shall apply:

17 (1) The secretary shall publish the Constitution of  
18 Pennsylvania showing the changes proposed by the convention  
19 and any address to the people by the convention, in  
20 convenient printed form and in convenient digital form at the  
21 earliest time practicable after certification.

22 (2) The secretary shall advertise the proposals and  
23 address of the convention in at least two newspapers of  
24 general circulation in every county once during the second  
25 week of October 2012 and once during the fourth week of  
26 October 2012.

27 (3) The secretary shall send a sufficient number of  
28 copies of the printed publication under paragraph (1) to each  
29 county board to satisfy the requirements of subsection (b).

30 (4) Upon request of an elector, the secretary shall send

1 a copy of the publication under paragraph (1).

2 (b) County boards.--Each county board shall make the  
3 publication under subsection (a)(1) available at each polling  
4 place in a quantity equal to the number of voting booths,  
5 terminals or stations at that polling place.

6 (c) Election.--The following shall apply:

7 (1) The recommendations of the convention shall be  
8 submitted to the electors for their approval or rejection at  
9 the municipal election on November 6, 2012.

10 (2) A majority affirmative vote of the electors casting  
11 votes on the ballot question or questions certified under  
12 section 7(b) in the election is necessary for the adoption of  
13 the recommendations of the convention.

14 (d) Certification.--The secretary shall certify the results  
15 of the election by November 29, 2012.

16 Section 9. Lobbying.

17 (a) Delegates.--The following shall apply:

18 (1) Direct lobbying of individual delegates by  
19 organizations or individuals registered as lobbyists within  
20 this Commonwealth on the effective date of this act and for  
21 the duration of the convention, other than meetings between  
22 individual electors of a geographic area and the delegate or  
23 delegates representing the same geographic area, shall be  
24 prohibited.

25 (2) No delegate shall accept any gift, meal, service or  
26 other benefit, or any promise of such in the future, offered  
27 by any party in an effort to influence the outcome of the  
28 convention. Both the offer and acceptance of such a gift,  
29 meal, service or other benefit shall constitute a felony of  
30 the first class.

1 (b) Convention.--The following shall apply:

2 (1) Lobbyists prohibited from lobbying delegates in  
3 subsection (a) (1) shall be permitted to lobby the convention  
4 as a whole by the following methods, all of which shall be  
5 public documents and shall be readily available on the  
6 Internet site that documents the convention:

7 (i) Providing printed reference materials in  
8 quantities sufficient for distribution to all delegates,  
9 subject to any pertinent policies adopted by the  
10 convention.

11 (ii) Providing printed and oral testimony at a  
12 hearing before any committee or subcommittee of the  
13 convention, subject to any pertinent policies adopted by  
14 the convention.

15 (iii) Providing printed reference materials to  
16 committees or subcommittees of the convention in  
17 quantities sufficient for distribution to all delegates,  
18 subject to any pertinent policies adopted by the  
19 convention.

20 (2) The convention shall not accept, on behalf of its  
21 delegates, any gift, meal, service or other benefit, or any  
22 promise of such in the future, offered by any party in an  
23 effort to influence the outcome of the convention. Both the  
24 offer and acceptance of such a gift, meal, service or other  
25 benefit shall constitute a felony of the first class.

26 Section 10. Convention open to public.

27 Sessions of the convention as a whole and all meetings of its  
28 committees and subcommittees shall be open to the public, shall  
29 be recorded in electronic form and shall be made available as  
30 promptly as possible on the Internet at a site dedicated

1 exclusively to the work of the convention.

2 Section 11. Judicial immunity.

3        Provided no portion of the resultant Constitution of  
4 Pennsylvania, duly proposed by the convention and adopted by the  
5 electorate according to the provisions of this act, is found to  
6 be in violation of the Constitution of the United States, no  
7 court of this Commonwealth shall have the authority to overturn  
8 its provisions.

9 Section 12. Appropriation.

10        If the question in section 3(a) is approved by the  
11 electorate, the sum of \$20,000,000 shall be transferred from the  
12 nonlapsing leadership accounts of the General Assembly, in four  
13 equal contributions by the majority and minority caucuses of the  
14 Senate and the House of Representatives, to carry out the  
15 provisions of this act. Further sums required by the convention  
16 to perform its duties, contributed in similar fashion, shall be  
17 provided upon request by the convention in accordance with  
18 section 5(c) (2) (vi).

19 Section 13. Effective date.

20        This act shall take effect as follows:

21            (1) Section 12 of this act shall take effect upon  
22 publication of the notice provided for in section 3(c).

23            (2) The remainder of this act shall take effect  
24 immediately.