



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2017 Wisconsin Act 83
[2017 Assembly Bill 165]

**Appointing Delegates for a
Convention Under Article V of
the U.S. Constitution**

Under Article V of the U.S. Constitution, upon application of the Legislatures of at least two-thirds of the states, Congress must call a convention for the purpose of proposing amendments to the U.S. Constitution. 2017 Wisconsin Act 83 provides that if Congress calls such a convention, then, following the adoption of a joint resolution by both houses of the Wisconsin Legislature, the Legislature and Governor must appoint nine delegates and six alternate delegates to attend the convention as follows:

- The Speaker of the Assembly must appoint three members of the Assembly as delegates and two members of the Assembly as alternate delegates.
- The President of the Senate must appoint three members of the Senate as delegates and two members of the Senate as alternate delegates.
- The Assembly and Senate Minority Leaders must each appoint one member, from the Assembly and Senate, respectively, as delegates and must jointly appoint either a member of the Assembly or Senate as an alternate delegate.
- The Governor must appoint one member of either the Assembly or Senate as a delegate and one member of either the Assembly or Senate as an alternate delegate.

Act 83 requires that each person charged with appointing delegates maintain a list of alternate appointees, in addition to the appointed alternate delegates. A vacancy in the delegation or in the alternate delegation must be filled within 24 hours after the vacancy occurs. The replacement must be appointed by the person who appointed the original delegate or alternate delegate.

The Act prohibits a delegate from voting or taking any other action to consider or approve an “unauthorized amendment,” which the Act defines to mean “a proposed amendment that is outside the scope of the subject matter of the article V application.” If a delegate engages in

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.wisconsin.gov>.

prohibited behavior, the delegation, at the request of any one delegate, may convene to consider removing the delegate who engaged in prohibited behavior and may immediately dismiss the delegate by the approval of a majority of the other appointed delegates. The Chief Clerks of the Assembly and Senate, jointly, must certify, in writing, to an Article V convention the identity of the delegates appointed or dismissed and the filling of any delegation vacancy within 24 hours.

Lastly, the Act requires the Legislature to create a joint committee of correspondence (JCC). The JCC must be comprised of six members, each of whom may not also serve as a delegate to the convention, appointed as follows:

- The Speaker of the Assembly must appoint two members of the Assembly.
- The President of the Senate must appoint two members of the Senate.
- The Assembly and Senate Minority Leaders must each appoint one member, from the Assembly and Senate, respectively.

Delegates must generally direct all communications with the Legislature to the JCC. Specifically, the delegates must communicate with the JCC before taking a vote on any proposal to adopt or modify the rules governing an Article V convention or on any proposed final amendment to the U.S. Constitution.

If the JCC does not make a decision about a proposal to adopt or modify the convention governing rules within six hours of receiving notification from the delegates, then the delegates must presume that the JCC approves. If, however, the JCC decides against the proposal within the six-hour time frame, then the delegates must vote against the adoption or modification of the rules. If the adoption or modification takes effect despite JCC's disapproval, then the delegates may not participate further in the convention.

The Act also requires the JCC to determine whether a proposed final amendment to the U.S. Constitution is an unauthorized amendment, meaning that it is "outside the scope of the subject matter of the article V application." If the JCC determines that the proposed amendment is not unauthorized or if the JCC does not make a decision within six hours of receiving notification from the delegates, then the delegates must presume that the proposed amendment is within the scope of the Article V application and may vote on it. If, however, the JCC decides within the six-hour time frame that the proposed final amendment is an unauthorized amendment, then the delegates may not vote on it and may not participate further in the convention.

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