

By: Representative Eubanks

To: Rules

HOUSE CONCURRENT RESOLUTION NO. 36

1 A CONCURRENT RESOLUTION TO PROVIDE FOR THE SELECTION AND
2 AUTHORITY OF COMMISSIONERS TO ATTEND AN ARTICLE V CONVENTION
3 CALLED FOR PROPOSING AMENDMENTS TO THE UNITED STATES CONSTITUTION.

4 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
5 STATE OF MISSISSIPPI, That this resolution applies to a convention
6 for proposing amendments held under Article V of the U.S.
7 Constitution.

8 BE IT FURTHER RESOLVED, That as used in this resolution:

9 (a) "Advisory committee" means a committee consisting
10 of members selected by each chamber using the process defined in
11 this resolution to perform the duties defined in this resolution.

12 (b) "Chamber" means either the Senate or the House of
13 Representatives of the State of Mississippi.

14 (c) "Commissioner" means a person selected by
15 resolution of the Legislature as provided herein to represent the
16 State of Mississippi at an Article V Convention for proposing
17 amendments.



18 (d) "Commissioning Resolution" means the resolution
19 adopted by the House of Representatives and Senate of the State of
20 Mississippi which sets forth the names of the appointed
21 commissioners and their commissions and instructions.

22 (e) "Delegation" means the group of commissioners and
23 interim commissioners chosen by the Mississippi Legislature to
24 attend an Article V Convention with the powers and duties defined
25 in this resolution.

26 (f) "Interim Commissioner" means a person selected by
27 the advisory committee pursuant to this resolution to fill a
28 vacancy in the delegation.

29 BE IT FURTHER RESOLVED, That at the time of appointment and
30 throughout the Article V Convention, a commissioner:

31 (a) Must be a United States citizen and have been such
32 for at least five (5) years;

33 (b) Must be a resident of the State of Mississippi and
34 have been such for at least five (5) years;

35 (c) Must be at least twenty-five (25) years old;

36 (d) Must be a registered voter in the State of
37 Mississippi;

38 (e) Must not be registered or required to be registered
39 as a federal lobbyist at any time within the last five (5) years;

40 (f) Must not currently be a federal employee, other
41 than a member of the United States armed forces, or contractor,
42 nor have been such at any time within the last ten (10) years;



43 (g) Must not have held a federal elected or appointed
44 office at any time within the last ten (10) years;

45 (h) Must not have had any felony convictions for crimes
46 involving moral turpitude in any jurisdiction, nor any felony
47 convictions for any crime in any jurisdiction within the last ten
48 (10) years; and

49 (i) Must not hold a statewide office while performing
50 the duties of commissioner or interim commissioner. For purposes
51 of this section, a position as a state legislator is not deemed a
52 "statewide office".

53 BE IT FURTHER RESOLVED, That five (5) commissioners shall be
54 named by a resolution passed by a majority of those present and
55 voting in a joint session of the Legislature. All commissioners
56 shall be appointed by this process.

57 The Legislature shall maintain an odd number of commissioners
58 in the delegation.

59 A commissioner or interim commissioner may be recalled and/or
60 removed at any time and for any reason by a joint resolution of
61 the Legislature or by a majority of those present and voting in a
62 joint session thereof; and if the Legislature is not in session,
63 may be recalled and suspended from their duties by the advisory
64 committee, pending a vote of the Legislature.

65 A commissioner or interim commissioner shall be recalled
66 and/or suspended by the advisory committee pursuant to a



67 determination under this resolution that he or she has exceeded
68 the scope of his or her authority.

69 BE IT FURTHER RESOLVED, That the resolution naming the
70 commissioners shall include their commission. The commission
71 shall include, but shall not be limited to, the following
72 components:

73 (a) A commissioner shall not vote for or otherwise
74 promote any change to the traditional convention rule of decision
75 on the floor and in the committee of the whole, to-wit, that each
76 state has one (1) vote.

77 (b) A commissioner shall not vote in favor of any
78 proposed amendment that would alter the text of the specific
79 guarantees of individual liberty established by the United States
80 Constitution, including the original Constitution, the Bill of
81 Rights, and the following amendments to the Constitution:
82 Thirteenth, Fourteenth, Fifteenth, Nineteenth, Twenty-third,
83 Twenty-fourth, and Twenty-sixth.

84 The commissioning resolution shall clearly state the scope of
85 the commissioners' authority, which shall be limited by:

86 (a) If the State of Mississippi was not one of the
87 two-thirds (2/3) of the states applying for the convention, the
88 subject matter enumerated in the thirty-four (34) state
89 applications that triggered the convention; or



90 (b) If the State of Mississippi was one of the
91 two-thirds (2/3) of the states applying for the convention, the
92 subject matter in its application; and

93 (c) Any additional instructions from the Legislature,
94 whether in the commissioning resolution or issued thereafter.

95 The Legislature may provide additional instructions at any
96 time via subsequent resolution, a copy of which the Clerk of the
97 House of Representatives shall provide to each commissioner and to
98 the advisory committee.

99 BE IT FURTHER RESOLVED, That each commissioner shall, before
100 exercising any function of the position, execute the following
101 oath in writing: "I do solemnly swear (or affirm) that I accept
102 and will act according to the limits of authority specified in my
103 commission and any present or subsequent instructions. I
104 understand that violating this oath may subject me to penalties
105 provided by law. I understand that I may be recalled or suspended
106 from my duties by the Legislature or the advisory committee."

107 A commissioner's executed oath shall be filed with the
108 Secretary of State.

109 BE IT FURTHER RESOLVED, That after a commissioner's executed
110 oath is filed with the Secretary of State, the Clerk of the House
111 of Representatives shall provide to the commissioner an official
112 copy of the executed oath and the commissioning resolution, which
113 together shall serve as the commissioner's credentials.



114 BE IT FURTHER RESOLVED, That any vacancies shall be filled by
115 the advisory committee's selection of an interim commissioner
116 until such time as a vote by a joint session of the Legislature
117 shall select a permanent replacement.

118 BE IT FURTHER RESOLVED, That a commissioner shall receive the
119 same compensation as a member of the House of Representatives of
120 the State of Mississippi, prorated for length of time served.

121 A commissioner is entitled to receive the same allowance for
122 expenses as provided to a member of the House of Representatives
123 of this state.

124 BE IT FURTHER RESOLVED, That neither a commissioner nor an
125 interim commissioner shall accept, during his or her time of
126 service, any gifts or benefits with a combined value of more than
127 Two Hundred Dollars (\$200.00), other than from a member of his or
128 her family and of the kind customarily granted by a member of
129 one's family. The term "gift or benefit" shall be construed
130 liberally to include current and future loans, lodging, food,
131 offer of prospective employment, and other actual and prospective
132 benefits. An employer's decision to continue paying a
133 commissioner's current salary shall not be construed to be a gift.

134 BE IT FURTHER RESOLVED, That the commissioners within the
135 delegation, including any interim commissioners filling a vacancy,
136 shall choose from among them a person who shall chair the
137 delegation, a person who shall cast the state's vote on the
138 convention floor, and a person to speak to the mass media on



139 behalf of the delegation. If the delegation so decides, the same
140 person may exercise any two or all three functions. The
141 delegation may designate a different commissioner to perform any
142 function at any time.

143 Each commissioner shall take care to avoid communicating the
144 impression to any person outside the delegation that the
145 delegation is divided on a question on which the delegation has
146 taken a formal position, including, but not limited, to casting a
147 vote.

148 No commissioner other than the one designated to communicate
149 with the mass media on behalf of the delegation shall communicate
150 with the mass media about convention business during the
151 convention or during any temporary recess or temporary
152 adjournment.

153 A commissioner violating this resolution may be suspended or
154 recalled by the advisory committee or by the Legislature.

155 This resolution shall not be construed to prevent a
156 commissioner from presenting his or her opinions to the convention
157 or debating a matter at the convention on which his or her
158 delegation has not formally taken a position.

159 The quorum for decision by the delegation including the
160 designation of commissioners for particular duties and the
161 determination of how the state's vote shall be cast shall be a
162 majority present and voting at the time the delegation is polled.



163 No decisions shall be made and no vote shall be cast if less than
164 a majority of the delegation votes in the poll.

165 The rule of decision for the delegation, a quorum being
166 present, shall be a majority of those present and voting at the
167 time of polling.

168 BE IT FURTHER RESOLVED, That the advisory committee consists
169 of the following members:

170 (a) A State Senator appointed by the President of the
171 Senate;

172 (b) A State Representative appointed by the Speaker of
173 the House; and

174 (c) A member of the Legislature nominated by joint
175 action of the President of the Senate and the Speaker of the House
176 of Representatives and approved by the majority of those voting in
177 each chamber.

178 The advisory committee shall select one of its members as
179 chair.

180 A commissioner may request that the advisory committee advise
181 him or her as to whether a prospective action by the commissioner
182 would violate the commissioning resolution or any subsequent
183 instructions.

184 The advisory committee:

185 (a) Shall communicate to the commissioner requesting
186 such advice a determination within twenty-four (24) hours of
187 receiving the request.



188 (b) May communicate such determination by any
189 appropriate medium.

190 (c) Shall have authority to hire staff and develop
191 appropriate procedures and mechanisms for monitoring the
192 convention, its committees, and subcommittees.

193 BE IT FURTHER RESOLVED, That whenever the advisory committee
194 has reason to believe that a commissioner or interim commissioner
195 has exceeded the scope of his or her authority, the committee
196 shall notify the Speaker of the House, the President of the
197 Senate, and the Attorney General.

198 Upon the request for a determination by the Speaker of the
199 House, the President of the Senate, or the Attorney General on
200 whether a commissioner or interim commissioner has exceeded the
201 scope of his or her authority, the advisory committee shall issue
202 a determination on whether the commissioner or interim
203 commissioner did exceed his or her authority. The determination
204 shall be expeditiously made and immediately communicated to the
205 person requesting it.

206 Upon determining that a commissioner or interim commissioner
207 has exceeded the scope of his or her authority pursuant to this
208 resolution, the advisory committee shall immediately exercise its
209 authority under this resolution to remove said commissioner, and
210 shall communicate said action and the reasons therefor to the
211 Speaker of the House, the President of the Senate, the Attorney
212 General, and the presiding officers of the convention.

