HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

HOUSE JOINT
RESOLUTION 1082 By: Banz of the House

and

Loveless of the Senate

AS INTRODUCED

A Joint Resolution calling a Constitutional Convention to alter, revise, or amend the present Constitution of the State of Oklahoma or to propose a new Constitution; fixing the time and place thereof; providing for selection of delegates to the Convention; providing requirements and restrictions for eligibility; creating a Constitutional Convention Commission; stating purpose; providing for composition; providing for election of officers and organization of the Constitutional Convention; providing oath of office; providing for recall and penalty for violation of oath; providing for employment of staff; providing for rules of procedure; prohibiting consideration of certain provisions of the Constitution; providing for working draft to be considered by the Constitutional Convention; providing voting requirements for certain actions; providing for compensation of delegates; providing for payment of expenses of the Convention; providing for submission of constitutional changes to the voters of the state; providing for submission of this joint resolution to a vote of the people; providing ballot title; and directing filing.

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WHEREAS, Section 2 of Article XXIV of the Oklahoma Constitution requires that a proposal to hold a Constitutional Convention shall be submitted to a vote of the people at least once every twenty (20) years; and

WHEREAS, the last proposal providing for a Constitutional Convention was submitted to a vote of the people March 17, 1970; and

WHEREAS, a State Question to eliminate the requirement that a Constitutional Convention proposal be submitted to the people every twenty (20) years was defeated at the General Election held November 8, 1994; and

WHEREAS, the original Constitutional Convention was comprised of 112 members, with 55 delegates from Indian Territory, 55 delegates from Oklahoma Territory, and two members from Osage tribal land; and

WHEREAS, it is incumbent upon the Legislature to enact a law providing for a Constitutional Convention and to submit said law to a vote of the people; and

WHEREAS, in accordance with court decisions and Attorney General opinions, it is necessary that said law provide the organization of the Convention and the procedure to be followed by the Convention and that said law be signed by the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE 2ND SESSION OF THE 54TH OKLAHOMA LEGISLATURE:

SECTION 1. There is hereby called a Constitutional Convention for the purpose of altering, revising, or amending the current

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Constitution, or to propose a new Constitution for the State of Oklahoma, to be submitted to the people for their approval or rejection.

SECTION 2. The Constitutional Convention shall convene at twelve o'clock noon, July 13, 2015, in Oklahoma City at the State Capitol.

SECTION 3. A. Delegates shall be chosen as follows:

1. There shall be seventy-six delegates selected from the Legislature: fifty-two delegates shall be members of the House of Representatives, twenty-six of whom shall be Democrats and twenty-six of whom shall be Republicans and twenty-four delegates shall be members of the Senate, twelve of whom shall be Democrats and twelve of whom shall be Republicans. Thirteen of the members from the House of Representatives who are Republicans and thirteen of the members from the House of Representatives who are Democrats shall reside west of Interstate Highway 35 (I-35) and thirteen of the members from the House of Representatives who are Republicans and thirteen of the members from the House of Representatives who are Democrats shall reside east of I-35. Six of the members from the Senate who are Republicans and six of the members from the Senate who are Democrats shall reside west of Interstate Highway 35 (I-35) and six of the members of the Senate who are Republicans and six of the members from the Senate who are Democrats shall reside east of I-35. For purposes of this paragraph, if Interstate 35 passes

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through the district of a legislator, the entire district shall be considered to be west of I-35;

2. Fourteen delegates shall be selected by lot pursuant to subsection E of this section from the Executive Department of government agencies, boards and commissions within this state; provided, none shall be statewide elected officials. Seven of the Executive Department delegates shall reside west of Interstate Highway 35 (I-35) and seven of the Executive Department delegates shall reside east of I-35. For purposes of this paragraph, if Interstate Highway 35 passes through a county, other than Payne County, the entire county shall be considered to be west of I-35;

3. Six delegates shall be selected by lot pursuant to subsection E of this section from the Judicial Department of government within this state; provided, none shall be justices or judges subject to statewide retention ballot. Three of the judicial delegates shall reside west of Interstate Highway 35 (I-35) and three of the judicial delegates shall reside east of I-35. For purposes of this paragraph, if Interstate Highway 35 passes through a county, other than Payne County, the entire county shall be considered to be west of I-35; and

4. Sixteen delegates from the public at large shall be selected by lot, pursuant to subsection E of this section. No at-large delegate shall be a statewide elected official. Seven of the at-large delegates shall reside west of Interstate Highway 35 (I-35),

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seven of the at-large delegates shall reside east of Interstate Highway 35 (I-35), and two of the at-large delegates shall be from Osage tribal land. Two of the at-large delegates shall be student body presidents from the two comprehensive state universities; provided, if such person is unable or ineligible to serve in this capacity, a student shall be selected by the president of the university to serve as a delegate. The delegate from the University of Oklahoma shall be one of the seven delegates from west of Interstate Highway 35 (I-35) and the delegate from Oklahoma State University shall be one of the seven delegates from east of Interstate Highway 35 (I-35). For purposes of this paragraph, if Interstate Highway 35 passes through a county, other than Payne County, the entire county shall be considered to be west of I-35.

B. An individual shall be eligible to serve as a delegate if the individual is at least twenty-one (21) years of age and is a qualified elector.

C. Except as provided in paragraph 5 of subsection E of this section, an individual shall be eligible for consideration for selection as a delegate pursuant to only one of the categories provided for in subsection A of this section.

D. No member of Congress from this state or person holding any other federal office shall be eligible to be a delegate.

E. Delegates selected by lot shall be chosen pursuant to the following procedure:

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1. Members of the House of Representatives who wish to serve as delegates to the Constitutional Convention shall submit their names to the Speaker of the House of Representatives. From the list of names submitted, the Speaker of the House shall select two delegates and the Minority Leader of the House shall select two delegates. Names shall be drawn by lot according to procedures established by the Constitutional Convention Commission to select the remainder of the delegates from the House of Representatives. If an insufficient number of Representatives meeting the qualifications required by paragraph 1 of subsection A of this section submit their names for consideration, the Constitutional Convention Commission shall provide for selection of the balance of membership from the membership of the House of Representatives or former members of the House of Representatives, subject to the qualifications provided for in paragraph 1 of subsection A of this section;

2. Members of the Senate who wish to serve as delegates to the Constitutional Convention shall submit their names to the President Pro Tempore of the Senate. From the list of names submitted, the President Pro Tempore of the Senate shall select two delegates and the Minority Leader of the Senate shall select two delegates. Names shall be drawn by lot according to procedures established by the Constitutional Convention Commission to select the remainder of the delegates from the Senate. If an insufficient number of Senators meeting the qualifications required by paragraph 1 of subsection A

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of this section submit their names for consideration, the Constitutional Convention Commission shall provide for selection of the balance of membership from the membership of the Senate or former members of the Senate, subject to the qualifications provided for in paragraph 1 of subsection A of this section;

3. Members of Executive Department agencies, boards and commissions who wish to serve as delegates to the Constitutional Convention shall submit their names to the Governor. Names shall be drawn by lot according to procedures established by the Constitutional Convention Commission. If an insufficient number of individuals from the Executive Department of government meeting the qualifications required by paragraph 2 of subsection A of this section submit their names for consideration, the Constitutional Convention Commission shall provide for selection of the balance of membership from within the Executive Department or from former officers or employees from the Executive Department;

4. Members of the Judicial Department who wish to serve as delegates to the Constitutional Convention shall submit their names to the Chief Justice of the Oklahoma Supreme Court. Names shall be drawn by lot according to procedures established by the Constitutional Convention Commission. If an insufficient number of individuals from the Judicial Department of government meeting the qualifications required by paragraph 3 of subsection A of this section submit their names for consideration, the Constitutional

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Convention Commission shall provide for selection of the balance of membership from within the Judicial Department or from former justices or judges from the Judicial Department; and

5. Members of the public at large shall submit their names to the Lieutenant Governor. Names shall be drawn by lot according to procedures established by the Constitutional Convention Commission. If an insufficient number of individuals meeting the qualifications of paragraph 4 of subsection A of this section submit their names for consideration, the Constitutional Convention Commission shall provide for selection of the balance of membership from persons who have submitted their names pursuant to paragraphs 1 through 4 of this subsection.

F. Persons wishing to serve as delegates shall submit their applications by February 2, 2015. By February 16, 2015, the persons to whom the applications have been submitted shall forward the applications to the Constitutional Convention Commission. Delegates shall be selected by March 2, 2015.

G. There is hereby created a Constitutional Convention Commission. The purpose of the Commission is to develop the form to be used for application to serve as a delegate, establish the procedure for drawing names by lot, supervise the selection process for delegates to the Constitutional Convention, and provide lists of alternates to serve in case of a vacancy. The Constitutional Convention Commission shall be composed of the Governor or a

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designee, the Chief Justice of the Supreme Court or a designee, the Speaker of the House of Representatives or a designee, the President Pro Tempore of the Senate or a designee, a member of the House of Representatives appointed by the Speaker of the House of Representatives, and a member of the Senate appointed by the President Pro Tempore of the Senate. The members appointed by the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall serve as cochairs of the Commission. The Commission shall conduct public hearings prior to the delegate selection process to gather input from the public for issues to be addressed by the Constitutional Convention.

SECTION 4. A. The Secretary of State shall call the Constitutional Convention to order and preside until one of the delegates is chosen President of the Constitutional Convention by vote of the Convention.

B. Prior to the selection of a President, the delegates shall take the following oath to support the Constitution of the United States and to faithfully discharge their duties as delegates:

"I do solemnly swear or affirm that to the best of my abilities, I will, as a delegate to the State Constitutional Convention, uphold the Constitution and laws of the United States of America and the State of Oklahoma. I will not vote to allow consideration of or to approve any unauthorized amendment proposed for ratification to the Oklahoma Constitution."

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Any delegate who violates the oath contained in this subsection, shall be recalled and replaced by the appointing authority and, upon conviction, shall be guilty of a misdemeanor.

C. The Convention may employ staff necessary to assist the delegates in performing their duties.

D. After choosing a President, the Convention shall organize itself and select such other officers as it deems necessary.

E. The Convention may establish rules for the Convention. Any parliamentary question not provided for by the Oklahoma Constitution or the rules of the Constitutional Convention shall be governed by Mason's Manual of Legislative Procedure.

F. A simple majority of the delegates shall constitute a quorum to transact business. A simple majority of the delegates shall be necessary for the adoption of any measure.

G. No article or section of the Constitution that has been added, altered or revised pursuant to the initiative petition process or the legislative referendum process shall be repealed, altered, or revised by the Constitutional Convention.

H. The original Constitution and all amendments added by the initiative petition process or the legislative referendum process by July 13, 2015, shall be the working draft for consideration by the Constitutional Convention. No article of the Constitution shall be reviewed by the Convention for possible alterations, revisions, or amendments, unless the motion to do so receives the approval of two-

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thirds (2/3) of the delegates. Thereafter, any proposed alteration, revision, or amendment to an article shall require a simple majority for adoption. To reverse any previous action taken by the Convention pertaining to an alteration, revision or amendment, two-thirds (2/3) of the delegates must approve the motion.

SECTION 5. The Constitutional Convention shall adjourn sine die no later than June 30, 2016.

SECTION 6. The delegates to the Constitutional Convention shall receive no compensation but shall receive reimbursement for mileage and per diem as provided in the State Travel Reimbursement Act for the time that the Constitutional Convention is in session up to a maximum of ninety (90) days.

SECTION 7. All expenses incurred by the Constitutional Convention acting within the scope of authority as provided for in this resolution and all expenses of holding the election for adoption or rejection of any alteration, revision, or amendment of the current Constitution or proposed new Constitution shall be paid for by the state; and it is made the express duty of the Legislature to provide for payment of the expenses.

SECTION 8. The delegates shall be subject to all rules and regulations promulgated by the Ethics Commission and all state and federal laws to which legislators are subject.

SECTION 9. Any alteration, revision, or amendment of the current Constitution or new Constitution proposed by the

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Constitutional Convention shall be submitted to the electors of the state for adoption or rejection at the General Election to be held in 2016.

SECTION 10. After approval by the Governor, this resolution shall be submitted to the people by the Secretary of State for their approval or rejection at the next General Election.

SECTION 11. The Ballot Title for the proposed question to be put before the people as provided herein shall be in the following form:

BALLOT TITLE

Legislative Referendum No. ____ State Question No. ____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure calls a state Constitutional Convention. It would begin on July 13, 2015. It would end by June 30, 2016. It would review the State Constitution. It could alter, amend, or revise the Constitution. It could propose a new State Constitution. There would be 112 delegates. Seventy-six delegates would be from the State Legislature. Fourteen delegates would be from the Executive Department. They would be from agencies, boards and commissions. Six delegates would be judges. Sixteen members would be from the public at large. Most delegates would be picked by lot. A few delegates would be selected by leadership of the Legislature. Delegates would be paid for travel expenses for each day that the Convention meets.

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Payment is limited. Delegates can be paid for no more than ninety days. Any change in the Constitution or new Constitution must be presented for approval to state voters. This would happen at the General Election in 2016.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL — YES _____

AGAINST THE PROPOSAL — NO _____

SECTION 12. The Chief Clerk of the House of Representatives, immediately after the passage of this resolution, shall prepare and file one copy thereof, including the Ballot Title set forth in SECTION 11 hereof, with the Governor, one copy with the Secretary of State and one copy with the Attorney General.

COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 02/19/2014 - DO PASS, As Coauthored.

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