

1 SENATE BILL NO. 434
2 INTRODUCED BY T. MANZELLA

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ENACTING THE CONSTITUTION SETTLEMENT COMMISSION
5 OF THE STATES."

6
7 WHEREAS, the states created the government of the United States and delegated to it certain powers
8 enumerated in the United States Constitution; and

9 WHEREAS, the states have reserved certain powers to themselves and to individuals; and

10 WHEREAS, from time to time there is disagreement about the nature and scope of powers delegated
11 to the government of the United States by the states in the Constitution; and

12 WHEREAS, as a matter of principle, it is improper for the government of the United States, or any of its
13 branches or agencies, to define the scope of the powers it has been delegated by the states; and

14 WHEREAS, because this compact offers no authority to the Commission to enforce its decisions,
15 participating states do not need to seek permission from Congress to participate in the cooperation described
16 hereunder; rather, the activities agreed to under this compact are done under the authority of the United States
17 Constitution as it has been amended by the First, Ninth, and Tenth Amendments.

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19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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21 NEW SECTION. **Section 1. Enactment -- provisions.** The Constitution Settlement Commission of
22 the States is enacted into law and entered into with all other jurisdictions joining in the compact in the form
23 substantially as follows:

24 SECTION 1
25 STATES DEFINE THE CONSTITUTION

26 The states declare that only the state may ultimately and properly define the nature and scope of the
27 power intended to be and actually delegated to the government of the United States by the states in the United
28 States constitution.

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SECTION 2

COMPACT ESTABLISHED

By compact among the several states, the states establish the constitution settlement commission of the states.

(1) Parties to the compact. Every state which adopts this compact shall remain a member of the compact in good standing as long as that state remains compliant with the duties and responsibilities of a member.

(2) Purpose. The purpose of the commission is to provide a mechanism for a consensus decision from the states concerning what powers the states have granted to the government of the United States in the United States constitution. The purpose is not to overthrow or supplant the government of the United States, but to define its scope, purpose, and power.

(3) Duties. The commission shall render decisions about the nature and scope of power delegated to the government of the United States by the states in the United States constitution.

(4) Decisions final. A decision rendered by the commission is final and may not be amended or overturned by any agent or branch of any state, any agency or branch of the United States, or by any other nation or organization of nations.

(5) Sources of information. The commission may consider any sources of information it wishes, including the wording of the constitution of the United States, the writings and speeches of the founders and others in the founding era, the enactments or recorded debates of congress or state legislatures, the opinions of any United States or state courts, arguments made by proponents or opponents to any question submitted, or any other source. No opinion of the government of the United States, including its courts, or of any state or state court is binding upon the commission.

~~(6) Location. The commission shall maintain its office in or near Denver, Colorado.~~

~~(7)~~(6) Commission formulation; quorum. The commission is comprised of a minimum of nine delegates. Delegates participating from a majority of states joining this compact shall constitute a quorum for the business of the commission.

~~(8)~~(7) Commission attendance. Commission rules must allow commission delegates to participate in commission business physically, or electronically without being physically present, as long as such participation

1 is documented.

2 ~~(9)~~(8) Delegates appointed by states. A single delegate from each compact member state may be
3 selected by the state and must be confirmed by the state senate of each compact member state. A delegate is
4 confirmed for a term of 4 years. No person may serve as a delegate beyond one term. A delegate vacancy shall
5 be filled by the same process. A state senate may make its own rules for nomination and confirmation of the
6 state's delegate to the commission. A state senate may withdraw confirmation of and replace its delegate at any
7 time, and for any reason it deems sufficient. If a state senate should withdraw or replace its delegate to the
8 commission, it must provide documentation of that act to the chief delegate within 10 calendar days of the act.
9 To be properly seated on the commission, every delegate to the commission must present credentials of
10 delegation from the state senate of that state to the commission.

11 ~~(10)~~(9) Delegate eligibility. A delegate must have been a resident and elector of the state for at least
12 10 years immediately prior to appointment before confirmation by the state senate. The states are exhorted to
13 consider persons for delegates who have studied the principles of constitutional government and aspects of
14 state sovereignty and individual liberty, but no participating state may make academic credentials, election to
15 other office, or a license to practice law a prerequisite for a person's nomination as a delegate candidate or for
16 confirmation as a delegate.

17 ~~(11)~~(10) Business year. The business year of the commission shall commence at noon on the second
18 Monday in January of each year. The commission may recess from time to time by a majority of voting
19 members of the commission and will continue through as much of the year as the commission determines in
20 order to consider and decide issues presented to it.

21 ~~(12)~~(11) Selection of interim secretary. On the first day of the first business year, the delegates present
22 shall by majority vote elect a delegate as an interim secretary for the process of seating voting members of the
23 commission and of electing a chief delegate. The interim secretary shall chair the first meeting to select the first
24 chief delegate. In subsequent years, the last chief delegate of the previous year shall chair the first meeting of
25 each term to select the chief delegate.

26 ~~(13)~~(12) Commission chief delegate. On the second day of each business year and under the
27 supervision of the interim secretary for the first day, the seated delegates to the commission shall by majority
28 vote elect one of the delegates as the chief delegate. The chief delegate shall be responsible for the good order

1 of the commission and for the efficient and proper conduct of the commission business for the remainder of the
2 year. Upon election, the chief delegate shall replace the interim secretary. A vacancy in the office of chief
3 delegate may be determined and declared by an affirmative vote of two-thirds of the seated delegates of the
4 commission. In the event of a vacancy in the office of chief delegate, that office shall be filled in the same
5 manner as on the second day of the annual session.

6 ~~(14)~~(13) Other commission officers. The delegates to the commission shall elect or appoint a secretary,
7 who may or may not be a delegate, and who shall be responsible to maintain the records and communications
8 of the commission in good order. The delegates to the commission shall elect or appoint a treasurer, who may
9 or may not be a delegate, and who shall be responsible for the sound conduct of the financial affairs of the
10 commission, including any periodic reports to the commission that the commission may require. The treasurer
11 may be required by the delegates to post a bond for the faithful performance of the treasurer's duties, in an
12 amount and under conditions specified by the delegates. The delegates to the commission may elect or appoint
13 other inferior officials as needed.

14 ~~(15)~~(14) Commission rules. Operating rules for the commission may be adopted by the delegates, which
15 rules may be readopted or amended by the delegates from time to time or for each term. Where commission
16 rules are silent, Mason's Manual of Legislative Procedure shall apply. Until commission operating rules are
17 adopted, the operation and procedures of the commission shall be governed by the rules of the state senate of
18 the first state to enact this compact.

19 ~~(16)~~(15) Delegate participation. Every delegate to the commission may participate in any hearings,
20 discussions, deliberations, and votes of the commission. No delegate in good standing may be excluded from
21 any commission business.

22 ~~(17)~~(16) Submission of questions. A question about proper application of constitutional power proposed
23 or assumed by the government of the United States may be submitted by the governor, the senate, the house,
24 or the attorney general of any member state, by the president, the senate, the house, or the supreme court of
25 the United States, or by a petition signed by 1,000 electors of any one member state. The commission may
26 accept or decline any request to answer any questions posed to it.

27 ~~(18)~~(17) Implementation of decisions. Any decision rendered by the commission may be implemented or
28 disregarded by state members of this compact, and by any other state, however or to whatever extent the state

1 may choose.

2 ~~(19) Payment of commissioners. Every state confirming a delegate to the commission must pay the~~
3 ~~salary and state-determined benefits of that delegate, which amount shall be equal to the amount that state~~
4 ~~pays its governor or the chief justice of its supreme court, whichever the state may choose. A state may pay or~~
5 ~~reimburse the travel expenses of a delegate to and from commission meetings, and reasonable living~~
6 ~~expenses. A delegate may not accept any other compensation for or related to his or her service on the~~
7 ~~commission.~~

8 ~~(20) Payment of commission operating expenses. Every state entering into this compact is obligated~~
9 ~~to pay a share of the costs of operating the commission. To pay for the operating expenses of the commission,~~
10 ~~each compact member state must pay each year no later than the beginning of the annual term of the~~
11 ~~commission three times the total amount that member state pays its governor each year in salary and benefits.~~

12 ~~(21)~~(18) Notice of meetings of delegates. The chief delegate must notify every delegate to the
13 commission of every meeting of the commission at least 5 days in advance of that meeting. Such notice may be
14 by any means approved by the commission, including electronic.

15 ~~(22)~~(19) Attendance at meetings; absence. A delegate may elect to participate in a meeting of
16 delegates by electronic means, which shall be deemed sufficient presence. No proxy votes may be exercised or
17 accepted. Any delegate may be excused an absence by a unanimous vote of other delegates. If a delegate
18 should have three consecutive unexcused absences or a total of ten absences during 1 calendar year, that
19 delegate position may be declared vacant by majority of the other delegates and the position filled by the state
20 senate of the state which appointed the delegate.

21 ~~(23)~~(20) Duration. The duration of this compact shall be perpetual, and the participation of each state
22 adopting the compact shall be until the state repeals the compact adoption. Seating of a state's single delegate
23 to the commission may not be denied as long as the state's delegate is confirmed and documented by the state
24 senate and the state's dues are paid within the time prescribed.

SECTION 3

COMPACT AMENDMENT; WITHDRAWAL

27 This compact is subject to amendment by two-thirds of the states party to the compact. Any state may
28 withdraw from this compact by repeal of its act of joining the compact.

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SECTION 4

PROVISIONAL ORGANIZATION

The speaker of the house of representatives of the first state to enact this compact shall be the interim secretary of the commission for the purpose of identifying other states enacting this compact, and for scheduling and announcing the first meeting of the commission, which meeting must be scheduled to occur within 90 days of the enactment of this compact by the ninth state to enact this compact.

NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as a new part in Title 2, chapter 1, and the provisions of Title 2, chapter 1, apply to [section 1].

- END -

