Author: Peter Rykowski
Date: February 19, 2025



Oppose West Virginia Federal Constitutional Convention Resolutions

Members of the West Virginia Legislature are seeking to pass resolutions applying to Congress to call a convention to propose amendments, under Article V of the Constitution, otherwise known as a constitutional convention (Con-Con).

The following Con-Con resolutions and related bills have been introduced:

- **House Concurrent Resolution 19 (HCR 19)**, which demands Congress to immediately call an Article V convention — based upon a flawed understanding of Article V and a deceptive aggregation scheme that combines every state's application to Congress to call a convention to propose a balanced budget amendment (BBA) to the Constitution, while simultaneously ignoring the resolutions from those states that rescinded (i.e., withdrew) their past BBA Con-Con applications to Congress.
- **House Concurrent Resolution 9 (HCR 9)**, which urges Congress to call a convention to propose an amendment to repeal the 17th Amendment to the U.S. Constitution.
- **House Concurrent Resolution 10 (HCR 10)**, which urges Congress to call a convention to propose an amendment to repeal the 16th Amendment to the U.S. Constitution.
- **House Concurrent Resolution 11 (HCR 11)**, which urges Congress to call a convention to propose an amendment to require federal officials to be natural-born U.S. citizens.
- **House Concurrent Resolution 12 (HCR 12)**, which urges Congress to call a convention to propose an
- Additionally, **House Bill 4444 (HB 4444) and House Bill 5507 (HB 5507)** would ostensibly regulate the appointment and conduct of delegate.

HB 4444 and HB 5507 would be completely useless at preventing a runaway convention — for example, it doesn't regulate delegates from other states, and doesn't prevent delegates from proposing an entirely new constitution (in the 1787 Convention, states also attempted to limit delegates' authority). The bills would merely create a false sense of security that a convention will not get out of control.

Any Article V convention, no matter how well intentioned, could lead to a runaway convention that would reverse many of the Constitution's limitations on government power and interference. In other words, **a Con-Con could accomplish the same goals that many of its advocates claim to be fighting against.** As evidence, both a 2016 and 2023 simulated "Convention of States" resulted in amendments massively increasing the federal government and expanding its spending powers.

When speaking to your legislators, emphasize the following irrefutable facts about an Article V convention for proposing amendments:

1. There is no constitutional authority for a limited convention.
2. There is no guidance on how delegates would be selected.
3. There is no guidance on who could qualify as a delegate.
4. There is no guidance on how many delegates each state could send.
5. There is no provision for stopping a runaway convention.
6. There is no provision for how rules would be established.
7. There is no provision for how rules would be enforced.
8. There is no role provided for the people to play in the process.
9. There is no power provided for the people to stop a convention once it starts.
10. There is no description of the ratification conventions Congress could choose to call.
11. There are no rules governing the ratification conventions Congress could choose to call.
12. There is no means provided for either the states or the people to challenge Congress's choice of the method of ratification.
13. There is no test provided for a qualifying application submitted by a state.
14. The acceptance by one Congress of a state application for a convention does not bind subsequent Congresses from accepting that application.
15. Application for a convention submitted by one state legislature does not prevent subsequent state legislatures from revoking the previous application.
16. All these issues would be challenged in court and would take years to be decided.
17. The issues to be addressed at a convention to propose amendments would likely be moot by the time the challenges reached the U.S. Supreme Court for final adjudication.
18. If 100 percent of registered voters opposed an amendment proposed by a convention, but the requisite number of state legislatures or ratifying conventions (according to the process determined by Congress for consideration of proposed amendments) supported it, then that amendment would become part of the Constitution regardless of the will of the people.
19. The same scenario is true if a proposed amendment were approved by 100 percent of registered voters but rejected by the ratification conventions or state legislatures (according to the process determined by Congress for consideration of proposed amendments).

The late Supreme Court Justice Antonin Scalia understood the danger of a constitutional convention. In 2015, Scalia reiterated his opposition to an Article V convention, stating, **"This is not a good century to write a constitution."** Furthermore, ***what kind of delegates would West Virginia send to such a convention? Constitutionalist conservatives or RINO moderates and liberals?***

In 1979, then-U.S. Senator Barry Goldwater of Arizona correctly warned about an Article V convention:

> If we hold a constitutional convention, every group in the country — majority, minority, middle-of-the-road, left, right, up, down — is going to get its two bits in and we are going to wind up with a constitution that will be so far different from the one we have lived under for 200 years that I doubt that the Republic could continue.

Goldwater considered an Article V Convention threatening to the continuity of the United States' republican form of government. It would be foolhardy and downright reckless to disregard these and other legitimate concerns.

An Article V convention possesses the inherent power to propose ***any*** changes to the U.S. Constitution, including drafting and proposing an entirely new "modern" (i.e., socialist) constitution. Instead, ***the West Virginia Legislature should consider Article VI and nullify unconstitutional laws.***

Furthermore, ***state lawmakers should also consider rescinding any and all previously passed Article V convention applications to Congress, regardless of the desired amendment(s).*** Passing rescission resolutions will help prevent aggregating past Article V convention applications with those from other states to force Congress to call a convention.

Above all, **urge your state delegate and senator to oppose all pro-Article V convention resolutions and related bills, and to instead consider nullification as a safe and constitutional means to limit government.**

The Harsh Reality of a "Convention of States"