

- SUBJECT:** An Article 5 convention for amendments to limit the federal government
- COMMITTEE:** State and Federal Power and Responsibility, Select — favorable, without amendment
- VOTE:** 4 ayes — P. King, Workman, C. Anderson, Clardy
3 nays — Miles, Parker, Walle
- WITNESSES:** For — Jack Galloway, Americans for Integrity in Government; Arthur Bedford, Gary Goff, Paul Hodson, Tom Mast, Efren Molina, Robert Peery, Christopher Rockett, Allen Adkins, Tom Dowdy, Donald Glacy, Allison Tangeman, Martin Harry, Tamara Colbert, Susan Valliant, Wes Whisenhunt, Convention of States Project; Viviano Rodriguez, San Antonio Tea Party; Allen Tharp, San Antonio Tea Party and Convention of States Project; and eight individuals; (*Registered, but did not testify:* Mike Ellerkamp, Convention of States Project; Francine Maness, Joann Juhasz, San Antonio Tea Party; Ray Allen, Shadowsoft/Bruce Stringfellow; Thomas Lindsay, Texas Public Policy Foundation; and eight individuals)
- Against — Shirley Spellerberg, Denton County Republican Assembly; Obert Sagebiel, John Birch Society; Davis Ford; Frank Kuchar; Jon Roland; (*Registered, but did not testify:* Kathleen Brown, Central Texas Tea Party; Cindy Barnett, Eric Vining, Denton County Republican Assembly; David Carter, Janice Carter, Norlene Ckudre, Wilma Smith, John Birch Society; Barbara Harless, North Texas Citizens Lobby; Pat Carlson, Texas Eagle Forum; Michael Pacheco, Texas Farm Bureau; Kelly Holt, The New American; Barbara Lamontagne; Richard Snider)
- BACKGROUND:** Article 5 of the U.S. Constitution requires Congress to call a convention to propose constitutional amendments upon application of the legislatures of two-thirds of the states. Any amendments adopted by an Article 5 convention must be ratified by the legislatures of three-fourths of the states.

The 65th Texas Legislature in 1977 submitted to the federal government H.C.R. No. 31 requesting that Congress prepare and submit to the several states an amendment to the U.S. Constitution providing for a federal balanced budget, or alternatively requesting that Congress call a constitutional convention for the purpose of proposing such an amendment.

DIGEST: HJR 77 would be an application on behalf of the 84th Legislature to Congress for an Article 5 convention for the limited purpose of proposing amendments to the U.S. Constitution to impose fiscal restraints on the federal government, to limit the power and jurisdiction of the federal government, and to limit the terms of office of federal officials and members of Congress.

Unless rescinded by a succeeding legislature, the application would constitute a continuing application in accordance with Article 5 until at least two-thirds of state legislatures had applied for the limited purpose of proposing one or more amendments to the Constitution to impose fiscal restraints on the federal government, to limit the power and jurisdiction of the federal government, and to limit the terms of office of federal officials and members of Congress.

The Texas secretary of state would be directed to forward official copies of the resolution to the president, speaker of the U.S. House of Representatives, president of the U.S. Senate, and all members of the Texas delegation to Congress with the request that the resolution be officially entered in the Congressional Record. The secretary of state also would be directed to forward official copies of the resolution to the secretaries of state and presiding officers of the other state legislatures.

SUPPORTERS SAY: HJR 79 would be an appropriate and necessary measure to help impose restraints on the federal government. The joint resolution would provide for the 84th Legislature to apply to Congress for an Article 5 convention for the limited purpose of proposing amendments that would impose fiscal restraints, add term limits, and limit the powers and jurisdiction of the federal government. Texas would join many other states that are making

the same call.

An Article 5 convention was placed in the Constitution by the Founding Fathers as a tool for states to limit federal power. Despite decades of urging by citizens and elected officials, administrations and Congresses led by members of both political parties have failed to limit the power of the federal government. This has led to staggering national debt and excessive regulation and overreach by the federal government. It is the duty of state legislatures to protect Americans and future generations by reining in an out-of-control federal government and moving power back to state and local governments, which are better positioned to serve the people because they are closer to the people.

The more states that apply for an Article 5 convention over federal budget issues, the more likely Congress is to act. A campaign for a state-led constitutional convention helped persuade Congress to adopt the 17th Amendment, which established the election of U.S. senators by the people.

Fears of a runaway convention are overstated. HJR 77 would limit the Article 5 convention to three specific areas, and delegates to a convention could not deviate from those areas. Additionally, the Texas House on May 6 passed HB 1110 by P. King, which would establish a process for selecting delegates to an Article 5 convention. That bill would guard against the possibility of a wide-open convention by banning Texas delegates from voting on any issue outside the scope of application from Texas. Any delegate who cast an unauthorized vote would find that vote invalidated and their status as a delegate revoked.

A further check on the power of a convention would be the ratification process itself. Because a constitutional amendment would have to be ratified by three-fourths of the states, the states would retain the power to approve any amendment that came out of the convention. It would take only 13 states to stop an unwise or unpopular amendment.

OPPONENTS

HJR 77 would be a dangerous and unnecessary way to address federal

SAY: overspending. Despite the desires of the Texas Legislature to propose one or more amendments to limit federal power, spending, and jurisdiction, an Article 5 convention has the potential to rewrite the Constitution and strip citizens of some of their most cherished rights. Conservative states would not be the only voice in a constitutional convention; liberal states also would participate and could have a vastly different agenda for changing the Constitution. Texans who want to limit the powers of the federal government should focus on electing leaders who would work to impose fiscal restraints and term limits and to restrain federal power and jurisdiction.

A convention under the resolution could be too broad in its focus. The three areas that would be addressed — imposing fiscal restraints on the federal government, limiting the power and jurisdiction of the federal government, and limiting the terms of office of federal officials and members of Congress — could be broadly construed to amend the Constitution in ways not envisioned by this resolution. An application for a convention under Article 5 should delineate specific, carefully crafted proposals for amendments that could be adopted by the convention.

HB 1110 would seek to establish the selection and duties of Texas delegates to a constitutional convention, but that control could not be guaranteed. Congress would be in control of calling the convention and Congress could set the agenda and rules. Congress could decide how many delegates would come from each state and how they would be selected.