

Why an Article V Convention is bad for Texas

HJR 39/SJR2 are broad and vague enough to completely write a new constitution...

Two new constitutions waiting for an Article V Convention...

- From the Ford and Rockefeller Foundations: **The Constitution for the New States of America** (ratified by a referendum called by the POTUS) <http://www.sweetliberty.org/issues/concon/newstates.htm>
- The Revolutionary Communism Party: **The Constitution for the new Socialist Republic of North America** <http://www.revcom.us/socialistconstitution/SocialistConstitution-en.pdf>

Constitution 2020 Movement: <https://www.amazon.com/Constitution-2020-Jack-Balkin/dp/0195387961>

QUESTION:

"What if a real Article V convention proposed amendments with **Un**intended consequences, that INCREASE federal powers; *not* restrict them?"

That's exactly what the Convention of States Project (COSP) "Simulated" convention did - by invitation-only; 137 legislators (96% Republicans), most were authors of COSP applications. [Sep 21-23, 2016].

See 20 min. explanation: <https://www.youtube.com/watch?v=3AjBEsWs6Xo>

Using **the COSP application** [HJR 39 (Rick Miller) and SJR2 (Birdwell)] for the "simulated" convention, the proposals **EXPANDED federal powers** by...

- Expanding Lame Duck Session from 1 month to 2 years in House, 6 years in Senate [Term Limits]
- EXPANDING Power of Federal Administrative Agencies, not currently authorized
- EXPANDING Federal Power; legitimizing legislation by the POTUS and Administrative Agencies and WEAKENING State Power
- "...*limit the power and jurisdiction of the federal government*"
What will be the "great compromise"? Will "limits" increase, or decrease?
- Balanced Budget Amendment
EXPANDING the power to Tax in the Constitution (repeals Art. I sec. 8)
(read the "simulated" proposals on COSP website: <https://tinyurl.com/hwudgtz>)

Balanced Budget Amendment

How will Texas cut 30% of her budget (federal funds) to achieve a federally balanced budget?

Texas already has an application for the Balanced Budget Amendment; along with 25 other states (New Mexico rescinded theirs last week – 2/16/17)....

1977 - HCR 31, 65th R.S - BALANCED BUDGET AMENDMENT– but ONLY in the ABSENCE of A NATIONAL EMERGENCY - all federal appropriations shall not exceed all estimated federal revenues. (DOES NOT PROHIBIT THE RAISING OF TAXES) Two years later, the U.S. was put under a national emergency and we've been that way ever since.

See HCR 31, 65th R.S.:

<https://drive.google.com/file/d/0B5osUEitCWr0NXhxcGI2LWhPZnM/view?usp=sharing>

HB 506 (Phil King) and the engrossed SB 21 (Birdwell)
Delegate Selection to an Article V convention

Proposing to set guidelines for selection of Texas' delegates; *if Congress doesn't issue instructions*, then....

- Half of delegates will be from each chamber (House & Senate), or if the total number be odd, 3/5 from the House and 2/5 from the Senate
- “UNauthorized Vote** – “*A vote determined to be an unauthorized vote is invalid.*” **Article V Oversight Committee** (SB21) to determine whether a vote cast by a delegate or alternate delegate is an unauthorized vote (after the vote is cast). **How will a vote be rescinded?**
- Criminal Penalty** (SB21) of “state jail felony”; a county judge may reduce the sentence to 10 days in a county jail, hardly worth the cost to prosecute.

Delegates can vote to make the proceedings secret – that’s what they did on May 29, 1787 at the federal "amendments" convention where our present Constitution was drafted.

If the proceedings are secret, **the States won’t know what is going on – and can’t stop it.**

And if Delegates vote by **secret ballot** – **the States would NEVER know who did what, making it impossible for States to prosecute Delegates who ignore State instructions.**

All this is why James Madison, Alexander Hamilton, and Supreme Court Justices Arthur J. Goldberg, Warren Burger, and Antonin Scalia warned AGAINST an Article V convention.

Don't fall for this scam. The idea is to deceive you into believing that an Article V convention is safe and Delegates can be controlled. It isn't and they can't.

Delegate Immunities

U.S. Constitution

Article I, Section 6. *The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.*

TEXAS Constitution

Article 3. LEGISLATIVE DEPARTMENT

Sec. 14. PRIVILEGED FROM ARREST. *Senators and Representatives shall, except in cases of treason, felony, or breach of the peace, be privileged from arrest during the session of the Legislature, and in going to and returning from the same.*

The U.S. Senate passed Federal Convention Act of 1973 on July 9, 1973.

“SEC. 7. (c) Delegates shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at a session of the convention, and in going to and returning from the same and for any speech or debate in the convention they shall not be questioned in any other place.”

[also see 2014 CRS report, titled “*The Article V Convention to Propose Constitutional Amendments: Contemporary Issues for Congress*”, page 37] <https://tinyurl.com/mdgqbtq>

An Article V convention will convene under the U.S. Constitution, not the State Constitutions. **Delegates from all states will be vested with plenipotentiary powers.** Texas will have no power over delegates once a convention convenes.

Texas Should Have Confidence in Joining Other States

This year, nine states have killed their Article V convention applications...

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|---|---------------|
| 1. Arkansas | 6. Utah |
| 2. Kansas | 7. Virginia |
| 3. * Montana | 8. Washington |
| 4. New Mexico (rescinded BBA application) | 9. Wyoming |
| 5. South Dakota | |

Delaware (May 2016) Rescinded ALL outstanding applications for an Article V convention.

* **MONTANA**: House Rep Brad Tschida killed his own COSP bill in the House Judiciary Committee on February 16, 2017, after realizing the Constitution isn't broken, therefore **Article V is not the solution.**

Article VI is the solution!

http://montanalegislature.granicus.com/MediaPlayer.php?clip_id=21870&meta_id=192240

Rep. Brad Tschida (R) Bill sponsor's opening remarks 15:00 - 18:20

Rep. Brad Tschida (R) Bill sponsor's closing remarks 1:05:20 - 1:09:25

Constitutional scholar, **Robert Brown's** testimony 31:45 - 37:22

Follow-up questions for constitutional scholar **Robert Brown** 56:30 - 1:05:16

“When an honest man finds he is wrong, he either stops being wrong, or he stops being honest.”

-Richard D. Fry

Identifying the Wrong Problem = The Wrong Solution (everytime)

Gov. Abbott is quoted on his webpage: *“**The constitution itself is not broken.** What is broken is our Nation's willingness to obey the Constitution and to hold our leaders accountable to it.”*

Art V is for correcting errors. Art VI is for holding our leaders accountable to the constitution.

Instead, SUPPORT the Texas Sovereignty Act, HB 2338 (Bell, et al)

Thank you for your time to consider the unintended consequences of an Article V convention to propose amendments.

Respectfully,
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