

SENATE CONCURRENT RESOLUTION NO. 37

Unofficial

Relating to an application to Congress for the calling of an Article V convention of states to propose certain amendments to the United States Constitution which place limits on the federal government.

Whereas, the Founders of our Constitution empowered state legislators to be guardians of liberty against future abuses of power by the federal government; and

Whereas, the federal government has created a crushing national debt through improper and imprudent spending; and

Whereas, the federal government has invaded the legitimate roles of the states through the manipulative process of federal mandates, most of which are unfunded to a great extent; and

Whereas, the federal government has ceased to live under a proper interpretation of the Constitution of the United States; and

Whereas, it is the solemn duty of the states to protect the liberty of our people - particularly for the generations to come - to propose amendments to the United States Constitution through a convention of states under Article V to place clear restraints on these and related abuses of power; and

Whereas, the Ninety-ninth General Assembly of Missouri, First Regular Session, adopted Senate Concurrent Resolution 4, which contained an application for an Article V Convention to propose constitutional amendments identical to those proposed in this resolution, but provided that the application would expire five years after the passage of Senate Concurrent Resolution 4; and

Whereas, it is necessary for each state to provide for the selection of commissioners to attend the Article V Convention:

Now, Therefore, Be It Resolved by the members of the Missouri Senate, One-hundredth General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby apply to Congress, under the provisions of Article V of the United States Constitution, for the calling of a convention of the states limited to proposing amendments to the United States Constitution that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and members of Congress; and

Be It Further Resolved that the General Assembly adopts this application with the following understandings (as the term "understandings" is used within the context of "reservations, understandings, and declarations"):

(1) An application to Congress for an Article V convention confers no power on Congress other than to perform a ministerial function to "call" for a convention;

(2) This ministerial duty shall be performed by Congress only when Article V applications for substantially the same purpose are received from two-thirds of the legislatures of the several states;

(3) The power of Congress to "call" a convention solely consists of the authority to name a reasonable time and place for the initial meeting of the convention;

(4) Congress possesses no power whatsoever to name delegates to the convention, as this power remains exclusively within the authority of the legislatures of the several states;

(5) Congress possesses no power to set the number of delegates to be sent by any states;

(6) Congress possesses no power whatsoever to determine any rules for such convention;

(7) By definition, a Convention of States means that states vote on the basis of one state, one vote;

(8) A Convention of States convened pursuant to this application is limited to consideration of topics specified herein and no other;

(9) The General Assembly of Missouri may recall its delegates at any time for breach of their duties or violations of their instructions pursuant to the procedures adopted in this resolution;

(10) Pursuant to the text of Article V, Congress may determine whether proposed amendments shall be ratified by the legislatures of the several states or by special state ratification conventions. The General Assembly of Missouri recommends that Congress specify its choice on ratification methodology contemporaneously with the call for the convention;

(11) Congress possesses no power whatsoever with regard to the Article V convention beyond the two powers acknowledged herein;

(12) Missouri places express reliance on prior legal and judicial determinations that Congress possesses no power under Article I relative to the Article V process, and that Congress must act only as expressly specified in Article V; and

Be It Further Resolved that this application hereby repeals, rescinds, cancels, renders null and void, and supercedes the application to the Congress of the United States for a constitutional convention under

Article V of the Constitution of the United States by this state in Senate Concurrent Resolution No. 4 as adopted by the Ninety-ninth General Assembly, First Regular Session; and

Be It Further Resolved that the members of the General Assembly hereby adopt the following procedures for the selection of commissioners to attend the Article V Convention called for by this resolution:

Section 1. Selection of Commissioners

When a convention is called to propose amendments to the United States Constitution pursuant to Article V of the United States Constitution, the selection and participation of commissioners from Missouri to such convention shall be governed by this Resolution.

Section 2. Number, Eligibility, and Selection of Commissioners

A. Missouri shall have a number of commissioners equal to the number of congressional districts in the state at the time of the call with one commissioner from each congressional district and a number of alternate commissioners equal to the number of congressional districts in the state at the time of the call with one alternate commissioner from each congressional district.

B. Commissioners and alternates shall be citizens of the State of Missouri and shall otherwise meet the same qualifications necessary to hold office in the Missouri House of Representatives. Commissioners and alternates may include persons holding public office, subject to further limits described below, except that no person will be eligible who is:

- (1) A member of the United States House of Representatives or Senate;
- (2) An employee of the United States;
- (3) An employee or other representative of a contractor with the United States; or
- (4) An elected official holding a statewide office.

Commissioners and alternates are also subject to those existing ethics rules which apply to members of the General Assembly.

C. The House of Representatives and Senate shall select, by adoption of a concurrent resolution, the commissioners and alternates who meet the eligibility requirements described herein and who are submitted to the House of Representatives and the Senate by the Joint Legislative Committee as provided in Section 4 of this resolution. Of the commissioners, at least one-third shall not be sitting members of the

General Assembly. Of the alternate commissioners, at least one-third shall not be sitting members of the General Assembly.

D. A majority of the commissioners shall constitute a quorum for all decisions made by the delegation, and no commissioner may give his or her vote by proxy or otherwise to any other commissioner. The commissioners shall select a chairperson to administer the work of the commissioners.

Section 3. Authority of Commissioners

A. Each commissioner and alternate shall, by oath or affirmation as a condition of participating in the convention, agree to faithfully and impartially discharge all the duties incumbent upon a commissioner, including the duty to abide by instructions established by concurrent resolution of the General Assembly for participation in the convention and the duty to act only within the scope of the General Assembly's application for the convention, if Missouri applied for the convention in which the commissioners are participating. Each commissioner and alternate shall further agree to immediately notify the Joint Legislative Committee if he or she believes that any Missouri commissioner or alternate has violated his or her oath or instructions while participating in the convention.

B. Prior to the Article V Convention, the General Assembly shall consider "Recommended Commissioner Instructions" presented to it by the Joint Legislative Committee as discussed further in Section 4 of this resolution, and shall by concurrent resolution provide duly approved instructions to the commissioners and alternates regarding the scope of matters they may consider and vote on at the convention, including rules of procedure and proposed amendments. Such instructions may be changed by the General Assembly prior to or during the convention. These instructions shall include, but shall not be limited to:

1. An instruction that the commissioners shall not support any voting rule other than the rule whereby each state exercises one vote; and

2. An instruction that on all voting matters at the convention, the decision of a simple majority of the Missouri commissioners shall constitute a single vote for the State of Missouri.

C. Any vote cast by a commissioner or alternate at an Article V convention that is outside the scope of any of the following is an unauthorized vote, and is therefore void:

1. The instructions established by any concurrent resolution adopted under this Resolution or later amending resolutions.

2. Any limits identified in the Missouri General Assembly's application for the convention.

Section 4. Authorization for and Role of the Joint Legislative Committee

A. After or near the time an Article V convention is called, a Joint Legislative Committee shall be duly authorized by the General Assembly for the purposes described in this section. The Joint Legislative Committee shall be comprised of five members of the Senate appointed by the President Pro Tempore of the Senate, with three members from the majority party and two members from the minority party, and five members of the House appointed by the Speaker of the House of Representatives, with three members from the majority party and two members from the minority party, and shall have the initial task of recommending eligible commissioners to the House of Representatives and the Senate for consideration of appointment as commissioners. The Joint Legislative Committee shall submit at least three persons from each congressional district who are eligible, as provided in this resolution, to serve as a commissioner and at least three different persons from each congressional district who are eligible, as provided in this resolution, to serve as an alternate commissioner. The House of Representatives and the Senate shall select a commissioner and alternate commissioner from each congressional district from the names submitted by the Joint Legislative Committee. The Joint Legislative Committee shall also be charged with presenting "Recommended Commissioner Instructions" to the full General Assembly for consideration leading to a concurrent resolution as discussed in Section 3(B) of this resolution. Such Commissioner Instructions will define the scope of matters the Commissioners may consider and vote on at the Article V Convention, including rules of procedure and proposed amendments as discussed more fully in Section 3 of this resolution. All recommendations that secure a simple majority vote of the members of the Joint Legislative Committee present will be deemed approved "Recommended Commissioner Instructions" to be submitted to the General Assembly for its consideration.

B. After commissioners have been selected, the Joint Legislative Committee may recall any commissioner and revoke such commissioner's authority. However, the Joint Legislative Committee may only recall and revoke the authority in the event the commissioner casts or attempts to cast an unauthorized vote as described in this Resolution. The Joint Legislative Committee shall also appoint one of the selected alternates to take the place of a commissioner so recalled. The Joint Legislative Committee shall promptly investigate any notice that a commissioner or alternate has cast an unauthorized vote or otherwise exceeded the scope of the General Assembly's application for the convention or the General Assembly's instructions

to the commissioners. The Joint Legislative Committee shall act to ensure that the commissioners remain faithful to the terms of the convention application and the General Assembly's instructions. Before or during the Article V Convention, the Joint Legislative Committee may advise the commissioners on questions which arise regarding the scope of the convention and the legislative instructions to commissioners.

C. By concurrent resolution, the General Assembly may change or supersede any action of the Joint Legislative Committee or recall commissioners or alternates to the convention, or appoint new commissioners or alternates.

D. The Joint Legislative Committee shall be authorized to conduct its business via telephone or by electronic communication.

Section 5. Conflicts with Convention Rules or Procedures

Should the provisions of this Resolution conflict with the rules or procedures established by the Article V convention, the General Assembly may by concurrent resolution conform these provisions to such rules or procedures; and

Be It Further Resolved that the Secretary of the Senate be instructed to prepare a properly inscribed copy of this resolution for the President and Secretary of the United States Senate, the Speaker and Clerk of the United States House of Representatives, each member of the Missouri Congressional delegation, and the presiding officers of each of the legislative houses in the several states requesting their cooperation.