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LWVSC Testimony H.3007 and H.3008: Balanced Budget and Term Limit Convention Resolutions

The League supports the call of a convention of states under Article V of the U. S. Constitution only under specific conditions [Appendix 1], conditions that are not met in this resolution.

Although supporters of the Convention of States effort (CoS) like to portray the convention process as one in which state resolutions define both process and scope, many respected experts do not agree that this is possible. Those who raise questions about this include the Congressional Research Service (CRS), which has produced multiple reports on questions surrounding Article V, especially those involving the role of Congress. These include:

- an important summary of the historical issues surrounding the Congressional role in a convention,¹
- a companion review addresses contemporary issues for Congress,² and
- a later CRS article describes the status of proposals as of November 15, 2017.³

These assessments by CRS and others by independent constitutional scholars (for example, the American Bar Association⁴ and the Center for Budget and Policy Priorities⁵) make it clear that the convention process is shrouded in legal and political uncertainties. These uncertainties were discussed in considerable detail several years ago in testimony before an earlier House Ad Hoc Committee by Derek Black, Ernest F. Hollings Chair in Constitutional Law at the Joseph F. Rice School of Law, University of South Carolina.

Those who support CoS resolutions argue that the need to submit amendments proposed by a convention to the states for approval is adequate protection against damaging changes in our Constitution. However, we are concerned that well-funded special interests would dominate the national conversation to push state legislative support.

¹ “The Article V Convention for Proposing Constitutional Amendments: Historical Perspective for Congress,” Congressional Research Service. Updated October 22, 2012. <https://crsreports.congress.gov/product/pdf/R/R42592>. Accessed 20 Mar 2021.

² Thomas H. Neale, “The Article V Convention to Propose Constitutional Amendments: Contemporary Issues for Congress.” Congressional Research Service, March 29, 2016. <https://sgp.fas.org/crs/misc/R42589.pdf>.

³ Thomas H. Neale, “The Article V Convention to Propose Constitutional Amendments: Current Developments.” Congressional Research Service. November 15, 2017. <https://fas.org/sgp/crs/misc/R44435.pdf>

⁴ American Bar Association, Special Constitutional Convention Study Subcommittee, Amendment of the Constitution by the Convention Method under Article V (Chicago (?): American Bar Association, 1974)

⁵ Michael Leachman & David A. Super, “States Likely Could Not Control Constitutional Convention on Balanced Budget Amendment and Other Issues,” Center for Budget and Policy Priorities, July 6, 2014, <http://www.cbpp.org/sites/default/files/atoms/files/7-16-14sfp.pdf>.

Further, our national and state politics today are very divided. The process of initiating and conducting a constitutional convention would fuel even greater anger and division. Many in our nation would be unwilling to accept the legitimacy of the process, especially if it is enmeshed in dark money politics, as it surely would be.

However, the potential for a “rogue convention” or a socially and politically disruptive convention process is not our only concern today. We oppose the specific goals of H.3007 and H.3008:

- The LWVUS opposes term limits for members of the US Congress on grounds that “such limits would adversely affect the accountability, representativeness, and effective performance of Congress and, by decreasing the power of Congress, upset the balance of power between Congress and an already powerful presidency.”⁶
- The League encourages sound budgeting in which a progressive system of taxation pays for the work of government. However, the League recognizes that deficit spending is sometimes appropriate and therefore opposes a constitutional mandated balanced budget amendment for the federal government. The League supports deficit spending, if necessary, to stimulate the economy during recession and depression, to meet social needs in times of high unemployment, and to meet defense needs in times of national security crises.⁷

The League of Women Voters of South Carolina asks this subcommittee not to forward H. 3007 and H.3008 with a favorable report.

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Appendix 1.

The following is the position of the League of Women Voters of the United States on Constitutional Convention resolutions, grounded in the positions of constitutional law experts and an intensive national study by state and local Leagues, confirmed by majority vote at LWVUS Convention:⁸

Statement of Position on Constitutional Conventions under Article V of the U.S. Constitution, as announced by the National Board, January 2016:

⁶ *Impact on Issues 2024-26, A Guide to Public Policy Positions.* League of Women Voters of the United States, p. 20. https://www.lwv.org/sites/default/files/2024-12/ImpactOnIssues_2024-FINAL-DIGITAL.pdf

⁷ *Impact on Issues 2024-26, A Guide to Public Policy Positions.* League of Women Voters of the United States, p. 154. https://www.lwv.org/sites/default/files/2024-12/ImpactOnIssues_2024-FINAL-DIGITAL.pdf

⁸ *Impact on Issues 2024-26, A Guide to Public Policy Positions.* League of Women Voters of the United States, June 2020, P 70. https://www.lwv.org/sites/default/files/2024-12/ImpactOnIssues_2024-FINAL-DIGITAL.pdf

The League is concerned that there are many unresolved questions about the powers and processes of an Article V Constitutional Convention. The League believes such a convention should be called only if the following conditions are in place:

A. The Constitutional Convention must be transparent and not conducted in secret. The public has a right to know what is being debated and voted on.

B. Representation at the Constitutional Convention must be based on population rather than one-state, one-vote, and delegates should be elected rather than appointed. The delegates represent citizens, should be elected by them, and must be distributed by U.S. population.

C. Voting at the Constitutional Convention must be by delegate, not by state. Delegates from one state can have varying views and should be able to express them by individual votes.

D. The Constitutional Convention must be limited to a specific topic. It is important to guard against a “runaway convention” which considers multiple issues or topics that were not initiated by the states.

E. Only state resolutions on a single topic count when determining if a Constitutional Convention should be called. Counting state requests by topic ensures that there is sufficient interest in a particular subject to call a Convention and enhances citizen interest and participation in the process.

F. The validity of state calls for an Article V Constitutional Convention must be determined by the most recent action of the state. If a state has enacted a rescission of its call, that rescission must be respected by Congress.

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