



PO BOX 8453, COLUMBIA, SC, 29202, (803) 636-0431, WWW.LWVSC.ORG

## TESTIMONY TO THE CONSTITUTIONAL LAWS SUBCOMMITTEE OF HOUSE JUDICIARY, H. 3676

15 February 2024

The League of Women Voters of the United States opposes bills calling for a constitutional convention under Article V of the U. S. Constitution.<sup>1</sup> These proposals are a threat to every American's constitutional rights and civil liberties. The League also specifically opposes a federal balanced budget amendment.

**ARTICLE V CONVENTIONS:** Since the United States Constitution became effective in 1789 no constitutional convention has been held, for wise reasons. It is unnecessary for single issues and – far more important – Article V of the Constitution provides no language limiting the scope of a convention once it is called. There is no confidence among experts, including several Supreme Court justices who have commented, that restraints can be placed on its powers and processes. Proponents who argue that states can place limits on a convention are not on solid ground. All of our civil liberties and our system of government would be at risk, and that in support of an unwise experiment in federal budgeting.

Proponents claim that the absence of constitutional limits on a convention should present no reason for concern because 38 of 50 states would not agree to something unwise when amendments are returned to them for approval. This assertion is contradicted by the whole history of human experience. From prehistory on, we have abundant examples of large numbers of people deciding to do very unwise things. Familiar examples include the Civil War and World War I.

If we envision amendments generated by a convention being sent back to the states for a vote, it is easy to see how even very damaging amendments might be approved. Prohibition is a case in point. Public sentiment swept to approval an amendment that was very unwise and had to be repealed in only a few years. How many more of these would we face?

**THE BALANCED BUDGET:** The League supports federal deficit reduction but opposes constitutional balanced budget amendments because it is the business of Congress and the President to balance competing interests to develop and approve provisions for federal revenue and expenditures. They can be voted out if we don't like how they do their jobs. Further, the federal budget is not like state budgets and it is even less like household budgets. Our individual households, local governments, and even states don't serve as the ultimate financial backup in a crisis, as the federal government does. The federal government must maintain the flexibility to respond to natural, economic, and national security needs, which often arrive with little warning.

We are also unable to control how Congress might achieve a balanced budget should such an amendment be adopted. Statements by proponents suggest that they believe cuts in social welfare programs and what they

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<sup>1</sup> There are circumstances under which LWVUS positions permit a constitutional convention, but they involve restrictions and reassurances that do not appear to be possible given most interpretations of constitutional language. For example, LWVUS policy calls for conventions limited to a specific topic, but respected constitutional scholars and jurists question whether a convention can be restrained in that way.

regard as a bloated federal bureaucracy can be the answer, returning us to the era before the New Deal brought a level of security to people thrown into poverty by age, economic disasters, or other misfortunes. However, this also is out of the control of convention proponents. Returning our elderly and poor to the desperate conditions that they too often experienced before Social Security, Medicare, and Medicaid were enacted is an ugly prospect that Congress might well reject. Reductions in federal bureaucracy might instead produce more examples like that in recent news, in which we find that the position responsible for coordinating responses to pandemics was vacant just as a new coronavirus threatened us all. That budget savings did not seem very wise as the nation grappled with a new health threat of unknown proportions.

However, if an amendment is enacted, Congress might not share the vision of amendment proponents. Congress could instead simply raise taxes to cover a very large potential deficit.

SUMMARY: South Carolinians representing the full political spectrum in our state have opposed measures similar to this, recognizing the great danger that they pose to our rights as citizens and to our system of government. Attorneys and other lobbyists representing national organizations have come to press legislators for these resolutions. Ex-governors from distant states have flown in to try to influence South Carolina. These supporters provide no real legal assurance that the scope of a constitutional convention can be constrained, because no such assurance is possible.

This tumultuous time in our politics is not appropriate for an experiment with a process that has been considered excessively dangerous for more than 230 years.

The LWVUS 2022-2024 *Impact on Issues* provides our positions on constitutional conventions on pages 62-63, and on a federal budget on pages 134-136. *Impact on Issues* is available at <https://www.lwv.org/impact-issues>.

Contact: Lynn Shuler Teague, Vice President for Issues and Action, LWVSC  
803 556-9802 [TeagueLynn@gmail.com](mailto:TeagueLynn@gmail.com)