

Regular Session, 2010

HOUSE CONCURRENT RESOLUTION NO. 69

BY REPRESENTATIVES LORUSSO, TIM BURNS, CARMODY, CROMER, HENRY,
HOFFMANN, LABRUZZO, LIGI, POPE, SCHRODER, JANE SMITH, AND
TALBOT AND SENATOR CROWE

U.S. CONSTITUTION: Applies to congress to call a convention pursuant to Article V of the U.S. Constitution to propose an amendment regarding a limitation on the authority of congress to pass legislation pursuant to the commerce clause in Article I, Section 8 of the U.S. Constitution

1 A CONCURRENT RESOLUTION

2 To apply to the United States Congress to call a convention, pursuant to Article V of the
3 Constitution of the United States of America, for the sole and limited purpose of
4 proposing an amendment to the Constitution of the United States of America
5 regarding a limitation on the authority of congress to pass legislation pursuant to the
6 commerce clause in Article I, Section 8 of the Constitution of the United States.

7 WHEREAS, Article V of the Constitution of the United States of America mandates
8 that upon the "Application of the Legislatures of two thirds of the several States", congress
9 shall "call a Convention for proposing Amendments"; and

10 WHEREAS, the Legislature of Louisiana deems an amendment to the United States
11 Constitution regarding a limitation on the authority of congress to pass legislation pursuant
12 to the commerce clause in Article I, Section 8 of the United States Constitution necessary
13 for the good of the American people.

14 THEREFORE, BE IT RESOLVED that, pursuant to Article V of the Constitution of
15 the United States of America, the Legislature of Louisiana does hereby submit this
16 application to the United States Congress to call a convention, hereafter in this Resolution
17 referred to as an "Article V convention" or "convention", for the sole and limited purpose
18 of proposing an amendment to the Constitution of the United States of America regarding

1 a limitation on the authority of congress to pass legislation pursuant to the commerce clause
2 in Article I, Section 8 of the United States Constitution.

3 BE IT FURTHER RESOLVED that this application may be rescinded by the state
4 of Louisiana at any time prior to the receipt by congress of applications for an Article V
5 convention on the same subject matter from two-thirds of the states.

6 BE IT FURTHER RESOLVED that this application shall become null and void
7 seven years after the date of final adoption by the Louisiana Legislature.

8 BE IT FURTHER RESOLVED that, upon receipt of applications from two-thirds of
9 the states for an Article V convention regarding a limitation on the authority of congress to
10 pass legislation pursuant to the commerce clause in Article I, Section 8 of the United States
11 Constitution, the Legislature of Louisiana requests and consents to a call by congress for an
12 Article V convention to propose an amendment to the United States Constitution, subject to
13 the following provisions:

14 ARTICLE I

15 Limitation of Authority

16 The power of the delegates to propose any amendment to the Constitution of
17 the United States of America shall be limited, under penalty of nullity, to the subject
18 matters specifically enumerated in the applications from the states for an Article V
19 Convention.

20 ARTICLE II

21 Delegates

22 Section 1. Apportionment

23 Every state shall be allowed one delegate from each of its congressional
24 districts as established at the time congress issues the call for an Article V
25 convention.

26 Section 2. Election

27 (1) Delegates shall be elected by the electors of each district at the
28 congressional election scheduled immediately following the call by congress for the
29 convention.

30 (2) Candidates for delegate shall run without regard to party affiliation.

1 (3) Any candidate receiving a majority of the total votes in a district in the
2 primary election, and any candidate who is unopposed shall be declared elected.

3 (4) If no candidate receives a majority of the votes cast in the primary
4 election, a runoff between the two candidates with the highest number of votes shall
5 be held on the date of the congressional general election immediately following the
6 call by congress for the convention. The candidate receiving the highest number of
7 votes cast in the runoff shall be elected.

8 (5) The secretary of state in each state shall transmit the names of the elected
9 delegates to the archivist of the United States immediately following the certification
10 of election results.

11 (6) The electors in each state shall have the qualifications requisite for
12 electors of the most numerous branch of the state legislature.

13 Section 3. Eligibility

14 (1) No person shall be a delegate who is serving as president or vice
15 president of the United States, a member of the United States Congress, or a member
16 of the federal judiciary.

17 (2) No person shall be a delegate who has not attained the age of twenty-five
18 years and been seven years a citizen of the United States, and who is not, when
19 elected, an inhabitant of that state in which he is chosen.

20 (3) Each state shall be allowed to establish additional residency
21 requirements.

22 Section 4. Term

23 Each delegate shall serve from the time elected until the conclusion of the
24 convention.

25 Section 5. Vacancies

26 In case of vacancy or inability to serve, the respective state legislature may
27 appoint an acting delegate, who shall meet the same eligibility requirements as an
28 elected delegate and who shall have full authority of an elected delegate. An acting
29 delegate shall serve the remainder of the term for which the delegate was elected.

1 Section 6. Privileges and Immunities

2 Delegates shall, in all cases, except treason, felony, and breach of the peace,
3 be privileged from arrest during their attendance at the convention, and in going to
4 and returning from the same; and for any speech or debate in the convention, they
5 shall not be questioned in any other place.

6 Section 7. Campaign Finances

7 All candidates for the position of delegate shall be subject to and comply with
8 the same rules and regulations of campaign finance as candidates for the United
9 States Congress, including but not limited to disclosure requirements and
10 contribution limitations.

11 Section 8. Oath

12 Prior to taking office, each delegate shall take an oath, which shall be
13 prescribed by the rules committee, and shall require each delegate to support and
14 defend the Constitution of the United States of America and abide by the limitation
15 of authority of the Article V convention, as provided in this Resolution.

16 ARTICLE III

17 Rules Committee

18 Section 1. Members

19 Within forty-five days after the election of a state's entire delegation, the
20 delegates from each state shall designate one person from their state delegation to
21 serve as a member of the Article V convention rules committee. If the delegates of
22 a state are unable to agree upon a designee to the rules committee or otherwise fail
23 to designate a person within the time required, the state legislature may designate
24 one person from the state's delegation to serve as a member of the rules committee.
25 The name of each state delegation's rules committee member shall be transmitted to
26 the respective state's secretary of state and to the archivist of the United States
27 immediately following designation.

28 Section 2. Meeting

29 The rules committee shall meet within ninety days after the November
30 election. A majority of the total number of rules committee members shall constitute

1 a quorum. The rules committee shall be governed by *Mason's Manual of Legislative*
2 *Procedure*, except to the extent that and until it adopts other rules.

3 Section 3. Chairperson

4 The delegates of the rules committee shall elect a chairperson from among
5 its members to preside over the committee.

6 Section 4. Procedures

7 The rules committee shall propose the procedural rules of the convention,
8 which rules, including any amendments the convention may adopt, shall become
9 effective upon a favorable vote of a majority of the total number of convention
10 delegates.

11 ARTICLE IV

12 Officers

13 Section 1. Presiding Officer

14 No later than ten days prior to the commencement of the Article V
15 convention, the rules committee shall nominate three delegates for the office of
16 president of the convention. As its first order of business, the delegates of the
17 convention shall elect a president of the convention from among the three nominees
18 of the rules committee by a majority vote of the total number of delegates. The
19 chairperson of the rules committee shall serve as the acting president until a
20 president of the convention is duly elected.

21 Section 2. Officers and Staff

22 The rules committee may create and provide for other inferior officers and
23 staff positions of the Article V convention, as it deems appropriate.

24 ARTICLE V

25 Voting

26 Section 1. Counting of Votes

27 Each delegate shall have one vote.

28 Section 2. Proposing Amendments

29 No amendment shall be proposed to the states for ratification without the
30 favorable vote of at least a majority of the total number of delegates.

1 Section 3. Record of Votes

2 All votes made by delegates shall be recorded in the minutes, journal, or
3 other official, written proceedings of the body, which shall be a public document.

4 Section 4. Prohibited Votes

5 Delegates shall be prohibited from utilizing any manner of proxy voting
6 procedure or secret balloting.

7 ARTICLE VI

8 Time and Place

9 Section 1. Convening Date

10 The rules committee shall fix the convening date for the Article V convention
11 at a time no less than ninety days and no more than two hundred seventy days
12 following the November election.

13 Section 2. Duration

14 The duration of the convention, once commenced, shall not exceed ninety
15 calendar days.

16 Section 3. Location

17 The location of the convention shall be determined by the rules committee.

18 ARTICLE VII

19 Convention Costs

20 Section 1. Salaries and Expenses

21 The delegates and staff shall receive compensation for their services and
22 expenses, to be established by congress, and paid out of the treasury of the United
23 States.

24 Section 2. Operations

25 Congress shall appropriate funds and provide resources necessary for the
26 operations of the Article V convention.

27 Section 3. Failure to Provide Funds

28 If congress fails to provide compensation for the services and expenses of the
29 delegates or for the operations costs of the convention, such costs shall be
30 apportioned to the several states on a pro rata basis according to population.

1 ARTICLE VIII

2 Subpoena Power

3 Section 1. Subpoenas

4 The convention may issue a subpoena to officials of the federal government
5 to compel the attendance and testimony of such witnesses and the production of such
6 books, records, correspondence, memoranda, papers, and documents as it considers
7 necessary and which are germane to the subject matter of the amendments before the
8 Article V convention.

9 Section 2. Vote Required

10 A subpoena may be issued only pursuant to a majority vote of the delegates.

11 Section 3. Exemptions

12 The president and vice president of the United States shall not be subject to
13 the subpoena power of the convention.

14 Section 4. Contempt

15 The failure to comply with a subpoena issued by the convention shall be
16 punishable in the same manner as prescribed for the failure to comply with a
17 subpoena issued by the United States Congress.

18 ARTICLE IX

19 Section 1. Quorum

20 A majority of the total number of delegates shall constitute a quorum to do
21 business.

22 Section 2. Open and Public

23 Every meeting of the delegates at which a quorum is present shall be
24 conducted only in an open and public meeting.

25 Section 3. Notice

26 Public notice of each session of the Article V convention and of any
27 committee meeting shall be given no less than forty-eight hours before the
28 commencement of the session.

- 1 Section 4. Recording and Broadcasting
- 2 All or any part of the proceedings in a public session may be video or tape
- 3 recorded, filmed and broadcast, or broadcast live.
- 4 BE IT FURTHER RESOLVED that a copy of this application be transmitted to the
- 5 speaker of the United States House of Representatives, the president pro tempore of the
- 6 United States Senate, the archivist of the United States, and the Louisiana secretary of state.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Lorusso

HCR No. 69

Abstract: Pursuant to Article V of the U.S. Constitution, the Resolution makes application to congress for the calling of a convention to propose an amendment to the U.S. Constitution regarding a limitation on the authority of congress to pass legislation pursuant to the commerce clause in Art. I, §8 of the U.S. Constitution.

Present U.S. constitution provides two methods for proposing constitutional amendments:

- (1) Congress, by 2/3 vote of both houses, may propose an amendment.
- (2) Congress is required to call a convention for proposing amendments if it receives applications for such a convention from 2/3 of the states.

Present U.S. constitution also provides two methods for ratifying proposed amendments.

Pursuant to option (2) above, proposed Resolution applies to congress for the calling of a convention to propose an amendment to the U.S. Constitution regarding a limitation on the authority of congress to pass legislation pursuant to the commerce clause in Art. I, §8 of the U.S. Constitution.

Proposed Resolution provides that the application for the convention may be rescinded by the state at any time prior to the receipt by congress of applications on the same subject matter from 2/3 of the states and that the application is null and void seven years after the date of final adoption by the legislature.

Proposed Resolution provides that the state's application for an Article V convention is subject to the following provisions with respect to the convention:

- (1) The power of the delegates to propose any amendment is limited, under penalty of nullity, to the subject matters specifically enumerated in the applications submitted by the states.
- (2) Every state selects one delegate per congressional district at the first congressional election after the call. Requires that candidates for delegate run without regard to party affiliation. Provides that the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature. Prohibits the U.S. president and vice president, a member of congress, or a member of the federal judiciary from serving as a delegate. Requires a delegate to be at least 25 years old and a resident of the state from which he is elected and to have been a U.S.

citizen for at least seven years. Authorizes states to establish additional residency requirements.

- (3) Provides that a delegate serves until the conclusion of the convention and that a vacancy is filled by appointment made by the state legislature. Provides that delegates have the privileges and immunities of members of congress. Provides that the campaign finance laws applicable to a candidate for congress apply to a candidate for delegate.
- (4) Provides for a rules committee which is to meet prior to the convention and develop rules to govern the convention. The rules committee is comprised of one delegate from each state chosen by the state's delegation (or by the state legislature if the delegation fails to timely select the rules committee member). The rules proposed by the committee, including any amendments the convention may adopt, become effective upon a favorable vote of a majority of the total number of delegates.
- (5) Provides for officers of the convention. Requires that the rules committee nominate three delegates for president of the convention, from which the convention shall elect its president as its first order of business. Authorizes the rules committee to create and provide for other inferior officers and staff positions.
- (6) Provides that each delegate has one vote, and the proposal of a constitutional amendment requires favorable vote of at least a majority of the total number of delegates. Prohibits any manner of proxy voting procedure or secret balloting.
- (7) Provides that the rules committee designates the convening date of the convention, within specified parameters, and determines its location. Provides that the convention shall not exceed 90 calendar days in length.
- (8) Provides that delegates and staff shall receive compensation and expenses as established by congress and paid out of the U.S. Treasury. Requires congress to appropriate funds and provide resources necessary for the operations of the convention; however, if congress fails to provide compensation and expenses or for operations costs, such costs shall be apportioned to the several states on a pro rata population basis.
- (9) Authorizes the convention, by majority vote of the delegates, to issue a subpoena to federal government officials, except the U.S. president and vice president, to compel attendance and testimony or the production of records and documents which are germane to the subject matter of the convention. Failure to comply with a subpoena is punishable in the same manner as prescribed for failure to comply with a subpoena issued by congress.
- (10) Requires that every meeting of the delegates at which a quorum is present be conducted in an open and public meeting. Requires notice of any convention or committee meeting no less than 48 hours prior to the meeting. Authorizes video or tape recording, filming and broadcasting, and live broadcasting of any meeting.

Requires transmittal of the Resolution to the speaker of the U.S. House of Representatives, the president pro tempore of the U.S. Senate, the archivist of the U.S., and the La. secretary of state.