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Resolution Analysis

Version: As Introduced

Primary Sponsors: Reps. McClain and Riedel

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SUMMARY

- Applies for a federal convention of the states for the purpose of proposing amendments to the U.S. constitution that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and institute term limits for federal offices.
- Specifies that the application is valid only for the purpose of a convention that is limited to considering those topics and only if certain other conditions are met.

DETAILED ANALYSIS

Application for a convention of the states

The resolution applies to Congress for a convention of the states¹ for the purpose of proposing amendments to the U.S. Constitution that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and institute term limits for federal offices. The resolution states that the application is valid only if all of the following conditions are met:

- The application is combined only with other applications from state legislatures that call for a convention for substantially the same purpose;
- The convention is limited to consideration of the topics listed above and does not consider any change to the Bill of Rights;
- Congress does not have power beyond calling the convention and setting a reasonable time and place, does not determine the rules for the governing of the convention, does

¹ U.S. Constitution, Article V.

not set the number of delegates to be sent by each state, and does not name those delegates;

- The state legislatures have the authority to name their delegates to the convention, to provide further instructions to their delegates, and to recall their delegates at any time for a breach of a duty or a violation of the instructions provided;
- Each state receives one vote at the convention.

Article V of the U.S. Constitution requires Congress to call a convention upon the application of the legislatures of at least two-thirds of the states. Then, in order for any amendments proposed by the convention to take effect, the states must ratify them using one of two methods (Congress decides which method will be used): (1) approval by three-fourths of the state legislatures or (2) approval of ratifying conventions in three-fourths of the states. The resolution recommends the first method (ratification by state legislatures).

The U.S. Constitution does not specify how a convention to propose amendments to the U.S. Constitution must be conducted or how its delegates are to be chosen.² Further, the Constitution does not indicate whether the states that apply for a convention may limit the scope of amendments the convention is to propose. A convention of the states has never been held under Article V. If Congress called a convention as a result of the resolution and others like it, and the convention proposed amendments outside the scope of the topics listed in the resolution, it is not clear whether a reviewing court would find the proposed amendments valid.

Transmittal of the resolution

The resolution directs the Clerk of the House of Representatives to transmit copies of the resolution to the President and Secretary of the U.S. Senate, to the Speaker and Clerk of the U.S. House of Representatives, and to each member of the Ohio congressional delegation. The resolution also requires the Clerk to transmit copies of the resolution to the presiding officers of each state legislature, requesting their cooperation.

² Chapter 3523 of the Revised Code contains Ohio's procedure for conducting a ratification convention, but this appears to apply only in the case of a ratification convention necessitated by *Congress* proposing an amendment to the U.S. Constitution, and not to a ratification convention necessitated by *states* proposing an amendment to the U.S. Constitution. See R.C. 3523.01 ("Whenever congress proposes an amendment to the constitution of the United States, and proposes that it be ratified by conventions in the several states . . .").

HISTORY

Action	Date
Introduced	06-17-21
