

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

SJR 1 (Wiener)
Version: March 20, 2025
Hearing Date: April 1, 2025
Fiscal: No
Urgency: No
AWM

SUBJECT

Rescinding previous applications for a federal constitutional convention

DIGEST

This resolution rescinds all applications by the Legislature for the United States Congress to call a convention for proposing amendments to the United States Constitution.

EXECUTIVE SUMMARY

Under Article V of the United States Constitution, the United States Congress must convene a convention for the purpose of proposing amendments to the Constitution if the legislatures of two-thirds of the states (currently, 34 states) apply for a convention. Article V is unclear as to whether the state legislatures' applications can limit the subject matter of amendments proposed once a constitutional convention has been called. Thus, for example, it is unknown whether, if 34 state legislatures called for a constitutional convention to amend the Fourth Amendment, Congress could nevertheless propose amendments on any or all topics. This Legislature has at least seven outstanding applications to Congress for constitutional conventions on specific topics.

This resolution rescinds, nullifies, and supersedes all prior calls by this Legislature for a constitutional convention, thereby preventing California from being counted as one of the 34 state applications necessary to convene a constitutional convention under Article V.

This bill is sponsored by the League of Women Voters of California and is supported by California Common Cause, California Nurses Association/National Nurses United, Courage California, the Ella Baker Center for Human Rights, Hmong Innovating Politics, Inland Empire United, Starting Over Strong, and two individuals. The Committee has not received timely opposition to this bill.

PROPOSED CHANGES TO THE LAW

Existing constitutional law:

- 1) Provides two procedures by which amendments to the United States Constitution may be proposed:
 - a) The United States Congress may propose amendments to the Constitution with a two-thirds vote; or
 - b) On application from the Legislatures of two-thirds of the states, the United States Congress shall call a convention for proposing amendments. (U.S. Const., art. V.)
- 2) Provides that amendments proposed pursuant to either of the procedures in 1) shall be adopted with the assent of three-fourths of the states; assent may be made through ratification by the state Legislatures or through constitutional conventions held in each state, as determined by the United States Congress. (U.S. Const. art. V.)

This resolution:

- 1) Resolves, by the Senate and Assembly of the State of California, jointly, that all applications previously made by the Legislature for the United States Congress to call a convention for proposing amendments to the United States Constitution are hereby rescinded, nullified, and superseded.
- 2) Resolves that the Secretary of the Senate transmit copies of the resolution to specified members of the United States Congress.
- 3) Resolves that the Senate and the Assembly of the State of California request that this resolution be published in the Congressional Record and listed in the official tally of state legislative applications for the United States Congress to convene a constitutional convention.

COMMENTS

1. Author's comment

The damage a Constitutional Convention could do to Californians' basic rights is off the charts. There are no guardrails once a Constitutional Convention has been triggered: Once it begins, extremists could easily hijack it and drive the Convention to strip protections for women, LGBTQ people, workers, immigrants, or any number of other groups, while undermining democracy and locking in the power of the largest corporations on the planet. California must do its part to prevent this chaos, and we must not allow our state's previous calls

for a Constitutional Convention to be co-opted by efforts to throw out the Constitution in pursuit of an extreme right-wing agenda.

2. Article V: how to amend the United States Constitution

Article V of the United States Constitution sets forth two procedures by which the United States Constitution may be amended. In the first, two-thirds of the members of both Houses of the United States Congress may propose an amendment; the proposed amendment is adopted if the Legislatures of three-fourths of the states subsequently ratify the amendment.¹ In the second, the United States Congress is required to call a constitutional convention for proposing amendments when the Legislatures of two-thirds of the states apply for a convention.² An amendment proposed at the constitutional convention is adopted if three-fourths of the states agree to its adoption; Congress may elect to require states to signal agreement through either state Legislative action or by holding state constitutional conventions.³

The second process – in which Congress must hold a constitutional convention at the behest of two-thirds of the state Legislatures – has never been used to amend the United States Constitution.⁴ And because “Article V’s barebones provisions provide little guidance as to the general role of Congress in the convention process,”⁵ there are a number of open legal questions about Congress’s authority once a convention has been called. Of particular relevance for this resolution is the question of whether Congress would be restricted to proposing amendments on the topics listed in the state Legislatures’ applications, or whether, once a convention was called, Congress could propose amendments on any topic.⁶

3. This resolution rescinds all prior calls for Congress to hold a constitutional convention made by the Legislature

Committee staff are aware of seven outstanding calls for a constitutional convention made by this Legislature:

- SJR 7 (Wahab, Res. Ch. 175, Stats. 2023), calling for a convention for an amendment relating to firearms;
- AJR 1 (Gatto, Res. Ch. 77, Stats. 2014), calling for a convention for an amendment relating to corporate personhood, following the *Citizens United v. FEC*⁷ decision.

¹ U.S. Const., art. V.

² *Ibid.*

³ *Ibid.*

⁴ Congressional Research Service, *The Article V Convention to Propose Constitutional Amendments: Contemporary Issues for Congress*, R42589 (updated Mar. 29, 2016), p. 3, available at <https://crsreports.congress.gov/product/pdf/R/R42589/15> (link current as of March 28, 2025).

⁵ *Id.* at p. 6.

⁶ *Id.* at pp. 10-16.

⁷ 558 U.S. 310 (2010).

- AJR1 8 (Dickey, Res. Ch. 8, Stats. 1952), calling for a convention for an amendment mandating the apportionment of federal taxes imposed on the sale, distribution, or use of motor vehicles;
- AJR 26 (Maloney, Res. Ch. 96, Stats. 1949), calling for a convention for an amendment authorizing the United States' participation in a world federal government;
- SJR 22 (Biggar, Res. Ch. 144, Stats. 1935), calling for a convention for an amendment providing that no securities issued by the federal, or any state, government may be exempted from taxation;
- SJR 23 (Olson, Res. Ch. 144, Stats. 1935), calling for a convention for an amendment providing that Congress has the power to regulate hours of labor and set minimum wages; and
- SJR 25 (Sanford, Res. Ch. 73, Stats. 1911), calling for a convention for an amendment authorizing the states to provide for election of senators to the United States Congress by a popular vote.⁸

This resolution rescinds all of these calls for a constitutional convention, along with any other outstanding calls not set forth in this analysis. By rescinding all of the Legislature's calls for a constitutional convention, the Legislature will ensure that California will not be counted as one of the 34 states needed to call for a constitutional convention under Article V.

4. Arguments in support

According to the bill's sponsor, the League of Women Voters of California:

The League of Women Voters has long warned about the inherently dangerous nature of Article V Constitutional Conventions. They come without a clear structure or guidelines, and put every right, civil liberty, and underlying value of our country at risk. There are no limits or guardrails as to what can be changed in the process, and the voices of politicians and well-funded special interests would be elevated above those of ordinary people, opening the door to radical anti-democratic forces and buying access to change the Constitution. Even if called for a limited purpose, there's nothing to guarantee that a Constitutional Convention could be restricted to its original mandate.

The uncertainty surrounding the nature of a constitutional convention cannot be understated. Former Chief Justice Warren Burger once expressed concerns about the ambiguity and danger, noting, "[T]here is no way to effectively limit or muzzle the actions of a Constitutional Convention. The Convention could make

⁸ This call was arguably mooted by the ratification of the Seventeenth Amendment, which provides for the direct election of Senators (*see* U.S. Const., amend. XVII), but given Article V's lack of specificity, better safe than sorry.

its own rules and set its own agenda. Congress might try to limit the Convention to one amendment or one issue, but there is no way to assure that the Convention would obey. After a Convention is convened, it will be too late to stop the Convention if we don't like its agenda." ...

We live in perilous political times where many of our most fundamental rights are at risk. In recent years, congressional leaders and Trump administration allies have repeatedly called for an Article V Convention. They have rallied dozens of states to their cause, presenting an incalculable threat to the Constitutional protections that safeguard the rights of Californians. SJR-1 protects our rights proactively. It's a measure that is especially critical given a federal administration hostile to, and intent on undermining, the civil rights and liberties of all Americans. California's seven open calls for an Article V Constitutional Convention create a pathway to do just that at a scale that could prove truly catastrophic. As just one example, in the first day of his administration, President Trump issued Executive Order 14160 that aims to rewrite the Constitution to strip people born in the U.S. of citizenship if their parents were not citizens.

California's seven previous calls for Article V Constitutional Conventions may be well-intentioned. However, if these calls are not rescinded in the face of a federal administration intent on asserting white supremacy, rolling back progress toward racial justice, and eradicating rights of BIPOC communities, immigrants, LGBTQI+ people, people with disabilities, and women, it would empower the current federal government to dismantle many of the civil rights and liberties that California prioritizes and seeks to protect.

SUPPORT

League of Women Voters of California (sponsor)
California Common Cause
California Nurses Association/National Nurses United
Courage California
Ella Baker Center for Human Rights
Hmong Innovating Politics
Inland Empire United
Starting Over Strong
Two individuals

OPPOSITION

None received

RELATED LEGISLATION

Pending legislation: None known.

Prior legislation: *See* the bullet-pointed list in Part 3 of this analysis.
