

- SUBJECT:** Rescinding certain applications for an Article V convention
- COMMITTEE:** State and Federal Power and Responsibility, Select — committee substitute recommended
- VOTE:** 7 ayes — Darby, Murr, Anchia, Gonzales, K. King, Paddie, Turner
0 nays
2 absent — E. Johnson, S. Thompson
- SENATE VOTE:** On final passage, February 28 — 31-0
- WITNESSES:** For — Bill Eastland; Andy Prior; (*Registered, but did not testify:* Kurt Hyde, Denton County Republican Assembly; Carolyn Galloway, Eagle Forum; Grace Chimene, League of Women Voters of Texas; Will Newton, NFIB/Texas; Barbara Harless, North Texas Citizens Lobby; Jim Reaves, Texas Farm Bureau; Suzanne Carpenter and Nancy True, Texas Liberty Committee; and 12 individuals)

Against — (*Registered, but did not testify:* Yannis Banks, NAACP-Texas; Michael Badnarik; Bill Kelberlau)
- BACKGROUND:** Article V of the U.S. Constitution requires Congress to call a convention to propose constitutional amendments upon application of the legislatures of two-thirds of the states. Any amendments adopted by an Article V convention must be ratified by the legislatures of three-fourths of the states.

HCR 31 by Donaldson, passed in 1977, requested that Congress call a constitutional convention for the specific purpose of proposing a balanced budget amendment, which would provide that the total of all federal appropriations may not exceed estimated federal revenues in the absence of a national emergency.
- DIGEST:** CSSJR 38 would rescind all applications for an Article V convention from

Texas legislators prior to the 85th Legislature, with the exception of the application provided by HCR 31 by Donaldson in 1977.

CSSJR 38 would rescind any application during or after the 85th Legislature if a convention was not called within eight years.

CSSJR 38 would direct the Texas secretary of state to forward official copies of the joint resolution to Congress. The joint resolution would be accompanied by a cover letter requesting that CSSJR 38 be printed in the Congressional Record and that it be referred to the appropriate committees.

**SUPPORTERS
SAY:**

CSSJR 38 would ensure that any convention called under Article V of the Constitution of the United States, and any delegation from Texas to such a convention, would have a clean slate with a clear and focused mandate. Over the years, the Texas Legislature has approved more than a dozen resolutions officially applying to Congress to call an Article V convention, and such applications remain valid until they are rescinded. Thus, if a convention were to be called without the passage of CSSJR 38, any delegation from Texas would have no clear single mandate, possibly leading to proposed amendments that were not in line with the intent of the Legislature.

CSSJR 38 would not in and of itself apply for a convention, but approval of CSSJR 38 would be required for CSSJR 2 by Birdwell to be effective. CSSJR 2 would apply for a convention and is on the May 4 Constitutional Amendments Calendar.

CSSJR 38 would provide an appropriate amount of time before the application would expire. Eight years would give other states enough time to make their applications, should they choose to do so. The Legislature should assess again after a reasonable period of time whether or not an Article V convention was in the best interest of the state, and therefore any applications made should be subject to expiration.

CSSJR 38 appropriately would not rescind the application for a balanced

budget amendment. Recent experience has even more clearly shown that the temptation for out-of-control deficit spending is too strong and must be addressed through a constitutional amendment. Excessive national debt and a large deficit burdens future generations and can be a drag on the economic health of the nation as a whole.

A balanced budget amendment could be drafted such that Congress was able to respond to recessions and crises while being effectively limited. Such an application would clearly reflect the current intent of the Legislature and, as evidenced by HCR 31 by Donaldson in 1977, has been a consistent point of interest of the state for decades.

OPPONENTS
SAY:

CSSJR 38 should be amended so that it would not provide for the expiration of any application issued by the 85th Legislature. Under CSSJR 38, the application would expire in eight years, which is not enough time to allow other states to join Texas in calling for the convention. The need for reform via an Article V convention would not go away, so any application approved by this Legislature should not expire until directly rescinded.

OTHER
OPPONENTS
SAY:

CSSJR 38 would be a step in the right direction, but should also rescind HCR 31 by Donaldson from 1977. Such a balanced budget amendment would eliminate the federal government's ability to respond appropriately to budget cycles when the economy needs a boost. For instance, some economists have concluded that had the amendment gone into effect in fiscal 2012, the effect on the economy would have doubled the unemployment rate. Analogies that suggest the federal government should balance budgets as families do ignore the fact that individuals often take out mortgages or loans for worthy investments.

Many specific programs would be at risk if a balanced budget were to pass. Social Security might have to cut benefits even if it could draw down reserves, as drawing down the reserves would impact the balance of the budget. The Federal Deposit Insurance Corporation and the Pension Benefit Guaranty Corporation also might not be able to respond to failures because liquidating their assets would impact the balance of the budget.

NOTES: CSSJR 38 differs from the joint resolution as received from the Senate in that the committee substitute would provide that any application for an Article V convention from the 85th Legislature expire after eight years, rather than 12 years.