

## **Constitutional Rights and Public Interest Groups Oppose Calls for an Article V Constitutional Convention**

Calling a new constitutional convention under Article V of the U.S. Constitution is a threat to every American's constitutional rights and civil liberties.

Article V convention proponents and wealthy special interest groups are dangerously close to forcing the calling of a constitutional convention to enact a federal balanced budget amendment (BBA). This would be the first constitutional convention since the original convention in 1787 — all constitutional amendments since then have been passed first by Congress and then approved by three-fourths of the state legislatures. There are no rules and guidelines in the U.S. Constitution on how a convention would work, which creates an opportunity for a runaway convention that could rewrite any constitutional right or protection currently available to American citizens.

Under Article V of the U.S. Constitution, a convention can be called when two-thirds of the states (34) petition for a convention to enact amendments to the constitution. States can also rescind their calls by voting to rescind in the state legislature. Just a few states short of reaching the constitutionally-required 34 states to call a convention, Article V and BBA advocates have recently increased their efforts to call a new convention.

An Article V convention is a dangerous threat to the U.S. Constitution, our democracy, and our civil rights and liberties. There is no language in the U.S. Constitution to limit a convention to one issue and there is reason to fear that a convention once called will be able to consider any amendments to the constitution that the delegates want to consider. There are also no guidelines or rules to govern a convention. Due to the lack of provisions in the Constitution and lack of historical precedent, it is unknown how delegates to a convention would be picked, what rules would be in place, what would happen in the case of legal disputes, what issues would be raised, how the American people would be represented, and how to limit the influence of special interests in a convention.

Because there is no way to limit a convention's focus, any constitutional issue could be brought up for revision by a convention. This includes civil rights and civil liberties, including freedom of speech, freedom of religion, privacy rights, the guarantee of equal protection under law, the right to vote, immigration issues, and the right to counsel and a jury trial, among others. Basic separation of executive, legislative, and judicial powers would be subject to revision as well. A convention might not preserve the role of the courts in protecting our constitutional rights. Even the supremacy of federal law and the Constitution over state laws could be called into doubt.

A 2016 *USA Today* editorial<sup>i</sup> correctly stated that calling for a constitutional convention is “an invitation to constitutional mayhem” and “could further poison our politics and hobble American leaders at moments of crisis.” Notable legal scholars across the political spectrum agree. One of the nation's most esteemed constitutional law scholars, Professor Laurence Tribe of Harvard Law School, has said a constitutional convention would put “the whole Constitution up for grabs.”<sup>ii</sup>

Georgetown University Law professor David Super wrote “a constitutional convention would circumvent one of the proudest democratic advances of the last century in America: one-person, one-

vote. Without a precedent, no one really knows how a convention would unfold, but proponents predict that each state would have an equal vote in whatever they got up to.”<sup>iii</sup>

Former Supreme Court Chief Justice Warren Burger shared similar concerns, writing, “[T]here is no way to effectively limit or muzzle the actions of a constitutional convention. The convention could make 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.”<sup>iv</sup>

The late Supreme Court Justice Antonin Scalia also warned of the dangers of a constitutional convention. “I certainly would not want a constitutional convention. Whoa! Who knows what would come out of it?,” Scalia said in 2014.<sup>v</sup>

The undersigned organizations strongly urge state legislatures to oppose efforts to pass a resolution to call for a constitutional convention. We also strongly urge state legislatures to rescind any application for an Article V constitutional convention in order to protect all Americans’ constitutional rights and privileges from being put at risk and up for grabs.

***National organizations:***

African American Health Alliance	Dream Defenders
African American Ministers In Action	Earthjustice
AFSCME Retirees	Eclectablog
Alliance for Justice	Economic Policy Institute
American Federation of Labor and Congress of Industrial Organizations (AFL–CIO)	EMILY’s List
American Federation of State, County and Municipal Employees (AFSCME)	Every Voice
American-Arab Anti-Discrimination Committee	Fair Elections Legal Network
Americans for Democratic Action (ADA)	Faith in Public Life
Asian and Pacific Islander American Vote	Family Values at Work
Bend the Arc Jewish Action	Food Research & Action Center (FRAC)
Brennan Center for Justice	Franciscan Action Network
Campaign Legal Center	Greenpeace USA
Center for American Progress	International Association of Fire Fighters
Center for Community Change	Jobs With Justice
Center for Law and Social Policy (CLASP)	Leadership Conference on Civil and Human Rights
Center for Media and Democracy	League of Women Voters of the United States
Center for Medicare Advocacy	Main Street Alliance
Center for Popular Democracy	Mi Familia Vota
Center on Budget and Policy Priorities	NAACP
Children's Defense Fund	National Asian Pacific American Families Against Substance Abuse
Citizens for Responsibility and Ethics in Washington (CREW)	National Association of Social Workers
Coalition on Human Needs	National Council of Asian Pacific Americans
Common Cause	National Council of Jewish Women
Communications Workers of America (CWA)	National Council of La Raza Action Fund
Community Advocates Public Policy Institute	National Disability Institute
Daily Kos	National Disability Rights Network
Democracy 21	National Education Association (NEA)
Democracy For America	National Employment Law Project (NELP)
	National Fair Housing Alliance

National Korean American Service & Education Consortium (NAKASEC)  
National Partnership for Women & Families  
National WIC Association  
National Women's Law Center  
People Demanding Action  
People For the American Way  
ProgressNow  
Service Employees International Union (SEIU)  
Sierra Club  
Sisters of Charity of Nazareth Congregational Leadership

***State and local organizations:***

Alabama

Fair Housing Center of Northern Alabama

Alaska

Alaska AFL-CIO

Arkansas

OMNI Center for Peace, Justice & Ecology

Arizona

AFSCME 2960  
AFSCME Retirees Chapter 97  
Arizona Advocacy Network  
Phoenix Day  
Southwest Fair Housing Council

California

California Common Cause  
City of Chino Housing Division  
Courage Campaign  
Fair Housing Advocates of Northern California

Colorado

ACLU of Colorado  
America Votes Colorado  
Colorado AFL-CIO  
Colorado Common Cause  
Colorado Ethics Watch  
Colorado Fiscal Institute  
Colorado People's Alliance  
Colorado Sierra Club  
Colorado WINS  
New Era Colorado  
League of Women Voters of Colorado  
Progress Colorado  
SEIU Colorado

Social Security Works  
State Innovation Exchange  
The Arc of the United States  
The Forum for Youth Investment  
The Public Interest  
The Voting Rights Institute  
UNITE HERE  
United Food and Commercial Workers (UFCW)  
Voice for Adoption  
VoteVets Action Fund  
Women's Voices Women Vote Action Fund  
Working America

Connecticut

Common Cause Connecticut  
Connecticut Fair Housing Center, Inc.  
Planned Parenthood of Southern New England  
Holy Family Home and Shelter, Inc

Delaware

Common Cause Delaware

Florida

Common Cause Florida  
Faith in Florida  
Florida Consumer Action Network  
Progress Florida

Georgia

Common Cause Georgia

Hawaii

Americans for Democratic Action Hawaii  
Hawaii Alliance for Progressive Action  
Hawaii Appleseed Center for Law & Economic Justice  
Hawaii Government Employees Association  
Common Cause Hawaii  
League of Women Voters of Hawaii  
League of Women Voters of Honolulu  
League of Women Voters Hawaii Island  
Life of the Land

Idaho

ACLU of Idaho  
Better Idaho  
Idaho AFL-CIO

Illinois

Common Cause Illinois  
Oak Park River Forest Food Pantry  
Project IRENE

Indiana

Common Cause Indiana  
Fair Housing Center of Central Indiana

Iowa

AFSCME Iowa Council 61  
Congregation of the Humility of Mary  
Iowa AFL-CIO

Kansas

Kansas AFL-CIO

Kentucky

Common Cause Kentucky  
Kentucky AFL-CIO

Louisiana

Greater New Orleans Fair Housing Action Center

Maine

Disability Rights Maine  
Maine AFL-CIO

Maryland

ACE-AFSCME Local 2250  
AFSCME Council 3  
AFSCME Council 67  
Baltimore Neighborhoods, Inc.  
Benedictine Sisters of Baltimore  
Common Cause Maryland  
Disability Rights Maryland  
Maryland Center on Economic Policy  
Public Justice Center  
The Xaverian Brothers

Massachusetts

Massachusetts AFL-CIO

Michigan

Common Cause Michigan  
Fair Housing Center of West Michigan  
Progress Michigan

Minnesota

Alliance of Chicanos, Hispanics and Latin  
Americans (Rochester, MN)  
Common Cause Minnesota

Indivisible Minnesota Local  
League of Women Voters of Minnesota  
Minnesota AFL-CIO  
Minnesota Citizens for Clean Elections  
TakeAction Minnesota  
Women & Advocates Minnesota

Mississippi

Mississippi AFL-CIO

Missouri

Vision for Children at Risk

Montana

Montana AFL-CIO

Nebraska

Common Cause Nebraska  
Nebraskans for Civic Reform

New Hampshire

New Hampshire AFL-CIO

New Jersey

CWA Local 1081  
New Jersey Association of Mental Health and  
Addiction Agencies, Inc.  
Monarch Housing Associates

New Mexico

ACLU of New Mexico  
AFSCME Council 18  
Common Cause New Mexico  
League of Women Voters of New Mexico  
New Mexico Hospital Workers Union (1199NM)

New York

CNY Fair Housing, Inc  
Common Cause New York  
Disabled in Action of Greater Syracuse Inc.  
Long Island Housing Services, Inc.  
Schenectady Inner City Ministry  
Solidarity Committee of the Capital District

Nevada

AFSCME 4041  
Culinary Union

North Carolina

Common Cause North Carolina  
Disability Rights North Carolina

Independent Living Resources (Durham, NC)

North Dakota

North Dakota AFL-CIO

Ohio

Cleveland Nonviolence Network

Common Cause Ohio

Equality Ohio

Ohio Voice

ProgressOhio

Toledo Fair Housing Center

Toledo Area Jobs with Justice

Oklahoma

Oklahoma AFL-CIO

Oklahoma Policy Institute

Oregon

Common Cause Oregon

Disability Rights Oregon

Pennsylvania

Bhutanese Community Association of Pittsburgh

Common Cause Pennsylvania

Community at Holy Family Manor (Pittsburgh, PA)

Just Harvest (Pittsburgh, PA)

Rhode Island

Common Cause Rhode Island

South Carolina

South Carolina AFL-CIO

South Dakota

South Dakota AFL-CIO

Tennessee

Nashville CARES

Texas

Clean Elections Texas

Common Cause Texas

Harlingen Community Development Corporation

Utah

Tabitha's Way

Vermont

Downstreet Housing & Community Development

P.S., A Partnership

Virginia

The Commonwealth Institute

Virginia AFL-CIO

Virginia Civic Engagement Table

Washington

Conscious Talk Radio

Washington AFL-CIO

Washington Community Action Network

Fuse Washington

Wisconsin

Access to Independence, Inc. (Madison, WI)

AFSCME Council 32

AFSCME Retirees Chapter 32

Citizen Action of Wisconsin

Common Cause Wisconsin

End Domestic Abuse Wisconsin

Grandparents United for Madison Public Schools

Independence First

League of Women Voters of Wisconsin

Madison-area Urban Ministry

Metropolitan Milwaukee Fair Housing Council

Midstate Independent Living Consultants

One Wisconsin Now

Options for Independent Living Inc.(Green Bay, WI)

School Sisters of Saint Francis (Milwaukee, WI)

Survival Coalition of Disability Organization of Wisconsin

The Arc Wisconsin

The Wisconsin Democracy Campaign

Wisconsin AFL-CIO

Wisconsin Aging Advocacy Network

Wisconsin Coalition of Independent Living Centers,

Wisconsin Community Action Program Association

Wisconsin Council on Children and Families

Wisconsin Democracy Campaign

Wisconsin Faith Voices for Justice

Wisconsin Voices

National Association of Social Workers, WI Chapter

Dominicans of Sinsinawa - Leadership Council

West Virginia

West Virginia Citizen Action Group

Wyoming

Wyoming AFL-CIO

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<sup>i</sup> *USA Today*, “Marco Rubio’s very bad idea: Our view,” January 6, 2016, available at <http://www.usatoday.com/story/opinion/2016/01/06/marco-rubio-constitutional-convention-balanced-budget-editorials-debates/78328702/>

<sup>ii</sup> Michael Leachman & David A. Super, “States Likely Could Not Control Constitutional Convention on Balanced Budget Amendment and Other Issues,” Center for Budget and Policy Priorities, July 6, 2014, available at <http://www.cbpp.org/sites/default/files/atoms/files/7-16-14sfp.pdf>.

<sup>iii</sup> David Super in *The Chicago Tribune*, “Don’t even think about ‘updating’ the Constitution,” March 19, 2017, available at <http://www.chicagotribune.com/news/opinion/commentary/ct-constitutional-convention-amendments-20170319-story.html>

<sup>iv</sup> Letter from Chief Justice Warren Burger to Phyllis Schlafly, June 22, 1988, available at <http://constitution.i2i.org/files/2013/11/Burger-letter2.pdf>.

<sup>v</sup> Marcia Coyle, “Scalia, Ginsberg Offer Amendments to the Constitution,” *Legal Times*, April 17, 2014, available at <http://www.nationallawjournal.com/legaltimes/id=1202651605161/Scalia.-Ginsburg-Offer-Amendments-to-the-Constitution?sreturn=20140421101513>.

*This statement was released in April 2016 and the list of signers was updated in February 2018.*