

Part II The Article V Constitutional Convention

The second part of the study explores some of the aspects of the “Article V Convention” method of amending the constitution, which authorizes the states to apply to Congress for a convention for proposing an amendment or amendments. If the legislatures of two-thirds of the states, (34), apply for a convention, Congress is obliged to convene one. Both the state initiated and the congress initiated methods then require the approval of three-fourths of the states, (38), in order to become part of the Constitution.

There has never been an Article V convention. So why has the Article V Convention been included in the study?

Although never successful, there have been serious attempts to employ this method of amendment, including three concerted efforts in the last century. Two campaigns came very close to meeting the two-thirds for an Article V Convention. In fact, by one analysis, there are now 34 states who have called for an Article V convention on the balanced budget amendment, but the convention has not been called, in large part, due uncertainty about the rules on whether application for such an amendment can be rescinded, and how long they remain in effect.

Moreover, changes in technological possibilities between the mid- twentieth century and today have changed the playing field, and made the success of a movement to call an Article V Convention much more likely. Greatly enhanced level of communications technology and widespread use of social media arguably provide a ready-made infrastructure for emerging advocacy campaigns.

The unresolved issues surrounding such a convention are many, but are concentrated in two major areas:

a. who would develop the rules?

Material gathered by the study committee shows that there are three conflicting views:

- Congress would be in charge of the process
- The States would be in charge of the process
- The conventions would write its own rules and set its own agenda.

There is apparent no definitive answer to this question.

b. what rules should govern the convention?

- Would the convention be free to consider all issues or would it be limited to issues if specified in the applications of the states. If limited, would it be possible for the delegates to take it upon themselves to broaden the scope, creating what is known as a “runaway” convention.
- How would states be represented: by population, according to the number of congressional representatives allocated to each state.
- How would delegates vote: by state or individually.

It is against this background that we will be considering the questions presented in the study. The last of these questions asks whether, given the uncertainty of the processes and procedures