

Federalism and Interstate Relations Committee
House Joint Resolution 2
March 21, 2017

Testimony by:
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Chairman Roegner, Vice Chair Lipps, Ranking Member Leland, and committee members, thank you for allowing me to testify today.

H.J.R. 2 could have a litany of unintended effects. So many that they cannot be listed. The resolution, as written, admits its own shortcomings, attempts to control that which it has no authority to do, ignores history, and ignores the clear language of the U.S. Constitution.

H.J.R. 2 contains limitations for the proposed Article V Convention. The idea that the Convention can be limited to a set of suggestions is a myth. H.J.R. 2 states that Ohio will recall our delegates if they exceed our suggestions. We would have no more power to recall them than we have to recall a U.S. Senator. Even if Ohio instructed them to return, and the delegates chose to do so, though they had no obligation, the Convention would already be meeting. We have no power to end the Convention just because we recall our delegates. The Convention would continue on, with or without Ohio delegates, and could vote on proposed amendments without our presence. If we elected or appointed new delegates, we would have no greater power to control their actions than we had over the first set.

This resolution admits its own powerlessness to control a Convention. If the Convention is limited to the topics listed, why would we need to specify (at lines 79-84) that the Convention could not amend or modify the Bill of Rights? The statement that the application will be void if any change to the Bill of Rights is even considered is meaningless. This body has no power to take back the application for the Convention, or make it contingent upon the delegates' consideration of only what is listed. Further, H.J.R. 2 gives the delegates the direction to propose amendments that limit the power of the federal government. Let's say that the Convention decides that in order to limit the federal government's overreach of power as to regulating firearms, that the 2nd Amendment should be changed to specify that the right to regulate firearms is reserved to the states. This is clearly within the direction of H.J.R. 2 and also amends the Bill of Rights. Any number of proposed amendments could fulfill a listed purpose while simultaneously altering the Bill of Rights. The very fact that H.J.R. 2 can contradict itself and seeks to limit actions of the Convention in ways that it cannot, is reason to vote against it.

H.J.R. 2, at lines 68-70, states that the power to name delegates remains within the authority of the legislatures of the states. No such power exists, therefore it cannot "remain." The delegates to the 1787 Convention were elected by state legislatures, but they were operating under the Articles of Confederation. No power of the state legislatures to elect delegates exists in Article V. While Congress is prohibited from setting the number of delegates, it could decide the process for delegate selection. Congress could require an equal number of representatives from

each party to be delegates. It could require a special election with a majority of the state voting for each delegate, or require that representational districts be created, with a delegate elected for each. Congress could even decide who gets to vote – and it could include residents who are not citizens. There are no rules.

Many respond to these worries by pointing out that three quarters of the states will have to ratify any amendments proposed by the Convention. The 1787 Convention began under a document that required 100% of states to ratify changes. They came out with a document that required ratification by nine of the thirteen states. Our Constitution was ratified under an Article V which did not yet even have authority. Keep that in mind when considering the safeguards extolled by those who support a Convention.

There are no safeguards for Ohio in this process. Please do not vote for this fatally flawed, self-contradicting, and historically uninformed resolution.