



## Texas State Senate Calls for Con-Con

On Wednesday, February 23, by a vote of 24 to 7, the Texas State Senate approved Senate Joint Resolution 1, which calls for a balanced budget amendment to the U.S. Constitution.



The resolution was sponsored and introduced by State Senator Steve Ogden (R-Bryan), the chair of the Senate Finance Committee, who referred to the national debt as "a clear and present danger to our republic."



State Sen. Florence Shapiro (R-Plano), who voted in favor of the bill, declared, "Now, more than ever, a balanced budget amendment is needed. Federal spending is out of control, and Congress has been unwilling to stop the trend on its own."

In addition to the state Legislature, support for the Con-Con resolution came from Governor Rick Perry, who presented the resolution as an emergency item for the Legislature, [issuing the following statement](#) soon after its passage in the State Senate:

I applaud the Texas Senate for taking this important step to reign [sic] in Washington's out-of-control spending, which has put our country on a collision course with economic disaster. We must insist on a balanced budget amendment to the U.S. Constitution, so Washington will be required to exercise the same fiscal restraint that sensible businesses and families have long employed. I look forward to working with members of the Texas House who share the goal of a federal balanced budget amendment to put the U.S. back on the path to fiscal responsibility.

Lt. Governor David Dewhurst also issued [his own statement](#) of support, urging Congress to act:

With a current national debt of \$14.1 trillion and a federal budget deficit of \$1.3 trillion, taxpayers literally cannot afford to wait any longer for Washington to put their fiscal house in order. The resolution passed by the Texas Senate today is intended to apply pressure on Congress to take prompt action on a balanced budget amendment to the Constitution and protect taxpayers from the runaway spending that has plagued Washington for decades.

Historically, the threat of an Article V convention has proved effective in pushing Congress to adopt important Constitutional Amendments such as the Bill of Rights and the direct election of Senators. In the unlikely event that an Article V convention is convened, the Texas Senate included certain safeguards in the resolution, but the ultimate protection is that any amendment to the Constitution requires ratification by three-fourths of the states as well as the overwhelming support of the American people.

Despite Gov. Perry and Lt. Gov. Dewhurst's supportive remarks, the resolution has yet to be passed by the Texas House of Representatives, and in fact has already received strong opposition from



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conservatives throughout the Lone Star State.

### **Conservative opposition to a Con-Con**

Former mayor of Corinth, Texas, and Texas Eagle Forum member Shirley Spellerberg, who is also known as a former radio talk-show host, issued the following the statement before the vote:

Please call ... Lt. Governor Dewhurst's comment line at 512-463-5342 urging defeat of the Senate Joint Resolutions sponsored by Senators Florence Shapiro, Steve Ogden and Jeff Wentworth (all Republicans) and any other ConCon Resolution that may be forthcoming.

Senators Cornyn and Hatch have introduced a Balanced Budget Amendment in the Senate which, if passed, would have to be ratified by three-fourths of the states. Should this BBA fail in the Senate, we still should oppose a ConCon *which could not be limited to only one agenda item.* [Emphasis added.]

Spellerberg went on to warn that a Con-Con had the disastrous potential of becoming a runaway convention, because "there are no rules in the constitution or in any law to limit a ConCon's purpose, procedure, agenda or election of delegates." "A Runaway Convention Carries a Host of Unintended Consequences," she wrote, outlining the following possible consequences:

1. Repeal of the Second Amendment Right to Keep and Bear Arms
2. Repeal of the 10th Amendment, which reads: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."
3. Repeal of the Electoral College in favor of a popular presidential vote
4. Repeal of presidential term limits, which should remain in place
5. Recognition of International Law as a part of our Supreme Court decision-making (which is already being done unconstitutionally)
6. Rewriting of the Fourteenth Amendment to exclude the "under the jurisdiction thereof" phrase to include citizenship for children born to illegal aliens within the United States

"It's a terrible idea[;] it opens the door for radicals to move in and completely rewrite the Constitution," declared Pat Carlson, president of Texas Eagle Forum.

Ken Hoover, a Field Coordinator for the John Birch Society in Texas, explained to *The New American* his opposition to the Con-Con resolution:

The Texas State Senate passed a monstrosity; it passed a so-called "Balanced Budget Amendment" that's got an exception in there for time of national emergency (a broad term that could be used to justify unbalanced wartime spending) with a two-thirds vote of Congress for approval.

?If we roll that back in time to the year 2000 and say it had been recently passed, then we would have never enjoyed a balanced budget given the fact that in that future fiscal years we would be dealing with the aftermath of 9/11. Emotions ran so high — the American people were on a war high for at least five years after that, if not more — and you could see where this [Obama] Administration is as well. Thus there is a perverse incentive in this version of the balanced budget amendment for national emergencies, including war. The definition of a 'national emergency' is so ill defined that it could kick into effect every time the Gulf Coast suffered a hurricane.

Finally it contains an extremely flimsy escape clause. It purports to command Texas to rescind this Con-Con "in the event that a convention to propose amendment(s) to the United States Constitution



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includes purposes other than providing for a balanced federal budget;...” I wonder if our lawmakers have forgotten the rules of grammar! The ‘s’ means plural! A convention “to propose amendments to the United States Constitution” by Article V’s description alone would naturally be expected to consider amendment(s) other than or in addition to a Balanced Budget Amendment. Likewise, the only way that Texas could determine if such a convention was veering away from its ‘mandate’ would be for to wait until the Convention was convened by Congress. At that point the time for state rescission would be long over for the cow would be out of the barn and over the hill to the neighbor’s pasture! The only recourse left to Texas then would be to withdraw its delegates and allow the other 49 states to decide for them!

He called the bill “more dog and pony show from the Texas Legislature rather than substance [and] ... solutions. It’s all about feel-good, look-good politics.”

Another problem that Hoover sees with the BBA bill is that not only does it lack language to prevent taxes from being raised, but in fact it compels it – referring to the following section of the SJR 1, which states:

WHEREAS, A balanced budget amendment would require the government not to spend more than it receives in revenue and compel lawmakers to carefully consider choices about spending and taxes; by encouraging spending control and discouraging deficit spending....

When asked what John Birch Society members in Texas were doing in regard to the bill, Hoover answered that they would “put on a stronger offensive and get the Texas House of Representatives to stop this and keep this from going any further.”

Additional conservative opposition to a Balanced Budget Amendment comes from Campaign for Liberty scholar and Austrian economist Thomas E. Woods, who wrote in his book [Rollback: Repealing Big Government Before the Coming Fiscal Collapse](#) (2011):

Balanced budget amendments are a waste of time. There is no way they could be worded that the federal government could not find some way to evade. Faced with a balanced budget amendment, the federal government will simply take more and more expenditures off budget.

In regards to the Con-Con issue, since the early 1980s both The John Birch Society and Phyllis Schlafly’s National Eagle Forum have warned against a Con-Con, recognizing the inherent dangers that can accompany such a proposal. Their efforts are not without precedent: The dangers of a second Constitutional Convention were also recognized by the “Father of the Constitution,” James Madison.

### **James Madison’s warnings of a Con-Con**

Following the conclusion of the Philadelphia Convention, Madison feared an attempt by the Anti-Federalists to use Article V as a hostile means to commandeer and destroy the newly-formed Constitution. On June 17, 1788, he made his concerns known to Alexander Hamilton in the form of a letter, in which he predicted: “My conjecture is that exertions will be made to engage 2/3ds of the Legislatures in the task of regularly undermining the government.”

Much like the most recent call by Texas for a Con-Con, in 1788 both New York and Virginia also made similar petitions to Congress for a new Constitutional Convention. As expected, those calls solicited a prompt response from Madison, who wrote the following letter to George Lee Turberville, dated Nov. 2, 1788, warning against such a proposal:

If a General Convention were to take place for the avowed and sole purpose of revising the Constitution, it would naturally consider itself as having a greater latitude than the Congress.... It



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would consequently give greater agitation to the public mind; an election into it would be courted by the most violent partisans on both sides ...[and] would no doubt contain individuals of insidious views, who, under the mask of seeking alterations popular in some parts ... might have the dangerous opportunity of sapping the very foundations of the fabric.... Having witnessed the difficulties and dangers experienced by the first Convention, which assembled under every propitious circumstance, I should tremble for the result of a second meeting in the present temper in America.

Later that year, on December 12, Madison again warned of a new convention, writing of the need of Congress to “secur[e] the Constitution against the hazardous experiment of a Second Convention.”

Constitutionalists and other conservative advocates of liberty would be prudent to adhere to the original intent of the Constitution — and recognize, as did Madison, how drastically jeopardized America's republican form of government would be if its founding document were opened to alteration by way of an Article V convention.



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