



## Legislation Summary:

### Resolutions for a United States Constitutional Amendment and a limited amendment proposing convention

Initial bill number(s): H.3502/S.2319

Sponsors: Rep. Carmine Gentile, Sen. James Eldridge

#### What the bill does, why LWVMA opposes it, and the League position relative to this bill.

These resolutions call on the U.S. Congress to propose an amendment to the U.S. Constitution to address concerns about the integrity of our elections and the ability of the people to participate in effective self-government arising from the U.S. Supreme Court decision, *Citizens United v. FEC*. If Congress refuses to draft and pass an amendment within six months, the resolutions become a call from Massachusetts for an Article V convention to amend the Constitution. The proposal contains several provisions seeking to limit what such a convention could do under this resolution.

The national League of Women Voters strongly opposes any efforts to call for a Constitutional Convention under Article V of the U.S. Constitution until specific conditions governing such a convention are in place. The League of Women Voters of Massachusetts therefore opposes these resolutions.

Like the proponents of these resolutions, the League objects to the Supreme Court ruling in the *Citizens United* case, noting in 2010 that the decision “has the potential to allow corporate wealth to dominate our elections for years to come.” We support efforts to reform the campaign finance system to limit the power of dark money, to require full and complete disclosure of donors, to encourage small donations, and to move toward public funding of election campaigns. Much of that work could be done by legislation. Should a constitutional amendment be proposed, the League would recommend it be adopted by the process used for every other amendment to our Constitution—passage by Congress and ratification by three-fourths of the states. The League at the national level has not currently taken a position on any specific proposals for Constitutional amendments addressing campaign finance issues.

There is no precedent for an Article V Constitutional Convention, and despite the best efforts of the proponents of these resolutions to spell out limits to such a convention, there is no guarantee such limits would be legally binding.

Former Supreme Court Chief Justice Warren Burger stated, “[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. After a Convention is convened, it will be too late to stop the Convention if we don’t like its agenda.”

The League's concerns over the damage a Constitutional Convention could do to voting rights, basic civil rights, the balance of power between the three branches of government, and every other part of the U.S. Constitution led us to adopt a national position in 2016 that the following conditions must be in place before a Constitutional Convention is called:

- The Constitutional Convention must be transparent and not conducted in secret. The public has a right to know what is being debated and voted on;
- Representation at the Constitutional Convention must be based on population rather than one-state, one-vote, and delegates should be elected rather than appointed. The delegates represent citizens, should be elected by them, and must be distributed by U.S. population;
- Voting at the Constitutional Convention must be by delegate, not by state. Delegates from one state can have varying views and should be able to express them by individual votes;
- The Constitutional Convention must be limited to a specific topic. It is important to guard against a "runaway convention" which considers multiple issues or topics that were not initiated by the states;
- Only state resolutions on a single topic count when determining if a Constitutional Convention should be called. Counting state requests by topic ensures that there is sufficient interest in a particular subject to call a Convention and enhances citizen interest and participation in the process;
- The validity of state calls for an Article V Constitutional Convention must be determined by the most recent action of the state. If a state has enacted a rescission of its call, that rescission must be respected by Congress.<sup>1</sup>

Unless and until Congress enacts legislation establishing legal parameters for an Article V Constitutional Convention, the League opposes any calls for such a convention.