



Written by [Kelly Holt](#) on June 9, 2015

## Defeat of Con-Con in Texas Will Spur Other State Efforts

In Texas, we've affectionately dubbed the state's biennial legislative meeting the "Lege." But by Lege's end, one group wasn't feeling the love. A highly contentious issue over, of all things, the U.S. Constitution was responsible.

Of all the important measures considered this year, the proposal of an Article V constitutional convention (or "con-con") was perhaps the least understood among Lege watchers.



The effort calls for a national convention to propose new amendments to the U.S. Constitution. But by the June 1 adjournment of the Texas legislature, proponents of the effort were fuming over the measure's failure, while those in opposition were preparing to saddle up for the real work: educating more folks on the dangers of such a convention.

One well-placed legislative aide quipped that he was bumfuzzled by the sheer number of bills filed this session, particularly those dealing with an Article V convention, given the make-up of this year's body. Why? This year's crop is believed to be more conservative than ever, wanting less government and fewer regulations, so one would think the body would reflect that, right? But this batch filed *more* bills than previous legislatures of a more liberal bent. Go figure. State Representative David Simpson called it "an avalanche of bills," this year's total clocking in at 6,276.

As to the article V convention, supporters and critics agree that Americans face grinding national debt, a combative executive branch, spineless congressional members, and government gone off the rails. So the solution offered by a con-con seems at first glance a quick fix for an urgent problem.

But opponents point out that such a convention could put at risk the solid tenets of the nation's founding document.

[Article V](#) of the U.S. Constitution, and the ensuing debate surrounding a call for another constitutional convention have been [extensively examined](#) by *The New American* for over three decades. While the idea's not new, this latest round of activity exposes an unprecedented level of organization by national groups to garner sufficient support for a convention. Indeed, it could now be called a movement.

So what happened in Texas? The state has long been considered critical for the con-con movement's success. A bellwether state, it has a biennial legislature, so it was more than a little important to proponents of the measure that it pass Lone Star muster this year — that is, if national momentum wasn't to be lost.

Well-organized national groups such as WolfPac, Americans for Congressional Reform, the Madison Coalition, and Compact for America, all had a presence in the Texas capital of Austin this year, but none had the high profile exhibited by the additionally well-funded Convention of the States (CoS, a project of Citizens for Self-Governance), which had been lobbying lawmakers for 18 months preparing for 2015's opening day.



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Despite the pro-con-con pressure, T.J. Scott, a well-known state Republican activist, Travis County precinct chair, and former member of the State Platform Committee, doesn't see Congress abiding by any new amendments resulting from an Article V convention. He declared,

They don't live by the document as it is! One of the goals of Article V convention folks is a Balanced Budget Amendment. Well, we have that in Texas, but we have the third largest debt in the nation. How does that happen if you have a law requiring a balanced budget? Off-budget items is how! The federal government will use smoke and mirrors to circumvent a balanced budget, just like happens in Texas.

I don't think these reps [authors of Article V bills] really believe a convention will solve the problem, but they'll be able to say they tried. I've questioned Paul Workman (R) [author of HJR 79, a bill calling for a convention for the purpose of proposing a Balanced Budget Amendment to the U.S. Constitution] about the Balanced Budget Amendment, and how it doesn't work in Texas. He waffles and can't answer how it will be any better at the federal level.

Eight (depending on your count) different bills relating to an Article V convention were filed and entered the legislative pipeline. But as the initial committee hearings got underway, critics say some interesting things began to happen.

The first hearing in the House State and Federal Power and Responsibility Committee, limited to invited "expert" testimony (not the public), involved speeches from five witnesses, four of whom were in favor of an Article V convention, and were also *from states other than Texas*. Of those four, three witnesses didn't get the measure passed in their own states, and the fourth voted for TARP — hardly something you'd want on your curriculum vitae when advocating the goal of fiscal responsibility in someone else's state.

The presence of out-of-state witnesses (added to contacts in representatives' offices from out-of-state volunteers) was a puzzler — until one considers the fact that a concerted national effort is needed to achieve simultaneous passage of con-con bills in the required 34 states.

Left unanswered is why state representatives should be influenced by anyone other than their own constituents.

And more than a few eyebrows were raised about the fact that the committee chairman, Representative Phil King, is also a national chair of [ALEC](#) (the American Legislative Exchange Council), which advocates a constitutional convention. And so the fact that King was hearing his own bill in a committee he chairs, for the very goals pushed by ALEC, had some pundits observing that it was simply too close to a conflict of interest for comfort.

Be it noted also, that while CoS decidedly claims a "convention of the states" is *not* the same thing as a constitutional convention, Representative King himself used the terms interchangeably in the authorship of *his* con-con bill — one of those being considered.

About mid-session, a different late-night committee hearing was cancelled for lack of a quorum. That left representatives from WolfPac, who had flown from the East Coast to testify, seething. Understandably, if you fly that far, you want to be heard. The Texas state director acted admirably to calm the situation. None of WolfPac's supporters opted to talk with *The New American*. The group has its own Article V agenda, one to promote free and fair elections, with a goal of "starting the conversation." WolfPac's policy, however, is not to engage other media, and the East Coasters were left to try another day. But the possibility the committee would be influenced by even more outsiders began



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to irk attendees.

Supporters of the effort for a constitutional convention claim to be largely conservative Republicans, but the issue divided both chambers regardless of party or ideology. One weary Democrat had the most practical objection we heard all session: “If these well-organized groups put all the effort they’ve spent in organizing this toward actually electing good representatives, we wouldn’t need this thing.”

The general tenor of Article V cheerleaders is one of urgency driven by a “last, best hope” theme, but it falls short under serious examination. Opponent Barbara Harless of North Texas Citizens Lobby attended multiple hearings and discovered that many CoS supporters were unfamiliar with the Constitution they claimed to be there to defend. She observed,

If people would read *and understand* our Constitution, I can’t help but think they’d be surprised that the answers for the nation’s problems are already in the document! It’s frustrating to find that so much energy and effort has been expended by folks who haven’t even read it!

Indeed, we found across the board an unwillingness to entertain any invocation of the 10th Amendment, nullification, or interposition — all constitutional remedies — by con-con proponents.

And a potentially dangerous situation exists that went largely unheeded by the House. Texas carries an *unlimited* call for a constitutional convention, it having remained open since 1899. Should a modern convention be called, there’s nothing to restrain delegates from invoking the unrestricted feature of this previous call, rendering promises of a limited convention meaningless. A bill to close this loophole died in committee.

And in the final Senate hearing, *another* out-of-stater, former Georgia state Rep. Delvis Dutton, appeared to testify in favor of [HJR 77](#) in what would be the last shot for the most substantive of the convention bills. The hearing proved the death knell for the bill, especially after committee member Senator Craig Estes (R) addressed the committee, expressing, [in no uncertain terms](#) (at the seven-minute mark) that he had no intention of supporting the bill, and every intention of filibustering it if necessary on the Senate floor. After which Dutton told a group that the Texas Senate “is disgusting,” citing his inability to get an audience with senators. It was uncertain why he expected one, but disgusted he was, and accused some activists of being closed-minded about the whole question.

Senator Estes’ remarks were so unfavorable to Article V fans, and prompted such outrage among them, that national CoS director Mark Meckler penned a vitriolic national response on the CoS website, and radio personality Mark Levin resorted to [his signature name-calling](#).

The invective delivered about the Senate was unnecessary, and strategically unfortunate. Texans in opposition to an Article V convention don’t understand how these folks hope to gain ground by insulting members of the Lege. CoS agreed to talk with *The New American* about the bills, but had not returned our call by publication time.

While CoS claims to have pounded the Texas Senate with more than 22,000 e-mails in one week, supplied thousands of petition signatures, and more thousands of phone calls to lawmakers, the group had its nose out of joint that its “majority constituency” was ignored. However, as many supporters as the bills had, there were that many *more* Texans who are against this effort. Maybe lawmakers *did* listen to their constituents.

In Dutton’s railing against the Texas Senate, he told his listeners that Americans should be trusted to do the right thing in forcing a convention to restrict itself to limited amendments. But these same



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Americans are the ones who elected the current, hopeless batch we call Congress.

After running the gauntlet of this year's legislature, Ms. Harless opined that an informed electorate would go a long way. "If people understood a 34-page Constitution as well as they understand a 200-page NFL Rule Book, the government would be self-restraining. There's no need for this," she explained.

Many Americans have depended on *The New American* for solid research about an Article V convention. The John Birch Society, its parent organization, has unwaveringly scrutinized this issue for three decades, and always advocates for an informed electorate. We say, "If it ain't broke, don't fix it."

Expect more activity on the Article V front in the next legislative session in your state.



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