




Texas GOP Stakes Out Platform That Supports/Opposes Con-Con

A total of 5,941 delegates and alternates at the 2014 Texas Republican State Convention held at the Fort Worth Convention Center from June 5-7 debated and voted on several contentious issues from “reparative therapy” for homosexuals to holding a modern-day constitutional convention. 

While most of the mainstream media devoted much attention to the party’s endorsement of a platform plank supporting “reparative therapy,” the media ignored the critical matter of whether the party should accept or reject proposals to hold an Article V convention of the states, also called a constitutional convention. In successive paragraphs, the platform “strongly oppose[d] any constitutional convention” and “urge[d] the Texas State Legislators to take the lead in calling for an Article V Amending Convention of States,” thereby proclaiming its opposition to and support of the same process!

In addition to discussing and voting on the state party’s platform, the convention also provided a widely watched public venue for several GOP leaders regarded as viable contenders for the 2014 Republican presidential nomination. Among these were Texas Senator Ted Cruz, Texas Governor Rick Perry, and Kentucky Senator Rand Paul.

Cruz told the Arlington, Virginia-based *Politico* newspaper: “What I am trying to do, more than anything else, is motivate and energize millions of grassroots activists in Texas and all around the country to stand up and demand we change course.”

Texas state Senator Dan Patrick, who recently won the Republican nomination for Texas lieutenant governor, said of Cruz: “Well, he’s just the most popular politician in Texas. They see a guy who’s willing to take an arrow and stand up for the people. That fires people up.”

Sen. Rand Paul, son of former Texas congressman Ron Paul, gave a somewhat guarded statement to the *Dallas Morning News* suggesting that the GOP had much work ahead of it: “The Republican constituency isn’t large enough to win national elections. It’s hard to get that conception here because Texas is so Republican now, but the rest of the country is not.”

The *Fort Worth Star-Telegram* quoted Paul’s recommendations for the GOP, saying that Republicans should become the party that says, “Why don’t we read the bills before we pass them?”

“If we need to be a bigger, better, bolder party, we need to do it with optimism,” Paul said.

Governor Perry, whose presidential aspirations stalled in 2011 after he faltered during the nationally televised debates and drew heat for his policy of letting illegal immigrants pay in-state tuition at Texas universities, received a standing ovation when he said Texas didn’t submit to “federal blackmail” by taking increased federal funding to expand the Medicaid program under President Obama’s health care law. Delegates gave him another when he called for “getting back” to the 10th Amendment, which protects states’ rights.

Cruz came in first in a presidential straw poll taken among delegates, receiving a lopsided 43.4 percent



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of the votes. Paul received 12.1 percent, and Perry 11.7 percent. Columnist and retired neurosurgeon Ben Carson, who has never held political office, actually outpolled Paul and Perry with 12.2 percent.

One plank of the platform that delegates removed was the “Texas Solution” — a guest-worker economic plan suggested for America, passed at the state convention two years ago. Though the plan had been touted as a market-based solution, because it is backed by some employers who see it as a way of providing them with “affordable” (i.e., cheap) labor, it has been blasted by advocates of strong immigration law enforcement.

T.J. Scott, the sole Travis County representative on the 32-member temporary platform committee, was quoted by the *Austin American-Statesman*: “I’ve gotten tons of emails [but] I haven’t gotten anybody that wants the Texas solution.” Scott continued:

The people that are for the guest workers — I understand you’re not calling it that now but it’s basically the same thing — it’s about people going to make money. The Texas Restaurant Association, the roofers association, all these people who want cheap labor and there’s money to be made by the people being here illegally, some sort of guest worker program. There’s money to be made. They have nice marketing, they can give money to certain reps, to certain Republican organizations.

Adverse reaction to the inclusion of the “Texas Solution” in the platform by the Temporary Platform Committee was so strong that the convention removed four members of the committee, replacing them with other delegates. This resulted in a 15-15 tie for “Texas Solution” advocates and opponents. When the platform went to the floor for a vote, the delegates replaced the amnesty-oriented plank with one that called for strong enforcement of our immigration laws.

If constitutional conservatives won a victory over the “Texas Solution,” they were not so successful in thwarting attempts to have Texas call for a constitutional convention.

The report of the state GOP’s Temporary Platform Committee contained contradictory language about a constitutional convention (also called an “Article V” convention because it is provided for under Article V of the U.S. Constitution). The following language is found under the heading, “Constitutional Convention”:

We strongly oppose any constitutional convention to rewrite the United States Constitution. We encourage the Texas Legislature to rescind its 1977 call for such a convention. We call upon other states to rescind their votes for such a convention.

While the above language would find approval with constitutional conservatives, another item completely contradictory to it — and following immediately after it — was placed under the heading, “Article 5 Convention”:

Under no circumstances shall the Bill of Rights, the first 10 Constitutional Amendments, be changed in any manner. We urge the Texas State Legislators to take the lead in calling for an Article V Amending Convention of States, for the specific purpose of reigning in the power of the federal government. Any proposed amendments must be ratified by 3/4 of the states to take effect.

While the language of the above statement is worded to reassure constitutional conservatives that Texas legislators have the power to call for an Article V convention that will neither change the Bill of Rights nor consider any amendments that do not aim at “reigning in the power of the federal government,” such language is naïve, at best. To understand why, some background is necessary.



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Article V of the U.S. Constitution allows two methods for proposing amendments to the Constitution. The first method (and only method used so far) empowers Congress to propose amendments “whenever two thirds of the both houses shall deem it necessary.”

The second method for proposing amendments, which has never been used since the original Constitutional Convention of 1787, is through a convention called by Congress “on the application of the legislatures of two thirds of the several states.” Once the applications from 34 states are received, Congress is constitutionally bound to “call a convention for proposing amendments.”

Whichever of the two methods is used, the amendments proposed can become part of the Constitution only once they have been “ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress.”

What many well-meaning conservatives who advocate for a constitutional convention fail to realize, however, is that no predetermined rules or limitations, adopted by either Congress or the states will have any binding authority on the wording of any amendments the convention delegates may propose. Therefore, language written into state convention calls attempting to limit the convention to considering only amendments to balance the budget, or (in the case of the Texas GOP platform committee’s statement) to “reigning in the power of the federal government,” are, basically, hopeless causes.

There is no legally binding precedent that would control the subject matter of any amendments that members of an Article V constitutional convention might propose. To the contrary, the Founders purposefully avoided granting such power to either the states or the federal legislature. As noted by the respected constitutional authority Walter E. Dellinger III (professor of law at Duke University, and former acting solicitor general of the United States): “To permit the state legislatures to dictate to the convention the exact terms of its proposals is to short-circuit the carefully structured division of authority between state and national interests.”

After learning about the Article V language, a team of constitutionalist delegates led by journalist and speaker Kurt Hyde from Senate District 12 (portions of Denton and Tarrant counties) drafted a resolution to amend the platform by replacing the wording under the heading “Constitutional Convention,” and removing the item under the heading “Article V convention” that we cited previously.

As we noted, the latter wording “calling for an Article V Amending Convention of States,” contradicts completely the previous statement strongly opposing any constitutional convention.

Hyde’s main challenge was to get the amendment before the Platform Committee for them to consider it. However, because of changes in the rules for submitting amendments, lengthy lines and insufficient time allotted to hear every delegate who had an amendment to submit, and the convention leaders’ decision to allot only four microphones for nearly 6,000 attendees, made the challenge a formidable one, indeed.

In the end, only about five or six of the approximately 200 proposed amendments were heard before the attendees — exhausted and frustrated from standing in line for hours with “only blisters to show for their efforts,” according to Hyde. The assembly voted to cut off debate and just keep the platform as it was at that point. As Hyde explained things to *The New American*:

We lost the Article V battle for three reasons:



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1. [The Article V proponents] were better organized. They got to the platform committee people Monday, Tuesday and Wednesday before the convention began.
2. They successfully sold the platform committee members that an Article V Convention of the States is not a constitutional convention.
3. They successfully convinced members of the platform committee that instructions to delegates of an Article V Convention would be binding on the delegates.

However, Hyde was by no means discouraged and vowed:

We will have representatives there right from day one next time. We'll be educating people in advance, too. We'll be informing people that an Article V Convention is a Constitutional Convention no matter what name is put on it and that it is impossible to bind the delegates ahead of time.

However, there were also victories for constitutional and social conservatives at the convention. As noted earlier, the "Texas Solution" of providing amnesty to illegal immigrants was defeated; the platform included support for "reparative therapy" for "those patients seeking healing and wholeness from their homosexual lifestyle," and — an important statement for those committed to U.S. national sovereignty: "We support the withdrawal of the United States from the United Nations and the removal of U.N. headquarters from United States soil."

Constitutionalist Republicans from other states undoubtedly wish that their own state parties — and the national GOP, as well — would include such statements as these in their party platforms.

Photo of delegates at Texas Republican State Convention: AP Images

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