

# A CONSTITUTIONAL CONVENTION TO PASS A BALANCED BUDGET AMENDMENT

*By Don Shrader*

**Constitution Party of Ohio**

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According to a February 15 Fox News Article, A state-level campaign to rein in the federal government by calling an unprecedented convention to amend the U.S. Constitution is gaining steam, picking up support from two high-profile Republicans as more states explore the idea. The latest figures to endorse the effort are retired Oklahoma Sen. Tom Coburn and Ohio Gov. John Kasich. The article goes on to note that Coburn, a legendary government-waste watchdog, announced this week that he has joined the effort by becoming a senior advisor for the group Convention of States Action, which wants states, not just Congress, to pass constitutional amendments. A primary goal is to get an amendment to the Constitution requiring a balanced federal budget in which spending does not exceed revenue. So far, the Alaska, Florida, and Georgia legislatures have each passed a resolution in support of a convention, and 25 more are considering one, according to the group. Beyond getting Congress to pass a balanced budget, supporters of the largely Republican-backed effort also focused on such issues as campaign finance reform and making sure the Environmental Protection Agency doesn't over regulate.

Later on, the article states concerning Governor Kasich, a potential 2016 White House candidate, (he) has recently concluded a six-state tour in which he asked legislators to support the convention, largely to push the balanced budget idea. Kasich, who claims credit for crafting a balanced federal budget before leaving Congress in 2000, gave a similar pitch last month in Utah .

To this point, the Constitution Party has almost unilaterally opposed the calling of a Constitutional Convention. They agree with TEA Party backed Utah GOP Senator Mike Lee, who opposed Kasich's pitch in Utah. Lee, who has sponsored a

balanced-budget Amendment every year since getting elected to the Senate in 2010 is concerned about a convention creating the potential for a barrage of bad amendments.

The group calling itself Citizens for Self-Government and the sponsors of the Convention of States movement says regarding such concerns as Lee and The Constitution Party have, is based on fear and misinformation. They further claim that any opposition based upon the proposition that Many opponents of a convention of the states make the historically false allegation that our Constitution was adopted as the result of an illegal runaway convention. Such an argument was invented by the enemies of the Constitution and is unsupported by historical fact. Thus, they have just labeled many within the Constitution Party, enemies of the Constitution. More than passing a balanced budget amendment, the larger goal of Citizens for Self-Government is to essentially remove power from Congress by force, if you will, and call a convention of the states, trusting it will behave properly and one of the many lines of defense will stop any misuse of power. The Fox News article notes, All 27 constitutional amendments have been passed by Congress, and any effort to help states take away that authority appears unlikely.

One point on which all groups agree is that it requires the petition of 34 state legislatures (2/3) to call for an Article V convention, i.e. a Constitutional Convention, and then ratification by 38 state legislatures (3/4) to pass any amendments. While the Constitution does not specify how the vote of each state legislature will be determined at a convention, the Citizens for Self-Government do note in their refutation of the possibility of a runaway convention that It only takes 13 states to vote no to defeat any proposed amendment, and the chances of 38 state legislatures approving a rogue amendment are effectively zero. Their point does have merit.

So, let us use the Socratic method of reasoning and allow them their point that the calling of a Constitutional Convention will not result in a runaway convention that will totally rewrite the Constitution or even do away with or significantly revamp some of our most cherished amendments such as the 1<sup>st</sup>, 2<sup>nd</sup>, and 10<sup>th</sup>.

Let us assume that they succeed in their desire to call such a convention and also allow that each state legislature will agree on an acceptable methodology for determining the official vote for each state at the convention. We will also agree that overall there is plenty of money to cover the costs of such, which will not be incidental. (One of my favorite quotes from the Elvis Presley movie *Follow That Dream* is "Remember son, the government doesn't run out of money, only people do!" )

As acknowledged by Constitutional Convention supporter GOP Rep. Chris Kapenga of Wisconsin (reported in the Fox News Article), the effort (to call a convention) won't get past the 34-state threshold until they convince some Democratic-leaning legislatures to join. So, now we must get at least 34 state legislatures, including some Democratic-leaning ones, to agree on calling a convention, supposedly to work on a balanced budget amendment. Continuing our Socratic method, let us allow for the possibility that the Republicans calling for such a convention are successful in getting a sufficient number of Democratic-leaning state legislatures to also agree (assuming also that they convince a sufficient number of Republican-leaning state legislatures as well to vote for such) to call, and pay for, a Constitutional Convention of the states.

Now comes the problem of proposing an amendment. I have read a number of variances to the specifics of such a proposed amendment. As noted above by the Fox News Article, many Republicans want to include campaign finance reform and making sure the Environmental Protection Agency doesn't over-regulate. Others I have read want to include limits on, or elimination of, various kinds of federal taxes. The list goes on and on including prison time for the President or any legislators that votes to pass or authorizes an unbalanced budget. So, how will any of these sub-articles ever be accepted by 3/4 of the state legislatures, including a number of Democratic-leaning ones? As the Citizens for Self-Government point out, it only takes the nay vote of 13 states to defeat any proposed amendment. So, does anyone realistically believe that any amendment with any teeth such as any of these sub-articles will ever receive the vote of at least 38 state legislatures?!? I don't believe any sane person can.

Let us now allow, for the moment, that the Convention manages to enact a basic balanced budget amendment constitutionally requiring the President and Congress to only pass a balanced budget each year. I cannot honestly believe anything other than a basic amendment such as this has any hope of passing. I really doubt any such amendment can pass without the addition of loopholes and exceptions. After all, one must allow for such contingencies as a time of war or other unforeseen disaster. As is also well known, budgets are just that, budgets. Actual expenditures are something else. Again, it is hard to imagine that any balanced budget amendment will not allow for overrun contingencies. If not, then the only means for balancing the budget is to allow for unfettered increases in taxes which will be a field day for the liberals, Democrats and Republican, who constantly advocate for increased taxes, especially on the wealthy, the same mentality that brought us the 16<sup>th</sup> Amendment in the first place. Remember, the 16<sup>th</sup> Amendment was sold on the proposition that only the upper 1-3% of the income earners would be taxed. How is that working out for you?!?!

Of course, the passing of such an amendment will be regaled with much hoopla and fanfare. But what then?

Maybe, within the first few months or even years of passage (although I doubt years), some cognizance of the amendment will be given by various members of Congress. However, I contend, it will not be long before such an amendment will fall by the wayside as the realities of funding the government override any such considerations. After all, look at how our Constitution is already ignored and violated by the Federal Government. I was going to provide a list of violations but they are too numerous to include here. One only needs to look at Article I, section 7, regarding revenue and spending to see all kinds of violations. The Article opens with the declaration that, All Bills for raising Revenue shall originate in the House of Representatives. Where is a President's budget authorized or ever intended by the Constitution? Of course, we have a President bent on destroying the Constitution. As I have stated in the past, I give him credit; he openly declares his intention to violate the Constitution, then goes ahead with it via Executive Order, with nary a whimper from the Congress. Remember, too, it was the Republicans

that instituted many unconstitutional federal agencies, including their latest abomination, the Patriot Act and the resultant Department of Homeland Security and the TSA and NSA that constantly violates our unalienable rights as supposedly guaranteed by our Constitution Amendments 1, 2, 4, 5 and 6, as a minimum. Remember that the Republican controlled House of Representatives has the power to reduce or eliminate the funding for any Federal Agency. So, if they are truly concerned about the overreach of the EPA, for instance, just tell them that and then reduce their budgets commensurately.

Finally, let us assume that someone objects to Congress violating this newly passed amendment. So what! It is highly unlikely that even a conservative court will allow anyone to have standing in order to bring suit against the Congress for such violations. We have seen this time after time. Look at the Court's resolve against hearing motions regarding the legitimacy of the current President's Constitutional qualifications for the Office. (In a lesser similar situation within Ohio, the citizens of the state placed an amendment to the Ohio Constitution on the ballot in 2012 by an initiative of the people for the first time in Ohio history similar to the rarity of a Constitutional Convention. The amendment restricted the state Government from participating in Obamacare. Our dark-horse Presidential candidate Governor, the Honorable Mr. Kasich, then unabashedly violated that very state constitutional amendment the year after it was passed overwhelmingly by the voting populace of the state; he even circumvented the state legislature in so doing. When those who originally initiated the ballot initiative tried to sue the Governor, the State Supreme Court ruled that they could not bring such action because they did not have standing because they could not prove that they had been harmed by the Governor's actions, the same argument used by the U.S. Supreme Court to refuse to hear even Democrat Constitutional Lawyers who were very concerned regarding Obama's Constitutional eligibility for the Presidency.)

Even, if by some miracle the Supreme Court did hear such suit and further uphold the constitutionality of the amendment and Congress violation thereof, who is going to enforce that amendment from further violation? Thus, ultimately,

this whole effort in the words of the venerable Bard of Avon is Much Ado About Nothing.