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AJR-10 Federal constitutional convention: application. (2015-2016)

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CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

ASSEMBLY JOINT RESOLUTION

NO. 10

Introduced by Assembly Member Grove

February 27, 2015

Relative to a federal constitutional convention.

LEGISLATIVE COUNSEL'S DIGEST

AJR 10, as introduced, Grove. Federal constitutional convention: application.

This measure would constitute an application to the United States Congress to call a constitutional convention pursuant to Article V of the United States Constitution limited to proposing amendments to the United States Constitution that impose fiscal restraints on the federal government and limit the power and jurisdiction of the federal government.

This measure would constitute a continuing application for such convention until the legislatures of 2/3 of the states have made applications on the same subject and the convention has been called by the Congress of the United States.

Fiscal Committee: no

WHEREAS, The Founders of the United States Constitution empowered state legislators to be guardians of liberty against excessive use of power by the federal government; and

WHEREAS, The federal government has created a mounting national debt exceeding \$17 trillion through improper and imprudent spending; and

WHEREAS, The federal government has usurped the legitimate roles of the states through unfunded federal mandates; and

WHEREAS, The federal government has ceased to operate under a proper interpretation of the Tenth Amendment to the United States Constitution; and

WHEREAS, It is the solemn duty of the states to protect the liberty of our people, particularly for the generations to come, by proposing amendments to the United States Constitution through a convention of the states under Article V to place clear restraints on these and related excessive uses of power; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California hereby make application to the Congress of the United States to call an amendment convention pursuant to Article V of the United States Constitution limited to proposing amendments to the United States Constitution that impose fiscal restraints on the federal government and limit the power and jurisdiction of the federal government; and, be it further

Resolved, That pursuant to Article V of the Constitution of the United States, the Legislature of the State of California joins in the application of the states of Georgia (SR 736 (2014)), Florida (SM 476 (2014)), and Alaska (HJR 22 (2014)) for a convention for the sole and exclusive purpose of proposing amendments to the Constitution of the United States limited to the purposes stated therein, provided, however, that the delegates from California to said convention are expressly limited to consideration and support for amendments that impose fiscal restraints on the federal government, and which limit the power and jurisdiction of the federal government. It is the express intention of this Legislature that this application shall be aggregated with the subsequent applications of other states limited to the purposes identified in this application or those of the states named above; and, be it further

Resolved, That the other states be encouraged to make similar applications for an amendment convention pursuant to Article V of the United States Constitution; and, be it further

Resolved, That this application shall constitute a continuing application for such amendment convention pursuant to Article V of the United States Constitution until the legislatures of two-thirds of the states have made applications on the same subject and such convention has been called by the Congress of the United States; and, be it further

Resolved, that the Legislature of California adopt this application with the following understandings (as the term "understandings" is used within the context of "reservations, understandings, and declarations"):

1. An application to Congress for an Article V convention confers no power on Congress other than to perform a ministerial function to "call" a convention;
2. This ministerial duty shall be performed by Congress only when Article V applications for substantially the same purpose are received from two-thirds of the legislatures of the several states;
3. The power of Congress to "call" a convention solely consists of the authority to name a reasonable time and place for the initial meeting of the Convention;
4. Congress possesses no power whatsoever to name delegates to said convention, as this power remains exclusively within the authority of the legislatures of the several states;
5. Congress possesses no power to set the number of delegates to be sent by any state;
6. Congress possesses no power whatsoever to determine any rules for said convention;
7. By definition, a convention of states means that states vote on the basis of one state, one vote;
8. A convention of states convened pursuant to this application is limited to consideration of topics specified herein and no other;
9. The Legislature of California may provide instructions to its delegates (commissioners);
10. The Legislature of California may recall its delegates at any time for breach of their duties or violation of their instructions;
11. Pursuant to the text of Article V, Congress may determine whether proposed amendments shall be ratified by the legislatures of the several states or by special state ratification conventions; the Legislature of California recommends that Congress specify its choice of ratification methodology contemporaneously with the call for the convention;
12. Congress possesses no power whatsoever with regard to the Article V convention beyond the two powers acknowledged herein; and
13. The Legislature of California places express reliance on prior legal and judicial determinations that Congress possesses no power under Article I of the United States Constitution relative to the Article V process and that Congress must act only as expressly specified in Article V; and, be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, the Speaker and the Clerk of the United States House of Representatives, the President and the Secretary of the United States Senate, each member of the California Congressional Delegation, and the legislatures of each of the several states, attesting the adoption of this resolution by the Legislature of California.