



How the Compact for a Balanced Budget Answers the Eagle Forum Twenty Questions

1. How would Delegates be selected or elected to a Constitutional Convention?

Under the terms of the Compact, member states would appoint their delegates as provided in the Compact and non-member states (no more than one-fourth of the States) would appoint their delegates as determined by their own state laws. Art. VI; Art. VII. As a default rule, each member state shall be entitled to one (1) delegate, identified as the Chief Executive Officer (Governor) of that state. Art. VI. Because the Compact is both statutory and contractual in nature for member states, its provisions would be binding on member states both under state law and also under the Contracts Clause of the United States Constitution. Art. III. In the event that courts rule only Congress has the power to select delegates to an Article V convention, the terms and conditions of the Compact will remain binding under modern precedent because: a) the Compact is expressly incorporated into the congressional call for the Article V convention thus supporting an argument under (incorrect) expansive interpretations of implied congressional power under the Necessary and Proper Clause that those terms and provisions govern the Convention; and b) such implied Congressional consent to the Compact will arguably give its terms and conditions the status of federal procedural law under precedent interpreting the effect of congressional consent on interstate compacts. See Concurrent Resolution. Therefore, delegates to the convention would be selected in accordance with the terms of the Compact as a matter of state, federal and Constitutional law. Art. III; Art. VI; Art. VII; Art. VIII.

2. What authority would be responsible for determining the number of Delegates from each state?

Under the default terms of the Compact, each member state would have one (1) delegate as provided in the Compact, which may be tailored by each member state to allow for up to a maximum of three (3) delegates; and non-member states (no more than one-fourth of the States) would determine the number of delegates according to their own state laws up to a maximum of three (3) delegates. Art. VI; Art. VII.

3. What authority would be responsible for electing the Delegates to the convention?

Under the terms of the Compact, by enacting, adopting and agreeing to the Compact, member states would appoint delegates through legislative action as provided in the Compact. State law would determine the number of delegates for non-member states, which could vary the authority responsible for electing or appointing delegates from state to state



(in no more than one-fourth of the States), but the Compact limits the number of delegates from non-members states to no more than three (3). Art. VI; Art. VII.

- 4. Would Delegates be selected based on Population, number of Registered Voters, or along Party lines?

Under the default terms of the Compact, the chief executive officer of each member state would be appointed as the sole delegate from his/her state. The non-member states (no more than one-fourth of the States) could select delegates according to state law under any of the foregoing possibilities. Art. VI; Art. VII.

- 5. Would Delegates be selected based on race, ethnicity or gender?

Under the default terms of the Compact, the chief executive officer of each member state would be appointed as the sole delegate from his/her state. The non-member states (no more than one-fourth of the States) could select delegates according to state law, which would operate under the restrictions of the 14th Amendment. Art. VI; Art. VII.

- 6. What authority would be responsible for organizing the convention, such as committee selection, committee chairs and members, etc.?

Under the compact's convention rules, there would be only one committee, one chair and one secretary; as such, the Convention would function at all times as a committee of the whole. Art. VII.

- 7. How would the number of Delegates serving on any committee be selected and limited?

Under the terms of the Compact, there is only a committee of the whole. Art. VII.

- 8. How would the Chair of the Convention be selected or elected?

Under the default terms of the Compact, the delegate of the first state to adopt the Compact would serve as the Convention Chair. Art. VII. The State of Georgia became the first state to adopt the Compact on April 12, 2014; it modifies the default delegate provisions of the Compact to allow for three delegates consisting of the Governor, Senate President and House Speaker. Those delegates will select a chair from among them.

- 9. What authority will establish the Rules of the Convention, such as setting a quorum, how to proceed if a state wishes to withdraw its delegation, etc.?

All rules of the convention are set out in the Compact. Art. VII. All member state delegates (representing three-fourths of the states) would be instructed and bound to these rules as a matter of state and constitutional law (under the Contracts Clause) and also to ensure that these rules govern the convention. Art. III; Art. VI. By impliedly consenting to the terms and conditions of the Compact in its convention call, Congress would also give these rules the status of federal law under modern precedent. Concurrent Resolution. Additionally, upon an appropriate ruling by the Chair, and provided a majority of attending states do not object, the Compact Commission will have the power to relocate the convention in the event of an emergency or to enforce the Compact rules. Art. IV; Art. VII. Furthermore, the Compact would prohibit all of its member states, as well as their delegates, from participating in the convention or ratifying any amendment it proposes unless these rules govern the convention.



Art. VIII. Finally, the chief law enforcement officer of every member state is empowered to enforce these provisions in the United States District Court for the Northern District of Texas or in the courts of the State of Texas. Art. X. In sum, a supermajority of states participating in an Article V convention and their delegates (if not all of the states) would be compelled to participate in the convention in accordance with the rules specified in the Compact (or not at all); and their supermajority presence (or absence) would ensure that the foregoing rules would govern the convention (or that the convention would never garner sufficient participation and legal sanction to do anything).

10. What authority would be responsible for selecting the venue for the Convention?

Under the default terms of the Compact, the convention will be held in Dallas, Texas. Art. IV; Art. VII. Congress would give implied consent to these provisions through its convention call. Concurrent Resolution.

11. Would proposed amendments require a two-thirds majority vote for passage?

No. Under the terms of the Compact, proposed amendments would be approved for Congressional submission to the States for ratification based upon the majority vote of a quorum. Art. VII.

12. How would the number of votes required to pass a Constitutional Amendment be determined?

Under the terms of the Compact, proposed amendments would be approved for Congressional submission to the States for ratification based upon the majority vote of a quorum. Each state would receive one vote and the vote would be determined by the sole delegate of member states or the majority vote of the delegates representing member or non-member states, if more than one delegate represents a state. Art. VII.

13. What would happen if the Con Con decided to write its own rules so that 2/3 of the states need not be present to get amendments passed?

There is no provision for changing of the rules, and all member states agree not to participate in a convention that does not follow the Compact rules. Art. VIII. The Compact has the status of a contract that is binding under the U.S. Constitution's Contracts Clause. Art. III. Finally, an argument could be made that Congress' implied consent to the Compact would give its provisions the concurrent status of federal procedural law through its convention call. Concurrent Resolution.

14. Could a state delegation be recalled by its legislature and its call for a convention be rescinded during the convention?

Under the terms of the Compact, the application for a convention is not effective until three-fourths of the states join the Compact and until that time, each member state reserves the right, with proper notice, to withdraw from the Compact. Art. III; Art. VI. If the contemplated Balanced Budget Amendment is not ratified by April 12, 2021 (seven years after its first passage by the State of Georgia), the Compact self-repeals. Under the terms of the Compact, the member states (comprising at least three-fourths of the states at the convention) reserve the right to recall their delegates from the convention. Additionally, delegates who violate the Compact automatically forfeit their authority to represent their respective state, are also



automatically recalled, and their respective state is barred from participating in the convention. Art. VI.

15. Would non-Delegates be permitted inside the convention hall?

Under the terms of the Compact, to maximize transparency the public will be permitted access to all convention proceedings upon request subject to rules closely tailored to preventing the disruption of proceedings. Art. VII.

16. Will demonstrators be allowed and/or controlled outside the convention hall?

Under the terms of the Compact, to maximize transparency the public will be permitted access to all convention proceedings upon request subject to rules closely tailored to preventing the disruption of proceedings. Art. VII. Crowd control and regulation of demonstrations outside of the convention proceedings will otherwise be subject to state and local laws. Upon an appropriate ruling by the Chair, to which a majority of states do not object, the Compact Commission will have the power to relocate the Convention to ensure that it is conducted in an orderly fashion in accordance with the Compact. Art. IV; Art. VII.

17. Would congress decide to submit Con Con amendments for ratification to the state legislatures or to a state constitutional convention as permitted under Article V of the constitution?

The Concurrent Resolution that will accompany the Compact contains provisions ensuring that Congress will prospectively refer approved proposed amendments to state legislatures for ratification if they are equivalent to those specified in the Compact. Concurrent Resolution.

18. Where would the Convention be held?

Under the default terms of the Compact, the convention will be held in Dallas, Texas. Art. VII.

19. Who will fund this Convention?

Under the terms of the Compact, the member states and voluntary donations will fund the cost of the Convention through the disbursements of the Compact Commission. Art. IV.

20. If these questions cannot be answered (and they CANNOT!), then why would any state legislator even consider voting for such an uncertain event as an Article V Constitutional Convention?

The foregoing questions have been answered.

