

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE RESOLUTION

No. 52 Session of
2023

INTRODUCED BY DUSH, MARCH 14, 2023

REFERRED TO STATE GOVERNMENT, MARCH 14, 2023

A CONCURRENT RESOLUTION

1 Establishing a delegation to represent the Commonwealth at the
2 Amendment Convention pursuant to Article V of the
3 Constitution of the United States entitled the Article V
4 Amendment Convention and limited to proposing an amendment to
5 the Constitution of the United States to grant State
6 Legislatures authority to countermand and rescind any mandate
7 issued by any Branch of the Federal Government or their
8 agencies that encroach on states' rights and the personal
9 liberties of their citizens.

10 WHEREAS, The General Assembly has applied under the authority
11 of Article V of the Constitution of the United States to call an
12 Article V Amendment Convention to amend the Constitution of the
13 United States to include a countermand amendment that authorizes
14 the states, upon a vote of three-fifths of the state
15 legislatures, to nullify and repeal a Federal statute, executive
16 order, judicial decision, regulatory decision by a Federal
17 Government agency or other government or nongovernment mandate
18 imposed on the states; and

19 WHEREAS, To prepare for the Article V Amendment Convention,
20 the General Assembly finds it necessary to provide for the
21 following:

22 (1) a selection process for delegates to the convention;

1 (2) the duties of delegates and alternates;
2 (3) a state convention delegation chair; and
3 (4) the specific language of the countermand amendment
4 on which the legislature authorizes the convention delegates
5 to vote, so that the countermand amendment may be sent to the
6 states for ratification by the legislatures of three-fourths
7 of the several states;
8 and

9 WHEREAS, The delegates sent by the legislature to the Article
10 V Amendment Convention are representatives of the legislature
11 and are thus required to fulfill the commission assigned to them
12 in this resolution; and

13 WHEREAS, Any action taken by a delegate that is not
14 authorized in this resolution, or as amended and authorized by
15 the legislature, is ultra vires and may not be relied upon by
16 delegates from other states or by the convention; and

17 WHEREAS, The legislature hereby defines the duties and limits
18 the authority of its delegates to the convention as specifically
19 provided by this resolution; therefore be it

20 RESOLVED (the House of Representatives concurring), That the
21 General Assembly authorize delegates to be summoned and
22 appointed to participate at the Article V Amendment Convention
23 according to the terms and conditions set forth in this
24 resolution; and be it further

25 RESOLVED, That the General Assembly determine the number and
26 qualifications of the delegates to be sent to the convention
27 after the Congress of the United States summons delegates to the
28 convention; and be it further

29 RESOLVED, That the General Assembly add to the number of
30 delegates or replace or remove any delegate or alternate if, in

1 its sole discretion, that action is necessary; and be it further
2 RESOLVED, That alternates not have an official role at the
3 convention and may attend the convention only if the delegations
4 of the states at the convention vote to allow their attendance
5 or the legislature appoints an alternate to take the place of a
6 delegate; and be it further

7 RESOLVED, That the General Assembly authorize the State's
8 delegates to the convention to vote to send the proposed
9 countermand amendment, as set forth in this resolution, back to
10 the states for ratification by way of the Congress of the United
11 States; and be it further

12 RESOLVED, That delegates be prohibited from voting in favor
13 of any alternate amendment or modified version of the
14 countermand amendment set forth in this resolution that might be
15 introduced at the convention and be instructed to secure a vote
16 that approves sending the countermand amendment back to the
17 states for ratification; and be it further

18 RESOLVED, That upon the enactment of this resolution and
19 after a total of 34 states have applied for a convention, the
20 President pro tempore of the Senate appoint three members of the
21 Senate, with one member being from the minority caucus, to a
22 legislative Delegate Credential Committee, and the Speaker of
23 the House of Representatives appoint three members of the House
24 of Representatives, with one member being from the minority
25 caucus, who shall have the responsibility and requisite
26 authority to perform each of its assigned duties described in
27 this resolution; and be it further

28 RESOLVED, That a vacancy on the Delegate Credential Committee
29 be filled in the manner of the original appointment; and be it
30 further

1 RESOLVED, That members of the Senate on the Delegate
2 Credential Committee shall select one cochair from among their
3 number and the members of the House of Representatives on the
4 Delegate Credential Committee select one cochair from among
5 their number, and the cochairs assign staff to provide support
6 for the Delegate Credential Committee; and be it further

7 RESOLVED, That the Delegate Credential Committee meet during
8 and between legislative sessions; and be it further

9 RESOLVED, That a member of the Delegate Credential Committee
10 be replaced or removed by the presiding officer that appointed
11 the member if the presiding officer deems the action necessary;
12 and be it further

13 RESOLVED, That each member of the committee be required to
14 take the following oath, administered by the presiding officer
15 of the Senate or the House of Representatives, and sign a pledge
16 confirming that the following oath has been taken and agreed to:

17 "I pledge to follow the instructions and charges in this
18 resolution and any other directives given to me by the
19 Pennsylvania General Assembly from the date I am
20 appointed to the committee and during the full term of
21 the convention, to the best of my abilities, so help me
22 God";

23 and be it further

24 RESOLVED, That the members of the Delegate Credential
25 Committee follow the directives in this resolution, including
26 any supplemental instructions from the General Assembly; and be
27 it further

28 RESOLVED, That the committee have the following duties:

29 (1) decide all matters by a vote of a majority of the
30 full membership of the committee;

1 (2) function as the official facilitator for the General
2 Assembly as required in this resolution;

3 (3) appoint delegates, subject to approval by the
4 General Assembly, to the convention and, within 10 business
5 days after appointment, provide a committee report of each
6 appointment to the Secretary of the Senate and the Chief
7 Clerk of the House of Representatives;

8 (4) appoint one delegate to serve as the chair of
9 delegation and another delegate as the assistant chair;

10 (5) issue to each approved delegate and alternate,
11 including the chair and assistant chair, certification that
12 the delegate has met or performed all of the following:

13 (i) met the qualifications established by the
14 General Assembly;

15 (ii) taken the applicable oath set forth in this
16 resolution; and

17 (iii) confirmed the delegate's oath by signing a
18 separate pledge document;

19 (6) issue to each certified delegate and alternate,
20 including the chair and assistant chair, a convention pass to
21 the convention;

22 (7) notify the legislature of the financial or other
23 needs of the delegation;

24 (8) administer the following oaths to the delegates,
25 alternate candidates, chair and assistant chair before
26 issuing certifications:

27 (i) Delegates' and delegate alternates' oath:
28 "I pledge to follow the instructions in this
29 delegate resolution and any other directive
30 consistent with this delegate resolution given to

1 me by the Delegate Credential Committee or the
2 legislature, whether such directive is given to
3 me directly or indirectly, from the time I am
4 certified by the committee to be a delegate or
5 alternate and during the full term of the Article
6 V Amendment Convention, to the best of my
7 abilities, so help me God."

8 (ii) Oath for the chair and assistant chair of the
9 delegation oaths:

10 "I pledge to follow the instructions in this
11 delegate resolution and any other directive
12 consistent with this delegate resolution given to
13 me by the Delegate Credential Committee or the
14 legislature, whether given to me directly or
15 indirectly, from the time I am certified by the
16 committee to be the chair or assistant chair of
17 Pennsylvania's State delegation and during the
18 full term of the Article V Amendment Convention,
19 to the best of my abilities, so help me God";

20 (9) monitor the activities of the delegation;

21 (10) maintain close communications with the chair and
22 assistant chair and provide assistance when requested;

23 (11) monitor the activities, deliberations and all votes
24 by the states at the convention and, when possible, inform
25 the chair, assistant chair and legislature which states at
26 the convention have enacted a similar resolution for their
27 delegates;

28 (12) issue reports, at least quarterly or more
29 frequently if necessary, to the General Assembly regarding
30 the events at the convention, upcoming events and progress

1 and prospects for ratification of the countermand amendment
2 by the delegations;

3 (13) make recommendations to the legislature on actions
4 needed to ensure the favorable vote by the state delegations
5 to send the countermand amendment, as set forth in this
6 resolution, to the states for ratification; and

7 (14) recommend to the legislature removal of a delegate
8 or alternate from all convention activities for a violation
9 of the provisions of this resolution and make recommendations
10 regarding whether the delegate should have the delegate's
11 credentials invalidated, the recommendation of which must be
12 approved by the General Assembly;

13 and be it further

14 RESOLVED, That the chair of the delegation join with other
15 state delegations to open the convention for business,
16 identifying other state legislatures that have approved a
17 delegate resolution for their delegates, and work with those
18 delegations to find agreement on each of the following:

19 (1) arrange to have at least one delegate from each
20 state's delegation be the spokesman at every business meeting
21 and roll call at the convention;

22 (2) distribute to all delegates a pocket-sized copy of
23 the Constitution of the United States;

24 (3) instruct resolution and nonresolution state
25 delegates of the mandate in Article IV, Section 4 of the
26 Constitution of the United States that guarantees to each
27 state a republican form of government, which gives each state
28 equal standing when applying for a convention and when voting
29 at and organizing the convention;

30 (4) work closely with the chairs of all other state

1 delegations to find mutual agreement on the objectives in
2 this resolution;

3 (5) build a consensus of at least 26 state delegations,
4 especially resolution delegations, at the convention to do
5 the following:

6 (i) require that each state delegation at the
7 convention have only one vote regardless of the number of
8 delegates in a state delegation or the population of a
9 state as provided by Article IV, Section 4 of the
10 Constitution of the United States;

11 (ii) require a simple majority vote at all roll
12 calls to decide any and all matters brought before the
13 convention, including the question of whether the
14 countermand amendment should be sent to the states for
15 ratification;

16 (iii) nominate and install convention officials who
17 come from states that have passed this resolution for
18 their delegates and who agree with sending the
19 countermand amendment to the states for ratification;

20 (iv) require a quorum of 26 state delegations before
21 business can be conducted and before a vote can be taken
22 to decide any and all matters that may be presented at
23 the convention;

24 (v) build a consensus of at least 26 state
25 delegations to work together for the mutual goal of
26 sending the countermand amendment to the states for
27 ratification;

28 (vi) work to conclude convention business within 21
29 days, and in no case more than 180 days, unless the
30 convention votes to extend the termination date by 180

1 days, after which no further extensions are to be
2 allowed;

3 (vii) if possible, nominate a candidate to be
4 president of the convention who comes from the delegation
5 of this Commonwealth;

6 (viii) if necessary, call for a vote for a candidate
7 to be president who shares the goals of the delegation of
8 this Commonwealth and comes from a state that has enacted
9 this resolution, whether or not the chair nominated the
10 candidate to be president;

11 (ix) try to avoid the nomination and election of a
12 president who comes from a state that did not pass this
13 resolution; and

14 (x) support establishing the following duties of the
15 president:

16 (A) to secure a vote from state delegations
17 requiring that this resolution be the rules of order
18 at the convention, while Robert's Rules of Order may
19 be adopted if they do not conflict with this
20 resolution;

21 (B) to follow the terms, directives and
22 requirements in this resolution;

23 (C) to call for a vote requiring each state
24 delegation to appoint one delegate to be the
25 delegation's spokesman;

26 (D) to stay focused on the primary purpose,
27 which is to have the countermand amendment be sent to
28 the states for ratification;

29 (E) to recommend and request security measures
30 as may be needed at the convention;

1 (F) to officiate at the nomination and install
2 all officers at the convention;

3 (G) to establish the agenda at the convention as
4 described in this resolution;

5 (H) to provide equal time in floor discussions
6 for all states, whether for or against sending the
7 countermand amendment to the states for ratification;

8 (I) to prohibit the introduction at the
9 convention of any subject matter or issue other than
10 matters relating to the countermand amendment and
11 whether it should be sent to the states for
12 ratification;

13 (J) to expedite deliberations by the state
14 delegations and to prevent unnecessary delays;

15 (K) to authorize appropriate roll calls at the
16 convention;

17 (L) to settle all disputes between state
18 delegations and delegates, whether or not they are
19 from a resolution state;

20 (M) to recommend removal of the convention
21 credentials of any delegate, including convention
22 officials, for causing security problems at the
23 convention;

24 (N) to establish procedures for installing and
25 recognizing alternates who are to become delegates;

26 (O) to call for a vote at the earliest favorable
27 time to approve sending the countermand amendment to
28 the states for ratification;

29 (P) to call for a vote to decide which method of
30 ratification the convention recommends to the

1 Congress of the United States, whether by state
2 legislatures or state conventions;

3 (Q) recommend to the convention that
4 ratification be by state legislatures and that
5 resolution delegations be required to vote for
6 ratification through state legislatures;

7 (R) to report the decisions of the convention to
8 the Congress of the United States, each state
9 legislature and the media;

10 (S) to recommend formal requests, from time to
11 time, to the state legislatures, through
12 representatives in the 50 state delegations, for
13 money that will be needed to carry on the business of
14 the convention;

15 (T) if a candidate for president of the
16 convention who does not come from a state that has
17 adopted this resolution wins the presidency, it is
18 the duty of the chair and the delegates in the
19 delegation of this Commonwealth to take reasonable
20 steps to argue for a favorable vote by the convention
21 to send the countermand amendment to the states for
22 ratification;

23 (U) to follow the procedures in this resolution
24 for electing other officers as the convention
25 considers necessary, the president of the convention
26 to be responsible for defining the duties of each
27 office in accordance with the requirements of this
28 resolution;

29 (V) to oppose and vote against any efforts by
30 state delegations to delay a vote for the countermand

1 amendment or modify, alter or change the text of the
2 countermand amendment; and

3 (W) to oppose and vote against any effort by a
4 state delegation to offer any other amendment to the
5 constitution at the convention other than the
6 countermand amendment; and

7 (6) make regular reports to the committee regarding all
8 activities at the convention;

9 and be it further

10 RESOLVED, That the delegates be required to follow the
11 directives in this resolution and others that may, from time to
12 time, be issued by the General Assembly, and each delegate is
13 charged with the following duties:

14 (1) comply with directives made under this resolution;

15 (2) follow the reasonable instructions of the chair and
16 assistant chair of the delegation that are consistent with
17 the duties set out in this resolution;

18 (3) be amenable to the advice of the president of the
19 convention when the president is from a resolution state, and
20 if the president is from a nonresolution state, work closely
21 with the chair to find resolutions that are consistent with
22 this resolution;

23 (4) work to advance all the requirements and directives
24 in this resolution;

25 (5) be subject to dismissal from the delegation for
26 violation of this resolution;

27 (6) comply with this resolution's directive to vote at
28 all state delegation roll calls consistent with directions
29 given to the chair in this resolution, which include sending
30 the countermand amendment to the states for ratification;

1 (7) attend all assigned business sessions at the
2 convention;

3 (8) help the chair to successfully complete the
4 instructions in this resolution; and

5 (9) attend all meetings scheduled by the chair and do
6 all of the following:

7 (i) report to the chair the results of the
8 delegate's work with other state delegates;

9 (ii) assess and report to the chair the number of
10 states that plan to vote in favor of the countermand
11 amendment;

12 (iii) assess and report to the chair any problems or
13 opportunities that may have developed or might develop
14 relating to the purposes of this resolution; and

15 (iv) recommend to the chair other strategies that
16 may help join with at least 26 other states to vote
17 favorably for the countermand amendment at the
18 convention;

19 and be it further

20 RESOLVED, That the alternates of the delegation be required
21 to follow the directives in this resolution and others that may
22 be issued by the legislature, and each alternate shall:

23 (1) be prepared to serve as a delegate if directed to do
24 so by the committee or General Assembly; and

25 (2) fulfill the duties required by this resolution when
26 appointed as a delegate;

27 and be it further

28 RESOLVED, That the text of the countermand amendment that is
29 to be sent to the legislature of each state for ratification
30 read as follows:

Amendment XXVIII

Section 1. This amendment restores state sovereignty in our constitutional republic by providing state legislatures countermand authority.

Section 2. State legislatures in the several states shall have the authority to countermand and rescind any congressional statute, judicial decision, executive order, treaty, government agency's regulatory ruling or any other government or nongovernment mandate that, in the opinion of 60% of state legislatures, adversely affects their states' interests. When the countermand threshold has been reached, the law or ruling shall be immediately and automatically nullified and repealed. This countermand authority shall also apply to existing laws and rulings.

Section 3. From the time an initial countermand is issued by a state legislature, the other legislatures shall have 18 months to complete the countermand process. If the countermand process is not completed in 18 months, then the law or ruling that is being challenged shall remain enforceable.

Section 4. Each state legislature must complete the countermand affidavit and deliver a certified copy to the President of the United States, the Chief Justice of the United States Supreme Court, the Leader of the United States Senate, the Speaker of the House of Representatives and, when applicable, the government agency or body that issued the statute, ruling or regulation in question.

Section 5. Any elected or nonelected government official, or any nongovernment individual or organization, who intentionally obstructs or prevents the implementation of any

1 provision in this amendment shall have committed a criminal
2 offense and shall be subject to impeachment, when applicable,
3 and criminal prosecution punishable by imprisonment for up to
4 five years if convicted.

5 Section 6. Individual states shall have authority to
6 prosecute violators of this amendment under state laws in the
7 absence of Federal prosecution after 90 days from the date of
8 the alleged violation. Multiple prosecutions by multiple
9 states for the same alleged crime are prohibited.

10 Section 7. The amendment shall be immediately part of the
11 Constitution of the United States upon ratification by three-
12 fourths of the legislatures of the several states.

13 Section 8. The provisions of this amendment are enforceable
14 within the United States, which shall include the several
15 states, the District of Columbia, the Commonwealth of Puerto
16 Rico, the Commonwealth of the Northern Mariana Islands and
17 the territories and possessions of the United States.