

Hearing Florida HCR 703 (BBA) and HCR 693 (Term Limits) Partial Transcript
House State Affairs Committee hearing Dec. 12, 2023
Sponsors sidestep Rep. Robin Bartleman's Questions

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HCR 703 (BBA)—Rep Tyler Sirois (Sponsor):

(02:09) Rep. Tyler Sirois (1:20): Mr. Chairman, this application is exclusively for the purpose of a federal balanced budget amendment and is revoked, withdrawn, and void if Congress attempts to count this application toward any other purpose..." (02:22)

Questions—Rep. Robin Bartleman (Committee member)

Rep. Bartleman (2:36): ...your comment that the resolution would be null & void. There is no mechanism in the Constitution. You're going to convene, and we're going to show up, and there's no mechanism to have Florida leave the table in the federal Constitution. So how is that going to happen? Because you could support this, and then things that you never expected were on the table are—and because you were part of the number that got us there, you have no control over what they decide. So where do you feel you have a safeguard in your language?" (3:08)

Rep. Sirois: Our application for the purpose of having a constitutional convention is withdrawn, is null and void, if Congress were to pursue other matters related to our call for a convention. So, our concurrent resolution only counts for the specific topic of a Balanced Budget Amendment (BBA). And it is not applicable toward any other count on any other subject. (3:33)

Rep Bartleman: Thank you Chair. But where in the federal government, in the Constitution for convening does it say that? Because I would argue that what you're saying is not going to be true. That once it's convened, that's it; it's convened. And we were the vote to do that. So you may say - how are you going to make that happen? You're not going to unconvene the whole thing because you want to back out, because it's not narrow in scope. So where in the US Constitution is going to allow for that to happen—what you are saying. (4:00)

Rep. Sirois: So Article V of the United States Constitution provides 2 methods for amending the Constitution: Congress can propose an Amendment which we've seen throughout our history. You also have an option for an application by 2/3 of the states. And then Congress must call a convention in order to take up the amendments that have been proposed. I won't argue with you that this is new territory for us. But the Constitution provides these 2 options for instances just like this—it's a perfect example. (4:29)

Rep. Sirois: Congress has failed to act on this issue related to our unsustainable budget deficit. So what we are using is a tool that is available to us as a legislature to petition—to send in an application to Congress—to ask for them to have a convention related to a balanced...as I was saying, this is one of the methods that's available to us under the Constitution to apply for a convention to be held. It is an extraordinary circumstance—I don't disagree with you there. But it is an action that is necessary to protect the future generations from the unsustainable budget deficit that we have. (5:14)

Rep. Sirois: ...(8:24). Thank you Mr. Chairman. So my concurrent resolution is specific to Florida's application to Congress to call a convention for the exclusive purpose of a federal balanced budget requirement. Our application to Congress is null and void, if Congress attempts to count that application toward any other purpose. So I would suggest to you that the safeguards that you're looking for, the concerns that your constituents have addressed to you, are resolved by the way we have structured our application to Congress. (9:00)

Rep Bartleman: – (24:10) I would just caution the members of this committee to be careful what you ask for. This has not been done before. You have no idea how the delegates are going to be selected, who they are. They are not accountable to the voters like we are. If balancing a budget were an easy thing, it would have been done under Trump or the majority party at that time—or any Democratic President in the Democratic party at that time...I know it has in the past, but it's a very difficult thing to do. But basically, when you call this conference, you don't know who these people are who are going to be making these decisions, because there are no rules as to how delegates are chosen. The people who *are* elected, although we think they're ineffective at times, at least they are elected and accountable to some extent, where the Delegates will not be. (25:08)

(**Rep. Bartleman**) No. 2. Once you call it, you're asking to call it—and convene it—that's what this is about. You can put whatever you want in your resolution—that we're going to walk away. Or we're only going to do balanced budget—but that's not what this is about. This is about simply calling something that we have no idea what it's going to look like and what they're going to do...then it's on us. Because we're the people who said, 'let's do this great idea.' Let's

put a whole bunch of people in a room to make decisions for us without any parameters, without any accountability for them...You're calling for something without any parameters around it...They can put anything they want at this convention on the table. Their balanced budget may not reflect the values of any of us in this room. And I think this is very, very dangerous. I think it's a really bad idea. And I would urge everyone not to support this. (26:44)

HCR 693 (congressional term limits)—Rep. David Borrero (Sponsor):

HCR 693 (34:25) is an application to the United States Congress to call a convention for the **sole purpose**, I say sole purpose, of proposing an amendment to the United States Constitution to impose term limits on members of the US Congress. (34:37)

Questions—Rep. Robin Bartleman

Rep. Bartleman: (34:49): ..Is there anything in the Constitution that gives Congress or the Supreme Court the power to tell conventioners what to do or not to do?

Rep. Borrero: *So the states can individually call a convention by a 2/3 vote, and they can outline the scope of which that amendment would be limited to.* In this case it is limited specifically and only to term limits. If additional subject matters were to be added to a convention, the language of this concurrent resolution would revoke it. So it's limited to only term limits, and the Constitution—I think a plain reading provides that states can call by 2/3 vote of the states a convention. (35:34)

Rep. Bartleman: Yes, but the Constitution is also silent on who the delegates are, how they're chosen, and what amendments. So how can you guarantee that we're not going to call a convention...How can you guarantee that they're not going to be runaway amendments? Are you telling me that the Delegates, which have no process to be chosen, are going to get up and walk away if they go beyond the scope of what these 2 bills say? (36:07)

Rep. Borrero: Specifically, Florida statutes: ...Chapter 11.93 specifically outlines procedures for calling delegates to an Art. V convention. *If Congress, however, were to outline procedures for calling delegates, congressional procedures would prevail.* So there is that procedure. And by operational of law, this HCR would rescind its application if additional subjects were to be added. So if for some reason, this could be used as some sort of a Trojan horse to include other

subject matters that we don't want included in there—you know, I would not want the repeal of our amazing, beautiful US Constitution or any sort of rewriting. This would limit it only to congressional term limits. And that is the reason why we have revoked it and prevented that sort of runaway subject matter being added to it. (37:04)

Rep. Bartleman: So let's walk through that. How that's going to work federally? Because once you have the number of states—the call, so how are you guaranteeing that our Florida delegates are walking out of the room? Can you guarantee right now that that's going to happen? Because once you open the door; and once it's called—and remember, other states have other provisions that they want to have heard. So how are you going to guarantee...(37:33)

Chairman McClure interrupts: Rep. Bartleman, by just my rough math here, I think between the 2 bills, we're on the 6th attempt to have this line of questioning answered. It's been a consistent answer the entire way. Is there another area of the resolution that you'd like to explore? (37:47)

Rep. Bartleman: Chair No, I apologize. But I think this is the most important thing because they're asking us to do something—

Chairman: Fair enough, Rep. Bartleman. I am uncertain that if I gave you 600 opportunities to ask this question, the answer wouldn't change. I feel very confident in the responses of Rep. Sirois and now Rep. Borrero. It's not a moving object. They've answered it. And so I don't know that the repetition is going to yield a different outcome. So for those purposes, could we try some other part of the resolution? (38:18)

Rep. Bartleman: ...I am simply asking for a line in the Constitution. They're just speculating now as to what would happen. But I'm asking for a *firm* answer as to how it would happen.

Chair McClure (to Rep. Borrero): Do you want to try it?

Rep. Borrero: (38:39)...I'll take a stab at it. Our Constitution and our judicial system offers us the opportunity to be able to challenge any sort of violation of the HCR that we've established today. So if we see that they're calling up different subject matters, they're in violation of this state law that we are passing here today. We can challenge it and we can make sure they are not in violation. (38:57)

Rep Bartleman: The Constitution of the United States does not give Congress nor the Supreme Court nor the judiciary any power to tell the convention what to do. That is very clear. So how

are you saying we're going to exhaust the judicial process when there's no authority in the Constitution for that? (39:22)

Rep Borrero: The Constitution provides the states the opportunity to call for a convention. By us calling a convention limited to this specific subject matter, congressional term limits, and revoking it, we have the force of state law to prevent it from going outside of that scope. (39:42)

****Rep. Bartleman summarizes her objections:** (54:14) Term Limits & Balanced Budget. That's in the headline. That's something that people can relate to, that's something that people can identify with. But what people don't understand is that by opening Pandora's box, there is the threat of a runaway convention. You say that because we have parameters in our resolution, it's going to stop everything. That may not happen. There are no rules. They can take up whatever they want—depending on if this happens years from now. How would you all feel if you convene this constitutional convention, and they decided we're going to protect women's reproductive rights? You'd be regretting the moment that you agreed to do this, because you're the State who added to the tally to get it done. So, there is no limiting of what can be heard. There's no limiting of the influence of special interests once you open this door. There are no convention rules. Who is going to determine those rules?

There are no rules. There was one in 1787 without any rules. Now we're going to open this up, and who is deciding the rules? Because contrary to what people think, the US Constitution does not specifically state that Congress or the Supreme Court has the power to tell the conventioners what to do. As a matter of fact, you can say, "We're just here for the balanced budget," and they can take it beyond all of that. And once the train left the station, you can't pull it back. They may have an appetite for more changes.

There's the threat of legal disputes. I don't know how they're going to dispute it, because there's nothing in the Constitution that gives you a clear path to disputing it. It is so uncertain. And I recognize that there's the possibility of an equal representation in it. I'm going to caution everybody once again, be careful what you ask for, because this is not a good idea. We have a system that works. Vote out your Republican or Democratic Congressman if you want a balanced budget. Vote out your Republican or Democratic Congressman if you want term limits. That's how our process works, okay?

But to open Pandora's box and not know what you're going to get at the end of the day: that lays squarely on the shoulders of the people who vote for this. And the climate of this nation and the way we operate...That could totally switch by the time this gets done and you open this

door. There are no rules. There is no way to curtail the parameters of that conference, no matter what you say. So, I urge everybody to vote it down. (57:17)