

SENATE JOINT RESOLUTION NO. 279

Memorializing the Congress of the United States to propose an amendment to Article V of the Constitution of the United States to provide for state-initiated amendments to the Constitution.

Agreed to by the Senate, February 20, 1995

Agreed to by the House of Delegates, February 16, 1995

WHEREAS, all thirty-three amendments proposed to the United States Constitution since 1788, including the twenty-seven amendments adopted, have been initiated by the Congress; and

WHEREAS, more than 400 petitions from the several states requesting a constitutional convention to propose amendments have been filed with Congress but have never resulted in the calling of a convention or adoption of an amendment; and

WHEREAS, there should be a careful balance of national and state power in a federal system, and the present mechanisms for the amendment of the Constitution have proven to be incapable of affording the proper balance between the national and state governments in their abilities to propose amendments to the Constitution; and

WHEREAS, the envisioned and desirable equipoise between national and state powers requires a means for the several states to be able to propose and adopt amendments to the Constitution; and

WHEREAS, the Commonwealth, in 1990, joined with other states to propose an amendment to the United States Constitution to enable three-fourths of the states to amend the Constitution subject to congressional veto and, in 1995, confirms its support for that proposal, 1990 House Joint Resolution No. 140; and

WHEREAS, it is proper that alternative proposals to address the issue of how best to restore the desired balance between the states and the national government should be considered; and

WHEREAS, the agreement by three-fourths of the legislatures of the several states to the same proposed amendment within a seven-year span should provide assurance that a proposed amendment is the will of the people, and that agreement should result in the adoption of the proposed amendment without the necessity of action by the Congress; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly of Virginia request the Congress of the United States to propose an amendment to Article V of the Constitution of the United States which provides for state-initiated amendments to the Constitution. The amendment provides for the deletion of the language shown as stricken and the insertion of the italicized language, in essence, as follows:

ARTICLE V

AMENDMENT OF THE CONSTITUTION

The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the applications of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; ~~Provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that~~ .

In addition, whenever the legislatures of three fourths of the several states shall propose and adopt an identical amendment to this Constitution, related to but one subject, that amendment shall be valid as a part of this Constitution, without any action being required by the Congress, upon receipt by the Clerk of the Supreme Court of certified copies of that amendment from states which represent three fourths of the several states; provided that the Clerk receives such certified copies within a seven-year period beginning on the date he receives the first certified copy of the proposed amendment; and provided that each state shall retain the power to rescind its action to propose and adopt the amendment until the expiration of the seven-year period or the date of receipt by the Clerk of certified copies of the same amendment from three-fourths of the several states whichever first occurs.

Upon receipt from the first ten states of the identical proposed amendment, the Supreme Court shall within sixty days thereafter rule whether the amendment is, in fact, related to one subject only. If the Supreme Court rules that the amendment is related to but one subject, or if the Supreme Court fails to rule on the issue within the sixty days, the amendment shall be conclusively presumed to meet the one-subject standard. If the Supreme Court rules that the amendment fails to meet the one-subject standard, the proposed amendment shall be invalid.

However, no state, without its consent, shall be deprived of its equal suffrage in the Senate; and, be

it

RESOLVED FURTHER, That the General Assembly request the legislatures of the several states to apply to Congress for the proposal of this amendment to the Constitution of the United States; and, be it

RESOLVED FINALLY, That the Clerk of the Senate transmit copies of this resolution to the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, the Archivist of the United States at the National Archives and Records Administration of the United States, the members of the Virginia delegation to the United States Congress, and the legislatures of each of the several states, attesting the adoption of this resolution.