

# Planning for a Convention of the States for Proposing Constitutional Amendments

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[Advocates of a federal balanced budget amendment](#) are closing in on the 34 states necessary to require Congress to call a convention for proposing amendments. Other groups, such as the [Convention of States project](#), are working assiduously toward the same goal. If they succeed, it will be a constitutional milestone, and a tribute to the dedication of millions of Americans who recognize that the federal government is sorely in need of reform.

Because a convention seems increasingly likely, some state lawmakers have been engaged in advance planning, which is very wise.

Less well considered are suggestions to modify traditional voting rules with an unprecedented system that would make it extremely difficult for the convention to actually propose any amendments.

Since the late 17th century, American states (and before them, colonies) have [met in convention at least 36 times](#). Interstate meetings of this type are essentially negotiating sessions among sovereigns, and therefore among equals. At those meetings, the voting rule for approving proposals has, with only minor exceptions, been a simple majority of states present and voting.

Some convention planners have suggested rejecting this tradition in favor of a rule by which no amendment could be proposed unless a super-majority of states (perhaps two thirds) approve it, or unless the approving states are entitled to a certain number of presidential electors. However, altering the traditional voting rule would be impractical and politically unnecessary, and could be politically disastrous.

## **Why changing the rule is impractical**

The history of prior conventions shows such a change to be impractical. Because there is no widely acceptable alternative to rule by a majority of states, prior efforts to adopt a different formula have always failed.

Here's an early example: In the 1754 Albany convention, there was apparently talk about giving some colonies more voting clout than others. The official journal shows the convention rejected the idea "to avoid all disputes about the precedency of the Colonies." The commissioners recognized that departing from the traditional system would bog them down in endless debate.

Another example: In 1783, Massachusetts called for a regional convention where decisions would be made by "a majority of delegates" rather than a majority of states. The attempt came to naught when two of the five states refused to participate.

Still another: In 1850, the Nashville Convention was the scene of competing motions by more populous states for weighted voting. After a day wasted in fruitless debate, the convention returned to the traditional rule of decision by a majority of states.

Yet another: In 1922, a seven-state convention met in several locations (but mostly in Santa Fe, New Mexico) to hammer out an interstate compact. The convention experimented with unanimous voting. The

reason behind this was that any compact would have to be approved by all states anyway. In practice, however, the system worked poorly, and eventually broke down. The convention returned to decision making by a majority of states.

All of those gatherings were much smaller than a modern convention for proposing amendments. If negotiating a rule change among a handful of states proved impractical, it almost certainly would prove impractical in a 50-state convention. Moreover, even if the assembly approved such a change, states that applied for the convention on the assumption that traditional protocols would be honored, likely would walk out.

### **Why changing the rule is politically unnecessary**

Altering the traditional rule is sometimes justified this way: “Because a bare majority of thinly populated states could propose an amendment opposed by a majority of the U.S. population, we need a super-majority to assure this doesn’t happen.”

Really?

Suppose a bare majority of states, all with low populations, voted to propose an unpopular amendment. So what? The proposal would be merely *a proposal*. There is no harm in letting a popular minority offer proposals; after all, a minority in Congress may co-sponsor a bill. But just as it takes a majority of each house of Congress to actually *pass* a bill, it requires three fourths of the states to *ratify* an amendment. Put another way, if only 13 (out of 99) legislative chambers say “no,” the proposal is dead. And that will be the fate of any proposal that lacks broad popular support.

Nor, in the real world, will an unpopular measure even be proposed. As the representatives of their respective state legislatures, most commissioners will be seasoned politicians unlikely to waste their time and political reputations promoting obvious losers.

Also, in the real world, the chance of a convention majority consisting only of small states is virtually nil. The current political configuration of America is such that any majority will consist of both large and small states. Sparsely-populated red state Wyoming will vote with big red states like Texas and Florida, not with little blue states like Vermont. Vermont will vote with big blues like New York and California.

So any majority will include a hefty number of large-population states. You can learn more about the fruitlessness of manipulating suffrage rules from [an analysis by Article V expert David Guldenschuh](#).

### **Why changing the rule could be politically disastrous**

If a convention is called, the principal reason will be the dedication of innumerable state lawmakers and grass roots activists. Almost without exception, these citizens have acted in the belief that the convention will follow traditional protocols. If insiders try to change those protocols after the fact, the convention’s popular support could vanish.

I spent many years in politics, and I learned the hard way that it pays to learn from experience. Of course, convention rules have to be modified to meet modern technological conditions, but in the essentials planners must respect the lessons of the past.

The traditional voting system has worked for 300 years. It can work for us as well.

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