

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015**

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**HOUSE BILL 695**

Short Title: Constitutional Amendnt Convention/Countermand. (Public)

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Sponsors: Representative Brody (Primary Sponsor).

*For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*

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Referred to: Judiciary I.

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April 15, 2015

A BILL TO BE ENTITLED

1  
2 AN ACT RELATING TO THE DUTIES OF DELEGATES SELECTED BY THE  
3 LEGISLATURE TO ATTEND A CONVENTION OF THE STATES CALLED UNDER  
4 ARTICLE V OF THE CONSTITUTION OF THE UNITED STATES TO CONSIDER A  
5 COUNTERMAND AMENDMENT TO THE CONSTITUTION OF THE UNITED  
6 STATES; ESTABLISHING AS A JOINT COMMITTEE OF THE LEGISLATURE THE  
7 DELEGATE CREDENTIAL COMMITTEE AND RELATING TO THE DUTIES OF  
8 THE COMMITTEE; PROVIDING FOR AN OATH FOR DELEGATES AND  
9 ALTERNATES TO A COUNTERMAND AMENDMENT CONVENTION; PROVIDING  
10 FOR A CHAIR AND ASSISTANT CHAIR OF THE STATE'S COUNTERMAND  
11 AMENDMENT DELEGATION; PROVIDING FOR THE DUTIES OF THE CHAIR AND  
12 ASSISTANT CHAIR; PROVIDING INSTRUCTIONS FOR THE SELECTION OF A  
13 CONVENTION PRESIDENT; AND PROVIDING SPECIFIC LANGUAGE FOR THE  
14 COUNTERMAND AMENDMENT ON WHICH THE STATE'S CONVENTION  
15 DELEGATES ARE AUTHORIZED BY THE LEGISLATURE TO VOTE TO APPROVE.

16       Whereas, under the authority of Article V of the Constitution of the United States,  
17 the North Carolina General Assembly has applied to the United States Congress to call a  
18 convention of the states to amend the United States Constitution and adopt a countermand  
19 amendment to authorize the states, upon a vote of three-fifths of the state legislatures, to nullify  
20 and repeal a federal statute, executive order, judicial decision, regulatory decision by a federal  
21 government agency, or government mandate imposed on the states by law that adversely affects  
22 the interests of the states, in order to properly exercise the states' constitutional authority to  
23 check federal power, preserve state sovereignty, and protect the rights of the states and the  
24 people; and

25       Whereas, to prepare for approval by the United States Congress of a constitutional  
26 countermand amendment convention called by two-thirds of the states under Article V of the  
27 Constitution of the United States, for the limited purpose of amending the Constitution of the  
28 United States to include a countermand amendment, the General Assembly finds it necessary to  
29 provide for a selection process for and the duties of delegates and alternates to the convention,  
30 to provide for a state convention delegation chair, and to provide the specific language of the  
31 countermand amendment on which the legislature authorizes the convention delegates to vote,  
32 so that the countermand amendment may be sent to the states for ratification by the legislatures  
33 of two-thirds of the several states; and

34       Whereas, the delegates sent by the legislature to the countermand amendment  
35 convention are representatives of the legislature and are thus required to fulfill the commission



1 assigned to them in this resolution; delegates appointed under this resolution are not free  
2 agents; they are authorized only to complete the terms and conditions defined in this resolution,  
3 and any actions by the delegates appointed under this resolution that are not authorized in the  
4 resolution, or as amended and authorized by the legislature, are ultra vires and may not be  
5 relied on by delegates from other states or by the convention; and

6 Whereas, the legislature hereby defines the duties and limits the authority of its  
7 delegates to the convention as specifically provided by this resolution; Now, therefore,  
8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** The legislature authorizes delegates to be summoned and appointed  
10 to participate at the convened convention according to the terms and conditions set out in this  
11 resolution.

12 **SECTION 2.** The number and qualifications of delegates to be sent to the  
13 convened convention will be decided by the General Assembly after the United States  
14 Congress summons delegates to the convention.

15 **SECTION 3.** The General Assembly may add to the number of delegates or  
16 replace or remove any delegate or alternate if, in its sole discretion, that action is necessary;  
17 alternates do not have an official role at the convention and may attend the convention only if  
18 the state delegations at the convention vote to allow their attendance or the legislature appoints  
19 an alternate to take the place of a delegate.

20 **SECTION 4.** The General Assembly hereby instructs and authorizes the State's  
21 delegates to the convention to vote to send the countermand amendment, as set forth in Section  
22 16 of this resolution, back to the states for ratification by way of the United States Congress;  
23 delegates are prohibited to vote in favor of any alternate amendment or modified version of the  
24 countermand amendment that might be introduced at the convention, and they are hereby  
25 instructed to do all in their power at the convention to secure a vote that approves sending the  
26 countermand amendment back to the states for ratification.

27 **SECTION 5.** Only the countermand amendment, as set forth in Section 16 of this  
28 resolution, shall be considered by the legislature for ratification.

29 **SECTION 6.** Upon the enactment of this resolution and after a total of 34 states  
30 place a call under Article V of the Constitution of the United States, for a countermand  
31 convention, the Speaker of the House of Representatives shall appoint three members of the  
32 House of Representatives, with one member being from the minority caucus, and the President  
33 of the Senate shall appoint three members of the Senate, with one member being from the  
34 minority caucus, to a legislative Delegate Credential Committee. The committee shall have the  
35 responsibility and requisite authority to perform each of its assigned duties described in Section  
36 11 of this resolution.

37 **SECTION 7.** A vacancy on the Delegate Credential Committee shall be filled in  
38 the manner of the original appointment.

39 **SECTION 8.** Members of the House of Representatives on the Delegate Credential  
40 Committee shall select one cochair from among their number, and the Senators on the Delegate  
41 Credential Committee shall select one cochair from among their number; and the cochairs may  
42 assign staff to provide support for the Delegate Credential Committee.

43 **SECTION 9.** The Delegate Credential Committee may meet during and between  
44 legislative sessions.

45 **SECTION 10.** Members of the Delegate Credential Committee can be replaced or  
46 removed by the presiding officer appointing them, if, in the sole discretion of the presiding  
47 officer, that action is necessary; each member of the committee is required to take the following  
48 oath, administered by the presiding officer of the House of Representatives or Senate, and sign  
49 a pledge confirming that the following oath has been taken and agreed to: "I pledge to follow  
50 the instructions and charges in this resolution and any other directives given to me by the North

1 Carolina General Assembly from the date I am appointed to the committee and during the full  
2 term of the convention, to the best of my abilities, so help me God."

3 **SECTION 11.** The members of the Delegate Credential Committee shall follow  
4 the directives in this resolution and any supplemental instructions from the General Assembly.  
5 The Committee shall have all of the following duties:

- 6 (1) To decide all matters among committee members by a vote of a majority of  
7 the full membership of the committee.
- 8 (2) To function as the official facilitator for the legislature as required in this  
9 resolution.
- 10 (3) To appoint delegates, subject to approval by the General Assembly, to the  
11 convention and, within 10 business days after appointment, provide a  
12 committee report of the appointment to the House chief clerk and Senate  
13 secretary.
- 14 (4) To appoint one delegate to serve as the chair of North Carolina's State  
15 delegation and another delegate as the assistant chair.
- 16 (5) To issue to each approved delegate and alternate, including the chair and  
17 assistant chair, certification that the delegate has satisfactorily done all of the  
18 following:
  - 19 a. Met the requisite qualifications established by the General Assembly.
  - 20 b. Taken the applicable oath set forth in subdivision (8) of this section.
  - 21 c. Confirmed the delegate's oath by signing a separate pledge  
22 document.
- 23 (6) To issue to each certified delegate and alternate, including the chair and  
24 assistant chair, a convention pass to the convention.
- 25 (7) To notify the legislature of the financial or other needs of the State  
26 delegation at the convention.
- 27 (8) To administer the following oaths to the delegates, alternate candidates,  
28 chair, or assistant chair before issuing certifications:

#### 29 30 DELEGATES' AND DELEGATE ALTERNATES' OATHS

31 "I pledge to follow the instructions in this delegate resolution and any other  
32 directive consistent with this delegate resolution given to me by the Delegate Credential  
33 Committee or the legislature, whether such directive is given to me directly or indirectly, from  
34 the time I am certified by the committee to be a delegate or alternate and during the full term of  
35 the countermand amendment convention, to the best of my abilities, so help me God."

#### 36 37 CHAIR AND ASSISTANT CHAIR OF NORTH CAROLINA'S STATE DELEGATION 38 OATHS

39 "I pledge to follow the instructions in this delegate resolution and any other  
40 directive consistent with this delegate resolution given to me by the Delegate Credential  
41 Committee or the legislature, whether given to me directly or indirectly, from the time I am  
42 certified by the committee to be the chair or assistant chair of North Carolina's State delegation  
43 and during the full term of the countermand amendment convention, to the best of my abilities,  
44 so help me God."

- 45
- 46 (9) To monitor the activities of North Carolina's State delegation.
- 47 (10) To keep close communications with the chair and assistant chair and provide  
48 needed assistance when requested.
- 49 (11) To monitor the activities, deliberations, and all votes by the states at the  
50 convention, and, when possible, to inform the chair, assistant chair, and

1 legislature of which states at the convention have enacted a similar  
2 resolution for their delegates.

3 (12) To make reports, at least quarterly or more frequently if necessary, to the  
4 General Assembly regarding the events at the convention, upcoming events,  
5 and progress and prospects for ratification of the countermand amendment  
6 by the delegations; and to make appropriate recommendations to the  
7 legislature on actions needed to ensure the favorable vote by the state  
8 delegations to send the countermand amendment, as set forth in Section 16  
9 of this resolution, to the states, by way of the United States Congress, for  
10 ratification.

11 (13) To recommend to the legislature removal of a delegate or alternate from all  
12 convention activities for a violation of the provisions of this resolution and  
13 to make recommendations regarding whether the delegate should have the  
14 delegate's credentials invalidated; the committee's recommendation must be  
15 approved by the General Assembly.

16 **SECTION 12.** The chair and assistant chair of North Carolina's State delegation  
17 shall be required to follow the directives in this resolution and others that may be issued by the  
18 legislature.

19 **SECTION 13.** The chair of North Carolina's State delegation is charged with  
20 joining with other state delegations to open the convention for business, identifying other state  
21 legislatures that have approved a delegate resolution for their delegates, and working with those  
22 delegations to find agreement to each of the following:

23 (1) To arrange to have at least one delegate from each resolution delegation be  
24 the spokesman at every business meeting and roll call at the convention;  
25 unless otherwise specified, the chair will be the state delegation's  
26 spokesman.

27 (2) To distribute to all delegates a pocket-sized copy of the United States  
28 Constitution.

29 (3) To instruct resolution and nonresolution state delegates of the mandate in  
30 Section 4 of Article IV of the Constitution of the United States that  
31 guarantees to each state a republican form of government, which gives each  
32 state equal standing when applying for a convention and when voting at and  
33 organizing the convention.

34 (4) To work closely with the chairs of all other state delegations to find mutual  
35 agreement on the objectives in this resolution.

36 (5) To assign to North Carolina's delegates the following duty: assign to each  
37 delegate a proportionate number of delegates from other state delegations for  
38 the purpose of gaining consensus and agreement that the countermand  
39 amendment, as herein written, should be sent to the states for ratification.

40 (6) To build a consensus between at least 26 state delegations, especially  
41 resolution delegations, at the convention to do the following:

42 a. To require that each state delegation at the convention has only one  
43 vote regardless of the number of delegates in a state delegation or the  
44 population of a state as provided by Section 4 of Article IV of the  
45 Constitution of the United States.

46 b. To require a simple majority vote at all roll calls to decide any and all  
47 matters brought before the convention, including the question of  
48 whether the countermand amendment, as herein written, should be  
49 sent to the states for ratification.

50 c. To nominate and install convention officials who come from states  
51 that have passed this resolution for their delegates and who agree

- 1 with sending the countermand amendment, as herein written, to the  
2 states for ratification.
- 3 d. To require a quorum of 26 state delegations before business can be  
4 conducted and before a vote can be taken to decide any and all  
5 matters that may be presented at the convention.
- 6 e. To build a consensus of at least 26 state delegations to work together  
7 for the mutual goal of sending the countermand amendment, as set  
8 forth in Section 16 of this resolution, back to the states for  
9 ratification.
- 10 f. To work to conclude convention business in 21 days; in no case is  
11 the convention to be longer than 180 days, unless the convention  
12 votes to extend the termination date by 180 days; no further  
13 extensions are to be allowed.
- 14 g. If possible, to nominate a candidate to be president of the convention  
15 who comes from North Carolina's delegation.
- 16 h. If necessary, to call for a vote for a candidate to be president who is  
17 like-minded and comes from a state that has enacted this resolution,  
18 whether or not the chair nominated the candidate to be president.
- 19 i. To try to avoid the nomination and election of a president who comes  
20 from a state that did not pass this resolution.
- 21 j. To support establishing the following duties of the president:
- 22 1. To secure a vote from state delegations requiring that this  
23 resolution be the rules of order at the convention; "Robert's  
24 Rules of Order" may be adopted if they do not conflict with  
25 this resolution.
- 26 2. To follow the terms, directives, and requirements in this  
27 resolution.
- 28 3. To call for a vote requiring each state delegation to appoint  
29 one delegate to be the delegation's spokesman.
- 30 4. To stay focused on the primary purpose, which is to have the  
31 countermand amendment, as herein written, be sent to the  
32 states, by way of the United States Congress, for ratification.
- 33 5. To recommend and request security measures as may be  
34 needed at the convention.
- 35 6. To officiate at the nomination and installation of all officers  
36 at the convention.
- 37 7. To establish the agenda at the convention as defined in this  
38 resolution.
- 39 8. To provide equal time in floor discussions for all states,  
40 whether for or against sending the countermand amendment  
41 to the states for ratification.
- 42 9. To prohibit the introduction at the convention of any subject  
43 matter or issue other than matters relating to the countermand  
44 amendment, as herein written, and whether it should be sent  
45 to the states for ratification.
- 46 10. To expedite deliberations by the state delegations and to  
47 prevent unnecessary delays.
- 48 11. To authorize appropriate roll calls at the convention.
- 49 12. To settle all disputes between state delegations and delegates,  
50 whether or not they are from a resolution state.

- 1 13. To recommend removal of the convention credentials of any
- 2 delegate, including convention officials, for causing security
- 3 problems at the convention.
- 4 14. To establish procedures for installing and recognizing
- 5 alternates who are to become delegates.
- 6 15. To call for a vote at the earliest favorable time to approve
- 7 sending the countermand amendment to the states for
- 8 ratification.
- 9 16. To call for a vote to decide which method of ratification the
- 10 convention recommends to the United States Congress,
- 11 whether by state legislatures or state conventions; recommend
- 12 to the convention that ratification should be by legislatures;
- 13 resolution delegations are required to vote for ratification
- 14 through state legislatures.
- 15 17. To report to the United States Congress, the 50 state
- 16 legislatures, and the media the decisions of the convention.
- 17 18. To recommend formal requests, from time to time, to the state
- 18 legislatures, through representatives in the 50 state
- 19 delegations, for money that will be needed to carry on the
- 20 business of the convention.
- 21 19. If a candidate for president of the convention who does not
- 22 come from a state that has adopted this resolution wins the
- 23 presidency, then it is the duty of the chair and the delegates in
- 24 the legislature's delegation to take reasonable steps to argue
- 25 for a favorable vote by the convention to send the
- 26 countermand amendment, as herein written, to the states for
- 27 ratification.
- 28 20. To follow the procedures in this resolution for electing other
- 29 officers as the convention considers necessary; the president
- 30 of the convention shall be responsible for defining the duties
- 31 of each office in accordance with the requirements of this
- 32 resolution.
- 33 21. To oppose and vote against any efforts by state delegations to
- 34 delay a vote for the countermand amendment or modify, alter,
- 35 or change the text of the countermand amendment, as herein
- 36 written.
- 37 22. To oppose and vote against any efforts by state delegations to
- 38 offer any other amendment to the constitution at the
- 39 convention other than the countermand amendment, as
- 40 provided in Section 16 of this resolution.
- 41 (7) To make regular reports to the committee regarding all activities at the
- 42 convention.
- 43 (8) To notify the committee of financial or other needs the North Carolina State
- 44 delegation has at the convention.
- 45 **SECTION 14.** The delegates shall be required to follow the directives in this
- 46 resolution and others that may, from time to time, be issued by the General Assembly; each
- 47 delegate is charged with the following duties:
- 48 (1) To comply with directives made under this resolution.
- 49 (2) To follow the reasonable instructions of the chair and assistant chair of
- 50 North Carolina's State delegation that are consistent with the duties set out in
- 51 this resolution.

- 1 (3) To be amenable to the advice of the president of the convention when the  
2 president is from a resolution state; if the president is from a nonresolution  
3 state, work closely with the chair to find resolutions that are consistent with  
4 this resolution.
- 5 (4) To work to advance all the requirements and directives in this resolution.
- 6 (5) To be subject to dismissal from the State delegation for violation of this  
7 resolution.
- 8 (6) To be bound by this resolution to vote at all state delegation roll calls  
9 consistent with directives given to the chair in this resolution, which includes  
10 sending the countermand amendment, as herein written, to the states for  
11 ratification by way of the United States Congress.
- 12 (7) To attend all assigned business sessions at the convention.
- 13 (8) To help the chair to successfully complete the instructions in this resolution.
- 14 (9) To attend all meetings scheduled by the chair and to do all of the following:
- 15 a. To report to the chair the results of the delegate's work among other  
16 state delegates.
- 17 b. To assess and report to the chair the number of states that plan to  
18 vote in favor of the countermand amendment.
- 19 c. To assess and report to the chair any problems or opportunities that  
20 may have developed or might develop relating to the purposes of this  
21 resolution.
- 22 d. To recommend to the chair other strategies that may help join with at  
23 least 26 other states to vote favorably for the countermand  
24 amendment at the convention.

25 **SECTION 15.** The alternates of North Carolina's State delegation shall be required  
26 to follow the directives in this resolution and others that may be issued by the legislature; each  
27 alternate is charged with the following duties:

- 28 (1) To be prepared to serve as a delegate if directed to do so by the committee or  
29 General Assembly.
- 30 (2) To fulfill the duties required by this resolution when appointed as a delegate.

31 **SECTION 16.** The text of the countermand amendment that is to be sent to the  
32 state legislatures, via Congress, for ratification shall read as follows:

33 **"Amendment XXVIII**

34 **"Section 1.** The Article restores State sovereignty in our Constitutional Republic by  
35 providing State Legislatures Countermand authority.

36 **"Section 2.** State Legislatures in the several States shall have the authority to Countermand  
37 and rescind any Congressional Statute, Judicial decision, Executive Order, Treaty, government  
38 agency's regulatory ruling, or any other government or nongovernment mandate (including  
39 excessive spending and credit) imposed on them when in the opinion of 60 percent of State  
40 Legislatures the law or ruling adversely affects their States' interest. When the Countermand  
41 threshold has been reached, the law or ruling shall be immediately and automatically nullified  
42 and repealed. This Countermand authority shall also apply to existing laws and rulings.

43 **"Section 3.** From the time the initial Countermand is issued by a State Legislature, the other  
44 Legislatures shall have 18 months to complete the Countermand process. If the Countermand  
45 process is not completed in 18 months, then the law or ruling that is being challenged shall  
46 remain enforceable.

47 **"Section 4.** Each State Legislature must complete their Countermand affidavit and deliver a  
48 certified copy to the Chief Justice of the United States Supreme Court, the Leader of the United  
49 States Senate, the Speaker of the House of Representatives, the President of the United States,  
50 and, when applicable, the Government Agency or Body that is being challenged.

1       **"Section 5.** Any elected or nonelected government official, or any nongovernment  
2 individual or organization, who intentionally obstructs or prevents the implementation of any  
3 provision in this Article shall have committed a criminal offense and shall be subject to  
4 impeachment (when applicable) and criminal prosecution and upon conviction serve up to five  
5 years in prison.

6       **"Section 6.** Individual States shall have authority to prosecute violators of this Article under  
7 State laws in the absence of Federal prosecution after 90 days from the date of the alleged  
8 violation. Multiple prosecutions, by multiple States, for the same alleged crime are prohibited.

9       **"Section 7.** The Article shall be immediately part of the United States Constitution upon  
10 ratification by three quarters of the State Legislatures in the several States.

11       **"Section 8.** The provisions of this Article are enforceable within the United States which  
12 shall include the Several States, the District of Columbia, the Commonwealth of Puerto Rico,  
13 the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the  
14 United States."

15               **SECTION 17.** This act is effective when it becomes law.