

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

**H.B. 695**  
**Apr 14, 2015**  
**HOUSE PRINCIPAL CLERK**

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HOUSE DRH20217-MD-45C (03/02)

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

Sponsors: Representative Brody.

Referred to:

1 A BILL TO BE ENTITLED  
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  
36 assigned to them in this resolution; delegates appointed under this resolution are not free



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

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

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

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

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

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

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

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

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

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

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

44 **SECTION 10.** Members of the Delegate Credential Committee can be replaced or  
45 removed by the presiding officer appointing them, if, in the sole discretion of the presiding  
46 officer, that action is necessary; each member of the committee is required to take the following  
47 oath, administered by the presiding officer of the House of Representatives or Senate, and sign  
48 a pledge confirming that the following oath has been taken and agreed to: "I pledge to follow  
49 the instructions and charges in this resolution and any other directives given to me by the North  
50 Carolina General Assembly from the date I am appointed to the committee and during the full  
51 term of the convention, to the best of my abilities, so help me God."

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

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

#### 27 28           DELEGATES' AND DELEGATE ALTERNATES' OATHS

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

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

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

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

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

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

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

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

- 21 (1) To arrange to have at least one delegate from each resolution delegation be  
22 the spokesman at every business meeting and roll call at the convention;  
23 unless otherwise specified, the chair will be the state delegation's  
24 spokesman.
- 25 (2) To distribute to all delegates a pocket-sized copy of the United States  
26 Constitution.
- 27 (3) To instruct resolution and nonresolution state delegates of the mandate in  
28 Section 4 of Article IV of the Constitution of the United States that  
29 guarantees to each state a republican form of government, which gives each  
30 state equal standing when applying for a convention and when voting at and  
31 organizing the convention.
- 32 (4) To work closely with the chairs of all other state delegations to find mutual  
33 agreement on the objectives in this resolution.
- 34 (5) To assign to North Carolina's delegates the following duty: assign to each  
35 delegate a proportionate number of delegates from other state delegations for  
36 the purpose of gaining consensus and agreement that the countermand  
37 amendment, as herein written, should be sent to the states for ratification.
- 38 (6) To build a consensus between at least 26 state delegations, especially  
39 resolution delegations, at the convention to do the following:
- 40 a. To require that each state delegation at the convention has only one  
41 vote regardless of the number of delegates in a state delegation or the  
42 population of a state as provided by Section 4 of Article IV of the  
43 Constitution of the United States.
- 44 b. To require a simple majority vote at all roll calls to decide any and all  
45 matters brought before the convention, including the question of  
46 whether the countermand amendment, as herein written, should be  
47 sent to the states for ratification.
- 48 c. To nominate and install convention officials who come from states  
49 that have passed this resolution for their delegates and who agree  
50 with sending the countermand amendment, as herein written, to the  
51 states for ratification.

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

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

1 state, work closely with the chair to find resolutions that are consistent with  
2 this resolution.

3 (4) To work to advance all the requirements and directives in this resolution.

4 (5) To be subject to dismissal from the State delegation for violation of this  
5 resolution.

6 (6) To be bound by this resolution to vote at all state delegation roll calls  
7 consistent with directives given to the chair in this resolution, which includes  
8 sending the countermand amendment, as herein written, to the states for  
9 ratification by way of the United States Congress.

10 (7) To attend all assigned business sessions at the convention.

11 (8) To help the chair to successfully complete the instructions in this resolution.

12 (9) To attend all meetings scheduled by the chair and to do all of the following:

13 a. To report to the chair the results of the delegate's work among other  
14 state delegates.

15 b. To assess and report to the chair the number of states that plan to  
16 vote in favor of the countermand amendment.

17 c. To assess and report to the chair any problems or opportunities that  
18 may have developed or might develop relating to the purposes of this  
19 resolution.

20 d. To recommend to the chair other strategies that may help join with at  
21 least 26 other states to vote favorably for the countermand  
22 amendment at the convention.

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

26 (1) To be prepared to serve as a delegate if directed to do so by the committee or  
27 General Assembly.

28 (2) To fulfill the duties required by this resolution when appointed as a delegate.

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

31 **"Amendment XXVIII**

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

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

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

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

49 **"Section 5.** Any elected or nonelected government official, or any nongovernment  
50 individual or organization, who intentionally obstructs or prevents the implementation of any  
51 provision in this Article shall have committed a criminal offense and shall be subject to

1 impeachment (when applicable) and criminal prosecution and upon conviction serve up to five  
2 years in prison.

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

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

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

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