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Some in our Legislature want an Article 5 Constitutional Convention for a "Balanced Budget" amendment, but once opened, those at the convention would not be bound to that proposal and the liberties and freedoms we hold dear, even our system of government, could be changed.

MADISON - What do the League of Women Voters, the American Civil Liberties Union and the John Birch Society have in common? They all think legislation calling for a federal constitutional convention is a bad idea. A very bad idea.

The last time we had a constitutional convention was a long time ago… in 1787 to be exact. At that time, the entire United Stated Constitution was rewritten.

Some lawmakers are calling for a new constitutional convention. They want the convention to consider a Balanced Budget Amendment. However, there are no guarantees that Congress who calls the convention will limit the call to a Balanced Budget Amendment; or that, once called, the convention will limit itself to a Balanced Budget Amendment. Then what?

As the nonpartisan League of Women Voters testified, a convention “is a particularly dangerous path to take.”

First, let’s consider a bit of background.

Article 5 in the US constitution allows two ways to change our Constitution. The first, and the only way used in the last two hundred and thirty years, is to change the constitution one amendment at a time. The specific language of the amendment must pass both Houses of Congress with two-thirds vote and be ratified by three-fourths of the states.

The second way is for two-thirds of the states (34 states) to call for a convention to propose amendments. When the 34-state threshold is reached, Congress issues the convention call. Delegates are selected by states and those delegates decide on rules governing the convention.

About four years ago lawmakers belonging to the American Legislative Exchange Council (ALEC) began meeting to discuss how to bring states together for a constitutional convention. Groups supporting the idea targeted 11 states including Wisconsin and Kentucky who are now taking up the issue. If both adopt the proposal, they would be the 30th and 31st states of the required 34.

Last week after a hearing lasting almost eight hours during which dozens of people opposed the idea, our Senate Committee voted to call a convention. My colleague Senator Risser and I were the only “no” votes.

Before the hearing I did some research. Much of what I learned about an Article 5 convention comes from the Congressional Research Service.

Once called, the convention and its delegates write the rules of the convention. They can write any rules upon which they can agree. They can take up any action upon which they can agree. More unsettling, as re-writers of the Constitution, the delegates become the sovereign power of the land. In its analysis, the Congressional Research Service, referred to the doctrine of “constitutional sovereignty” quoting Cyril Brickfield who in 1957 wrote, “… the convention is possessed of sovereign powers and therefore is supreme to all other Government branches or agencies.”

In short, the liberties and freedoms we hold dear, those values that make us uniquely American, even our system of government, could be changed.

Perhaps this is why the conservative John Birch Society (JBS) and the American Civil Liberties Union (ACLU) both opposed the bill. Larry Greenley of JBS reminded our committee the last constitutional convention in 1787 not only completely rewrote the Constitution, they also

changed the ratification process so that only 9 (not all 13) states had to agree.

Proponents of the Wisconsin efforts say their plan is to only take up a balanced budget amendment. But after repeated questioning from Senator Risser, no one could describe how such amendment might be worded or how, if passed, the amendment might work. We heard, instead, the convention itself would decide the rules and the specific language of any proposals. The safeguard, if one could call it that, was that the states would have to ratify what the convention proposed.

At odds with this reasoning was the history Mr. Greeley pointed to – the 1787 convention invented its own ratification process. The hearing left me agreeing the idea was “a dangerous path to take.”

A more prudent approach, one we have always taken since 1787, is to change the Constitution, when necessary, one specific amendment at a time.