

# Rewrite the Constitution? Here's how a convention could do it

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- Conservatives want a federal balanced budget amendment added to the Constitution
- How hard would that be?

**Washington (CNN)** The increasing dominance of Republicans inside statehouses across the nation has spurred talk that a constitutional convention -- the very meeting that crafted the US Constitution -- could be more than just a Hail Mary thrown to conservatives.

Conservative groups and Republican lawmakers have been planning for the possibility for years, although it picked up steam three years ago after a group of state lawmakers met at George Washington's Mount Vernon estate, just outside Washington.

The requirement that 34 state legislatures approve of any convention has long seemed too high a hurdle. But [a series of surprise wins for Republicans in statehouses across the country on Election Night](#) -- including taking control of both legislative chambers in 32 states -- has put the possibility within reach.

## What is a constitutional convention?

We've already had one constitutional convention -- literally *The Constitutional Convention*, in 1787, which gave us the Constitution -- and there hasn't been one since.

The document itself lays out the rules for calling a convention -- two-thirds of the states, or 34, have to petition Congress to call the meeting, according to Article V of the Constitution. But from there, it's open to interpretation -- and battling. Does each state get two delegates to send to the convention or do they get a number proportional to their population? Those are the kinds of questions that could make agreeing to a convention almost impossible.

Despite the long odds, a group of lawmakers -- mostly Republicans -- have been meeting since 2013 to come up with guidelines to prevent total chaos.

That group, The Assembly of State Legislatures, [approved a detailed package of rules this year](#) -- outlining everything from who would lead the group to how proposals would be debated.

## What do they want?

The effort is being driven by conservative lawmakers and groups, who want a federal balanced budget amendment added to the Constitution (which would limit spending) and a broad decentralization of powers, sending more control to statehouses.

The issue has gotten broad support from the American Legislative Exchange Council -- a conservative group that helps state lawmakers craft legislation -- and groups supported by the Koch Brothers.

Throughout the administration of President Barack Obama, the movement gained steam as Republicans railed against Washington, although it's unclear whether the effort would lose steam with Republicans now in control in Washington.

"Our task is to lay the foundation of this building as solidly as we can, so that it can stand tall for future generations," [Indiana's Senate leader, Sen. David Long, said in 2014, at a meeting of the group of lawmakers in Indianapolis.](#) "So it can provide a shelter necessary to protect those who use this building for the advancement of state's rights, whether today, tomorrow, or at any time in the future."

### Would it be successful?

The short answer is: It's hard to tell.

Under the current Constitution, if they could get enough states to approve opening a convention, any changes made in the convention would still have to be approved by at least 38 states -- the three-fourths majority of states.

But they could also rewrite the rules entirely -- like the original framers of the Constitution did in 1787. Mike Klarman, Kirkland and Ellis professor of law at Harvard Law School and a constitutional historian, notes that the delegates to the Constitutional Convention in 1787 had rules they had agreed on and were only supposed to tinker with the existing Articles of Confederation.

Of course, they did a bit more than tinker ...

### Delegates gone wild?

... This is why some lawmakers and constitutional experts are apprehensive about re-opening the Constitution, via a convention: anything could go.

"It's not obvious most Americans would support freedom of speech, freedom of the press, or due process," said Klarman, who recently wrote "The Framers' Coup: The Making of the United States Constitution."

The framers at the first, and only convention, made it hard for any one person to wrest away the reins of government on purpose, installing numerous checks on power like setting term-lengths.

"The framers were very shrewd about political power, they were always trying to constrain actors who were acting in their self-interest," he said.

One of the things they were fighting at the time, he said, was a populist uprising among state and local leaders in the former colonies.