

Mayor's Column
October 23, 2017

Every 20 years, New York voters must be asked per the State Constitution (Article 19, Sec 2) the question, "Shall there be a convention to revise the constitution and amend same?" The question will be on this November 7th ballot, and if passed, a full two year process begins culminating in ballot referendums on proposed amendments.

As background, the New York State Constitution is the fundamental governing document of the State. At 60,000 words, it is more than seven times the length of the U.S. Constitution. It consists of a preamble followed by 20 articles. Nothing in a state constitution can diminish rights guaranteed by the US Constitution, but being much more detailed than its Federal counterpart, state constitutions can adopt rights and policies not contained in the Federal document including anti-discrimination provisions, education rights and care for the needy and persons with disabilities.

New York State has had five constitutions adopted in 1777, 1821, 1846, 1894 and 1938 with the 1938 version remaining the current central governing document of the State. The last time voters cast a ballot on the subject, they rejected the call for a constitutional convention.

Seemingly innocuous, this vote to have a deliberative discussion vis a vis the formation of a convention is now a major focus of most lobbying groups in Albany.

A consortium of groups including public and private organized labor, environmentalists and conservationists who did not want to see the "forever wild" provision ever repealed, social welfare advocates and fiscal conservatives who wanted to keep existing state debt limits in place and government watchdog groups who just didn't want to, "spend millions of dollars to hold a party in Albany", were the forces that tipped the scales against a positive convention vote last go round. Again the strange bed fellows of unions and conservatives are united in opposition.

Those in favor of a constitutional convention believe that only a constitutional convention can deal with the fundamental structures and powers of the State Legislature which in their view are long overdue for reform.

So depending on where you sit, a “Con-Con” so named is either a once in a generation opportunity to bring our State Constitution/Government into the 21st Century or an expensive waste of time that could result in the loss of hard won fundamental rights.

The proponents of a convention and ensuing amendment recommendations argue:

- Lobbyists will have less influence over most of the delegates who will never run for a public office vs the current influence on sitting legislators.
- The cost of \$5.00 per resident is relatively diminutive.
- Issues that historically the State Legislature won't touch: creating a truly independent redistricting commission; a total ban on gerrymandering of any type; term limits for Legislative members, party leaders and committee chairs; real campaign financing reform; and the legalization of marijuana will only be addressed via constitutional amendments.

As example, a constitutional amendment could establish a permanent Commission on Public Ethics which would have real investigatory and penalty powers which would apply to all branches of state government and public authorities.

The New York State Bar Association believes a Convention is the way to streamline New York's Court system which has 11 different trial courts and is widely viewed as one of the most complicated in the Country.

Those against the idea of the convention cite the following:

- It could be a Pandora's Box – outcomes can't be predicted, everything could be fair game and change will be affected by the political environment du jour. Given the outcome of the 2016 election, concerns have heightened.
- There is already a mechanism for the existing Legislature to pass any needed amendments. If receiving support from two separately elected State Legislatures, individual bills to amend specific language can be put forth. If passed, such bills would then appear on the following November ballot as a referendum. Most recently this process was undertaken in 2014, and it has been used 200 times since the last major constitutional revision in 1894.
- The same lobbyist who control Albany now will control the convention as well.

- Sitting Legislators would dominate the convention as they do state government so in essence same old, same old. (Only 13 out of 186 delegates in 1967 were sitting legislators but the 13 were all of the important legislative leaders).

A wide coalition of organizations and labor unions have united to oppose a convention. The disparate groups include Planned Parenthood and the Right to Life Committee, the Working Families Party, and the New York Rifle and Pistol Association. This anti-convention coalition is almost entirely bankrolled by labor unions who have contributed over \$1.2 million to the cause.

Of primary importance to some constituents include the prohibition of a reduction in public pension benefits; right to workmen's compensation and right to be a member of a union and bargain collectively. Currently all of the above are part of our constitution and some fear provisions could be diluted.

Conversely, many groups who seek change in New York see a Constitutional Convention as a chance to upend business as usual. The leaders of both the State Senate and House are on record opposing change via a convention.

This referendum vote could very well be the most far reaching and impactful decision made in the State for many years to come. According to the most recent Siena College poll, the margin is 44-39% in favor of a convention, but the margin has tightened significantly in the last few weeks. The referendum is one of three which will be on the back side of your November 7th ballot.