

Materials for Constitutional Convention Update

Purpose

The purpose of this update is to determine whether there is member agreement on updating the Delegate Selection portion of the League 1993 Constitutional Convention position.

- To make it more flexible and adaptable for the future (bringing it more in line with most League positions), and
- To clarify how the board should consider any reforms or lack thereof to the delegate selection process as part of the decision on whether or not to support the proposal for a constitutional convention when it comes up again for a vote in 2017.

This is a limited update, not a study, and we are not asking local leagues to reconsider any substantive aspect of the current position on the delegate selection process. Because of this, we are not asking local leagues to answer questions but instead to approve an updated statement. This update is not intended to consider whether or not the League will support or oppose the proposal for a constitutional convention that will be on the ballot in 2017. The state board will decide that question in light of current policy concerns and the entire League position.

Background

The New York State constitution can only be changed by amendments approved by two consecutively elected state Legislatures, or through a constitutional convention convened by a specific process described in Article XIX of the constitution. That Article provides that every 20 years the public has a chance to vote on the question of whether to hold a constitutional convention -- "Shall there be a convention to revise the constitution and amend the same?". In addition, the Legislature can place the question on the ballot at any time. There are three public votes involved in the constitutional convention process.

- Whether to hold the convention,
- The election of delegates, and
- Approval of any amendments to the constitution.

The last time the proposal for a constitutional convention was on the statewide ballot was 1997 and it was voted down. The League was one of the main groups opposing the 1997 proposal under the 1993 Constitutional Convention position. See pages 70-74 in Impact on Issues or go

to: <http://www.lwvny.org/advocacy/impact/issues/government/ConstitutionalConvention.pdf>

Delegate Selection Process

The delegate selection process is governed by both the state constitution and by state election law. The constitution provides that for each Senate district (currently 63) there are three convention delegates, for a total of 189. There are also 15 delegates elected on a statewide basis. The election of delegates is done at the next general election following voter approval of a constitutional convention by referendum. Any change to this provision electing the majority of delegates by senate district would have to be done by constitutional amendment. Any constitutional change to the delegate selection process would have to be on the ballot at the same time as the proposal for the convention itself, i.e. 2017, because the change would have to be approved by the state legislature elected in 2016 (first year serving would be 2017). However, a number of other changes to the method by which delegates are elected, access to the ballot, public financing, etc. could be done by statute between now and November 2017.

The last constitutional convention held in New York was in 1967 and the public rejected the constitution it produced at the polls. The 1967 convention was the result of legislative initiative (as opposed to the vote every 20 years) and the convention leadership was the legislative leadership.

Significant criticism of the 1967 convention process as “closed” and concerns expressed prior to the 1967 vote over the delegate selection process, resulted in an early focus on delegate selection by the *Temporary Commission on Constitutional Revision* appointed prior to the 1997 vote by Governor Mario Cuomo. Shirley Eberly, President of the LWVNY, was a member. Attached is an excerpt from a sourcebook on DECISION 1997 published by the Nelson A. Rockefeller Institute on Government. This book is considered the most comprehensive source of information on the constitutional convention process. The excerpt includes the Delegate portion section of the Commission report and provides details on both sides of several issues related to the delegate selection process.

Given that reform of the delegate selection process is entirely in the hands of the state Legislature, some recent commentators have noted that requiring the Legislature to pass specific delegate selection reforms as a prerequisite to calling for a constitutional convention gives the Legislature a means of blocking the only process by which citizens can directly change the constitution.

This concern is the main rationale for consideration of an updated position. Consensus to approve the updated position will make it clear that the state board should consider the achievement of delegate selection reforms described in the position as factors in deciding whether or not to support the proposal for a constitutional convention, as opposed to a necessary prerequisite for such support.

Past League Action

A brief study of the New York constitutional convention process was undertaken in 1992 and the board adopted a position in 1993. (See Impact on Issues: <http://www.lwvny.org/advocacy/impact/issues/government/ConstitutionalConvention.pdf> According to the background in *Impact on Issues*, “. . . in December 1996, the LWVNYS board of directors voted unanimously to oppose the November 1997 ballot question regarding the convening of a constitutional convention in 1999. The board’s decision was based on the state legislature’s failure to reform the delegate selection process and concern that valued provisions of the constitution might therefore be jeopardized.” The 1996 board treated changes to the delegate selection process as factors to be considered in the decision whether or not to support a convention. They also clearly intended public financing as part of the suggested reforms but that did not get in the actual position.

The position’s current paragraph on **Convention Delegates** is as follows:

A delegate body of workable size should be elected by a fair, nonpartisan process. In accord with League principles, delegates should reflect our society with representation of women, ethnic, racial, socioeconomic minorities. The candidates’ positions on issues and convention goals should be widely publicized to enable voters to cast informed votes at their election. Present office holders should not be eligible to serve as delegates; however, they might be considered as consultants. A constitutional amendment will be necessary to meet some of these criteria.

Updated Position on Convention Delegates

Below is an updated position on Convention Delegates that addresses the following concerns with the position.

- Clarifies that these reforms are a consideration, not a necessary component, in deciding whether or not to support a constitutional convention. This is in fact how the 1996 board interpreted the position.
- Drops the ambiguous “workable size” and revises the representation language.
- Adds public financing for delegates, as was intended to be in the position according to contemporary materials.

The League supports the following reforms as positive factors in deciding on support for a constitutional convention. Delegates should be elected by a fair nonpartisan process that complies with federal voting rights provisions and eases ballot access to encourage participation by racial and other minorities. Public financing should be provided for candidates and their positions on issues and convention goals should be widely publicized to enable voters to cast

informed votes at their election. Statewide office holders, state or federal legislators, and state judges should not serve as delegates.

**LWVNYS STATEWIDE UPDATE ON
CONSTITUTIONAL CONVENTION POSITION
REPORTING SHEET**

NAME OF LEAGUE _____

Please complete this update form, submit it for board approval and forward it to the state League by May 30, 2015.

Please check one of the following:

_____ **We support the updated position on convention delegates**

_____ **We wish to retain the current position.**

Process by which this form was completed (board meeting, general membership meeting, polling of members, etc.).

Comments:

**Mail, Fax or Email completed form to
LWVNYS, 62 Grand St, Albany, NY 12207**

**Fax: 518-465-0812 Email: Katrina@lwvny.org
Questions: Call Katrina at 518-465-4162**