

## Calling a Constitutional Convention: The Road to 2017

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The New York Constitution mandates that the question "Shall there be a convention to revise the constitution and amend the same?" (*N.Y. Const., Art XIX, sec 2*) be placed on the ballot every twenty years. The last successful convention in 1938 reset the every twenty year date for 1957 and twenty year intervals thereafter.<sup>1</sup> The next vote on this question will be held on November 7, 2017.

- If the voters answer yes,<sup>2</sup> the legislature passes enabling legislation establishing the rules for the nomination and election of delegates who would be selected at the general election to be held on November 6, 2018.
  - Legislative or executive action setting up a preparatory commission for the convention is common, though not mandated. Some commissions have been established by executive action (Governor Herbert Lehman's commission for the 1938 Convention and Governor Mario Cuomo's 1993 commission created in anticipation of the 1997 vote). Some have been established jointly by the legislature and governor; this was the case with the 1915 and 1967 preparatory commissions.<sup>3</sup>
  - The constitution requires that three delegates be elected from each of the 63 senatorial districts, plus fifteen at-large statewide, for a total of 204.
  - The convention selects its own leadership, adopts its own rules and is empowered by the constitution to incur the necessary expenses for it to do its job. The legislature adopts enabling legislation appropriating funds, staffing the convention, providing a venue and the like.
  - The Convention convenes in Albany, on April 2, 2019.
  - With one exception (1867), conventions have submitted their work to the voters for approval or rejection in the general election of that same year, in this case November 5, 2019. There is no time limit for the convention to do its work. The date for submission must be "not less than six week after adjournment." (*Art XIX, sect 2*).
1. The legislature can put the question on calling a constitutional convention on the ballot anytime it wishes and did so in 1965. The voters approved, and a constitutional convention was held in 1967. The legislature's decision has no legal effect on the every twenty year requirement, so the question appeared on the ballot in 1977 (not approved) and 1997 (not approved) and will appear in 2017.
  2. A convention call is approved by a majority of those voting on the proposition and not a majority of those voting in the election. In 1965, the vote was 1,681,438 for a convention and 1,468,431 opposed, with **2,948,332** not voting on the proposition!
  3. When these commission are created has varied. Governor Lehman's was created by executive order in July 1937 after the vote to approve a convention, but less than a year before the convention convened in 1938. The preparatory commission established in 1965 was created in June 1965 prior to the November general election at which the convention call question was presented. The Cuomo commission was established in 1993, four years prior to the mandatory call in 1997.