

# NEW YORK STATE CONSTITUTIONAL CONVENTION REFERENDUM 2017

## DISPELLING THE MYTHS

By Peter J. Galie and Christopher Bopst

Oct. 7, 2017

On Election Day, November 7, 2017, all New Yorkers who go to the polls will be given a ballot containing Proposition One, which will say:

*Shall there be a convention to revise the constitution and amend the same?*

If a majority of those voting on the issue mark “Yes”, the state will convene a constitutional convention in April, 2019; otherwise no constitutional convention will be held.

Unfortunately, the information surrounding the debate on this issue is tainted with inaccurate descriptions of the process, false claims about the consequences of calling a convention, and misrepresentations that distort our constitutional tradition and are inconsistent with our current political culture. These claims have been repeated so often that they have come to be taken as fact. We hope to correct the record and give the public a more informed understanding.

### MYTH #1:

**If a person does not vote on the constitutional convention question, it will be automatically registered as a “yes” vote.**

**REALITY: A ballot that does not contain a vote on the constitutional convention question will be treated as a blank vote on that issue, which is not a yes or a no vote. This is the way New York Election Law always treats ballots that do not contain a vote for a specific candidate or proposition. In fact, in 1997, there were more blank votes on the convention question than there were yes votes or no votes.**

### MYTH #2:

**The constitutional convention question has been deliberately put on the back of the ballot to favor a “yes” outcome.**

**REALITY:** Since New York started using paper ballot scanners in 2010, propositions have been placed on the back of the ballot. Voters will be instructed at the polls that the ballot has two sides.

**MYTH #3:**

**The timing of the constitutional convention vote has something to do with what is happening in Washington, D.C.**

**REALITY:** In 1846, the New York Constitution was amended to give voters the right every twenty years to decide, independent of the state legislature, to convene a state constitutional convention. The timing of the twenty-year period has been adjusted over time, with the current cycle being 1957 and every twentieth year after. The same question was asked of voters in 1957, 1977 and 1997.

**MYTH #4:**

**A constitutional convention is a radical way to amend the state constitution.**

**REALITY:** New York has two ways to amend its state constitution: legislative amendment and constitutional convention. Throughout its history, New York has had NINE constitutional conventions. Our last convention was held in 1967. The period since that convention is the longest time New York has gone without a constitutional convention. The process is neither radical nor inconsistent with New York's constitutional history.

**MYTH #5:**

**If there is a constitutional convention, the existing state legislators get to pick the delegates.**

**REALITY:** If voters approve a constitutional convention in November 2017, there will be 204 delegates elected in November 2018. Three delegates will be elected in each of the state's 63 senate districts, and 15 at large delegates will be elected statewide. District delegates will get nominated and elected the same way candidates for state senate would get elected. State party committees will nominate slates of 15 at large delegates.

**MYTH #6:**

**A constitutional convention is empowered to approve whatever it wants and those propositions automatically become part of the constitution.**

**REALITY: Anything that the constitutional convention adopts must be submitted to New York voters (most likely in November 2019). The voters will have final approval over everything the convention proposes.**

**MYTH #7:**

**A constitutional convention will cost in the neighborhood of \$300 million.**

**REALITY: Although impossible to predict with certainty the exact amount of convention expenditures, past conventions provide a basis for reasonable estimates. The 1967 convention (including a commission hired to assemble data in anticipation of the convention) cost \$7,580,885, which translates to \$55,425,833 in 2017 dollars—not even close to \$300 million. Although \$55 million is significant, it represents only about three hundredths of one percent (0.0003) of the state’s \$163 billion annual budget.**

**MYTH #8:**

**A constitutional convention would likely go on for years and years, and the cost would keep going up exponentially.**

**REALITY: All but one of New York’s nine conventions completed their work in the same year they convened. One convention, held during 1867-68, in the wake of a divisive civil war, extended into a second year. The constitution provides that delegates receive the same amount of compensation regardless of how long the convention lasts, giving them an incentive to be diligent.**

**MYTH #9:**

**At the last convention, most of the delegates were sitting legislators.**

**REALITY: The constitution does not bar sitting legislators from serving as delegates. The practice, however, has been that the vast majority of legislators have chosen not to run for delegate. In 1967, only 13 of the 186 delegates (approximately 7 percent) were sitting legislators.**

**MYTH #10:**

**Conventions never get anything done.**

**REALITY:** Almost all of the rights we New Yorkers have under our state constitution were added by constitutional conventions, and constitutional conventions are responsible for the current structure of our state government. Even the few times in New York's history that the voters have rejected the work of a constitutional convention, much of the convention's work later found its way into the constitution.

**MYTH #11:**

**There is little or no difference between a constitutional convention and a legislature, so shifting the venue will make little difference**

**REALITY:** Constitutional conventions in New York have been much more successful at making structural changes than the legislature. Why is this? Because constitutional conventions and legislative bodies differ in significant respects. There is only one house in a convention (as opposed to a senate and an assembly); conventions have a singular purpose and can dedicate all their resources to constitutional revision; convention delegates have no pressure for re-election as delegates; seniority is not a factor in committee and leadership assignments; and because the convention goes out of existence when it completes its work, control by convention leadership cannot reach the level it does in the legislature.

**MYTH #12:**

**The groups supporting a constitutional convention want to take rights away.**

**REALITY:** Constitutional conventions throughout New York's history have consistently added rights to the document. Almost every single right that New Yorkers enjoy today—individual or collective, was added by a constitutional convention. The groups that have come out in favor of a constitutional convention—the New York State Bar Association, the League of Women

**Voters, and Citizens Union—have dedicated themselves to protecting and enhancing rights for New Yorkers.**

**MYTH #13:**

**The convention is being supported by “dark money.”**

**REALITY: An August 2017 Politico New York review of spending records showed that groups opposing the constitutional convention spent a total of \$24.2 million in 2016 on lobbying efforts, including contributions to state-level candidates, parties and super PACs. The groups supporting the convention spent \$389,000 in 2016. There are well-financed special interests who are putting real money into the constitutional convention vote—for the “no” side.**

**MYTH #14:**

**A convention would put public employee pensions at risk.**

**REALITY: Any existing public employee’s or retiree’s existing pension is protected by the U.S. Constitution, and could not be reduced or taken away by a constitutional convention.**

**MYTH #15:**

**A convention is likely to take away constitutional protections that New Yorkers value, such as labor rights, protections for the needy, and environmental protections.**

**REALITY: Regardless of whatever is happening nationally, public opinion polls indicate strong support for these protections among New Yorkers. The same New Yorkers that will elect delegates and vote on their proposals have indicated support for an EXPANSION of the government’s role in preserving and expanding these protections. “, Siena Research Institute Poll October 2017 voters oppose revising state policies to allow increased development in the Adirondacks and limiting collective bargaining rights of public employees.”**

**MYTH #16**

**The legislature will make the constitutional changes we need.**

**REALITY:** Although the legislature can propose amendments to the voters, and often does so, the amendments it has proposed have not: imposed any institutional controls on the legislature's pay to play culture, established an apportionment plan that results in competitive elections, repaired a judiciary that ranks among the most inefficient in the nation, addressed the gap between the state and its municipalities, amended state and local finance policies mired in the nineteenth century, increased electoral participation or added rights to clean air and water. The legislature is simply not equipped to take on the task of making the serious and extensive reforms necessary to enable New York to find the path to renewed greatness.