



BUILDING BETTER LIVES

## **‘Con-con’ Pros & Cons:**

### *A Briefing Paper on the Basics of the 2008 Illinois Constitutional Convention Question*

The ballot that Illinois voters take up in November 2008 will include a statewide referendum on whether to authorize a new constitutional convention (“con-con”) to consider changing all or part(s) of the existing, 1970 state constitution. On its face, this seems largely a question of government process, affecting the structure of our state’s self-governance. Practically speaking, it also will involve many questions of policy and certainly politics.

Many hot-button issues likely will attract greater attention in the run-up to the referendum. They’ll range from those on which Voices for Illinois Children works (such as school funding, fairness in taxation) to matters further afield (“merit selection” of judges, the legislative district-drawing process, the death penalty, and many others). That’s because activists on all sides of such issues could view the proposed con-con as a forum for furthering their causes – or at least defending their causes against interference.

As of February 2008, Voices has taken no position on the merits of the con-con question. However, we feel it is important for all Illinoisans who are interested in the well-being of children and families to understand this ballot measure and all that it entails. To that end, we present answers to some of the most basic questions related to the con-con referendum.

#### **Why hold a referendum now?**

Under Article XIV of the existing Illinois constitution, voters must have the opportunity every 20 years to decide whether to call a con-con. The General Assembly can decide, by a three-fifths vote, to put the question to voters even earlier than that. Because legislators have not called for a con-con referendum in the past 20 years, voters will see such a ballot question in late 2008.

#### **What’s required for its passage?**

Passage of a con-con referendum requires the support of either:

- Three-fifths of those voting on the question, or
- A majority of those voting in the election.

#### **If a con-con were approved, what would happen next?**

Voters then would have to elect 118 delegates for the convention (two from each of the 59 state-senate districts). Anyone who is eligible to run for the Illinois legislature is eligible also to seek election as a convention delegate: any U.S. citizen, at least 21 years old, who has lived for at least two years prior to the election in the district he or she is to represent. (The General

Assembly and governor could make still further decisions to regulate delegate elections, such as whether to hold a primary as well as general election, whether they should be conducted on a partisan basis, etc.<sup>1)</sup> Then, the convention would have to begin meeting within three months of the delegates' election.

### **What could a constitutional convention do?**

Nearly anything that's related to making changes to the existing constitution. Delegates' duties are described in Article XIV, which states in part: "The Convention shall prepare such revision of or amendments to the Constitution as it deems necessary. Any proposed revision or amendments approved by a majority of the delegates elected shall be submitted to the electors in such manner as the Convention determines, at an election designated or called by the Convention occurring not less than two nor more than six months after the Convention's adjournment." (Emphasis added.)

In other words, the con-con delegates themselves would decide the scope of their work – whether to propose revising part(s) or all of the existing constitution, or whether to leave it alone entirely (which is highly unlikely, if a convention were actually seated).

### **Don't voters have the final say on any proposed changes?**

Voters would, indeed, have the opportunity to approve or reject con-con proposals via election, held within two to six months of the convention wrapping up its work. Approval would require the support of a majority of those voting on the question(s). It's interesting to note that proposals for constitutional changes could be packaged together or presented separately on the ballot. In 1970, for example, several proposals were combined into one referendum question while a few others were presented separately.<sup>ii</sup>

### **And voters' decisions would be the end of the matter?**

Yes and no. Even if voters adopt constitutional changes, putting those changes to practical use still could require further process, i.e. the development and approval of legislation to carry out new constitutional directives, such as making statutory changes in our school-funding system. That's why it's important to understand that the fruits of any con-con's labor might not be ripe until several years after the referendum originally authorizing that convention.

### **What happened the last time Illinois held an actual constitutional convention?**

The 1970 convention produced the state constitution we have today. Planning for that convention - the state's sixth – began a full three years in advance, with the General Assembly's appointment of a study commission.<sup>iii</sup> The con-con officially began its work in Springfield in December 1969, and its 116 members – two from each of what were then 58 state senate districts – spent nine months studying the last, century-old state constitution and developing proposals for changes. The convention adopted a new constitution in September 1970, and voters ratified it in a December 1970 referendum; it took effect in July 1971.

Some of the major issues addressed by that con-con involved local communities' "home rule" powers, judicial selection, the structure of the legislature and executive-branch offices, and state revenues.<sup>iv</sup> The convention was notable also for the future state leaders who took part in its deliberations, including, among many others, Illinois House Speaker Michael Madigan, Chicago Mayor Richard M. Daley and former state Comptroller Dawn Clark Netsch.

### **What happened the last time voters faced a con-con referendum?**

In 1988, voters rejected the idea of calling a con-con. Those in favor totaled only about 25 percent of those voting on the question (60 percent was needed), and 42 percent of all voters participating in the election (50 percent was needed).<sup>v</sup>

Interestingly, before the 1988 referendum, the General Assembly appointed a "Committee of 50" people to conduct preparatory work with the staff of the Illinois Commission on Intergovernmental Cooperation.<sup>vi</sup> They held public hearings, convened a meeting of the 1970 constitution's delegates and commissioned 10 background papers on different aspects of the constitution. While some interest groups apparently backed the idea of a new con-con, the business and labor communities largely opposed the idea, and the *Chicago Tribune* editorialized that the existing constitution was "still a fine fit for Illinois."<sup>vii</sup>

### **Has government begun any preparatory work in anticipation of the 2008 referendum?**

No. The Commission on Intergovernmental Cooperation no longer exists, and the legislature has been largely silent about the upcoming referendum, with the exception of the House's narrow approval in June 2007 of House Resolution 25. This nonbinding measure urges voters' support of the con-con question, if key issues such as school-funding reform are not "sufficiently addressed" prior to November 2008.<sup>viii</sup> The 48-47 vote on this resolution reflected the varying array of opinions on con-con; its supporters numbered 27 Democrats, 21 Republicans and a wide mix of urban, suburban and rural legislators. Its detractors were similarly diverse.

### **Who are likely to be supporters and opponents of the 2008 con-con question?**

It's hard to say for sure, at this point. However, opponents could include many of the same labor and business factions as in 1988. Supporters already include some groups that believe no school funding reform is possible without overt constitutional changes, given state leaders' decades of inaction on the subject. Supporters' numbers also could grow from popular disgust over the protracted and bitter 2007 legislative session and related bickering among state leaders.

### **What are some of the hot-button issues that could prompt the most interest in con-con?**

From the standpoint of Voices for Illinois Children, these are two of the most important issues that could be addressed:

- School-funding reforms – Increasing schools' state resources while specifically relieving the overreliance upon property taxes that exacerbates differences in schools' individual quality.

- Graduated, more progressive income tax – We currently have a constitutionally mandated, flat income tax that leaves low-income families to shoulder a disproportionately heavy responsibility in producing state revenues.

It's important to note that, in a con-con, these and other issues could lose ground as easily as they could gain it. Action on such matters could include a mix of what Voices would view as both progress and setbacks.

There are myriad other issues outside of Voices' sphere of work that could fuel con-con interest.

### **Is holding a con-con the only way to change the Illinois constitution?**

No. There's a process for amending the constitution that hinges largely upon initiating action taken by the General Assembly. Ten amendments to the 1970 constitution have been approved by voters, while eight others have failed at the polls.<sup>ix</sup> Unsuccessful amendments include a 1992 referendum that called for stronger constitutional language about the state's responsibility in education funding – a proposal that lost despite earning the support of 57 percent of the people voting upon it.<sup>x</sup>

For passage, an amendment must attract three-fifths approval of all those voting on the question, or a majority of those voting in the election. Amendment proposals can reach the ballot either by a three-fifths vote of each General Assembly chamber, or by a popular petition drive that attracts at least as many signatures as there were voters participating in the most recent gubernatorial election. Amendments suggested by petition, however, are very narrowly limited to addressing the structure and procedures of the legislature. The amendment process is outlined in Article XIV of the 1970 constitution.

### **What are some of the most persuasive arguments against approving a con-con?**

Some opponents of con-con argue that<sup>xi</sup>:

- The governor and leaders of the General Assembly are the cause of many of our problems today, not the solution. Yet they would be the ones with power to determine election procedures for choosing con-con delegates. And via campaign contributions, hand-picked delegate candidates and other methods, they could wield considerable influence over the work of a con-con. The result could be a convention that's no better-equipped to solve our problems than our present-day powers that be.
- In addition to delegate elections drawing the influence of millions of dollars of private campaign contributions, supporting the actual work would cost millions of dollars more in public funding.
- As long as we have other avenues for correcting our state's problems, there's no need to open our fairly sturdy and trustworthy state charter to the possibility of political mischief. We can always amend our state constitution – and we can work harder to elect legislators and a governor who'll both commit to solving problems, and follow through.

## What are some of the most persuasive arguments for approving a con-con in 2008?

Some proponents of con-con argue that<sup>xii</sup>:

- Although our current constitution has many good points, no document is perfect. A “regular checkup” is not a bad idea, to ensure our state charter is really as good as it could and should be. We won’t get another such opportunity until 2028.
- Too many of our longstanding problems will likely never be solved within the structure of the General Assembly’s lawmaking process, which suffers from political “survival instinct.” Facing re-election every two to four years makes legislators afraid of rocking the boat – even a terribly leaky ship of state – and of casting votes they feel could come back to haunt them at the polls. Unless Illinoisans take matters into their own hands, via con-con, many chronic problems will continue to plague our state for years to come.
- It’s far more costly to let our state’s pressing problems go unsolved for years than it would be to fund the work of a con-con that could fix many of them.

---

### *Endnotes*

<sup>i</sup> Nowlan, James D.; Lousin, Ann M.; and Gove, Samuel K. “*An Illinois Constitutional Convention in 2008?*” Background paper for the Union League Club’s Public Affairs Committee. May, 2007.

<sup>ii</sup> Author. “Illinois’ Constitutional Convention: A success story of revision.” A review of the 1974 National Municipal League Press book, “Revision Success: The Sixth Illinois Constitutional Convention,” by Samuel K. Gove and Thomas R. Kitsos. Illinois Issues magazine. September 1975.

<sup>iii</sup> Ibid.

<sup>iv</sup> Ibid.

<sup>v</sup> Illinois State Board of Elections.

<sup>vi</sup> Nowlan, James D.; Lousin, Ann M.; and Gove, Samuel K. “*An Illinois Constitutional Convention in 2008?*” Background paper for the Union League Club’s Public Affairs Committee. May, 2007.

<sup>vii</sup> Ibid.

<sup>viii</sup> House Resolution 25. 95<sup>th</sup> Illinois General Assembly. June 2007.

<sup>ix</sup> Illinois State Board of Elections.

<sup>x</sup> Ibid.

<sup>xi</sup> Drawn largely from a presentation by Wayne Whalen to the Board of Directors of Voices for Illinois Children, Dec. 12, 2007. Whalen was a delegate to the 1970 constitutional convention.

<sup>xii</sup> Drawn largely from a presentation by State Rep. John Fritchey, D-Chicago, to the Board of Directors of Voices for Illinois Children, Dec. 12, 2007. Fritchey sponsored HR25 in 2007.

***This report was written by Sean Noble, Director of Government Relations, Voices for Illinois Children. February 2008. To learn more, visit [www.voices4kids.org](http://www.voices4kids.org) or call 312-456-0600.***

*Special thanks to Mike Kreloff, an invaluable resource on Illinois con-con history.*

---

**APPENDIX****Constitution of the State of Illinois  
ARTICLE XIV  
CONSTITUTIONAL REVISION****SECTION 1. CONSTITUTIONAL CONVENTION**

(a) Whenever three-fifths of the members elected to each house of the General Assembly so direct, the question of whether a Constitutional Convention should be called shall be submitted to the electors at the general election next occurring at least six months after such legislative direction.

(b) If the question of whether a Convention should be called is not submitted during any twenty-year period, the Secretary of State shall submit such question at the general election in the twentieth year following the last submission.

(c) The vote on whether to call a Convention shall be on a separate ballot. A Convention shall be called if approved by three-fifths of those voting on the question or a majority of those voting in the election.

(d) The General Assembly, at the session following approval by the electors, by law shall provide for the Convention and for the election of two delegates from each Legislative District; designate the time and place of the Convention's first meeting which shall be within three months after the election of delegates; fix and provide for the pay of delegates and officers; and provide for expenses necessarily incurred by the Convention.

(e) To be eligible to be a delegate a person must meet the same eligibility requirements as a member of the General Assembly. Vacancies shall be filled as provided by law.

(f) The Convention shall prepare such revision of or amendments to the Constitution as it deems necessary. Any proposed revision or amendments approved by a majority of the delegates elected shall be submitted to the electors in such manner as the Convention determines, at an election designated or called by the Convention occurring not less than two nor more than six months after the Convention's adjournment. Any revision or amendments proposed by the Convention shall be published with explanations, as the Convention provides, at least one month preceding the election.

(g) The vote on the proposed revision or amendments shall be on a separate ballot. Any proposed revision or amendments shall become effective, as the Convention provides, if approved by a majority of those voting on the question.

*(Article XIV, Section 2 outlines the procedures for state constitutional amendments proposed by the General Assembly; Section 3 addresses those sought through popular petition; and Section 4 deals with amendments proposed for the U.S. Constitution.)*