

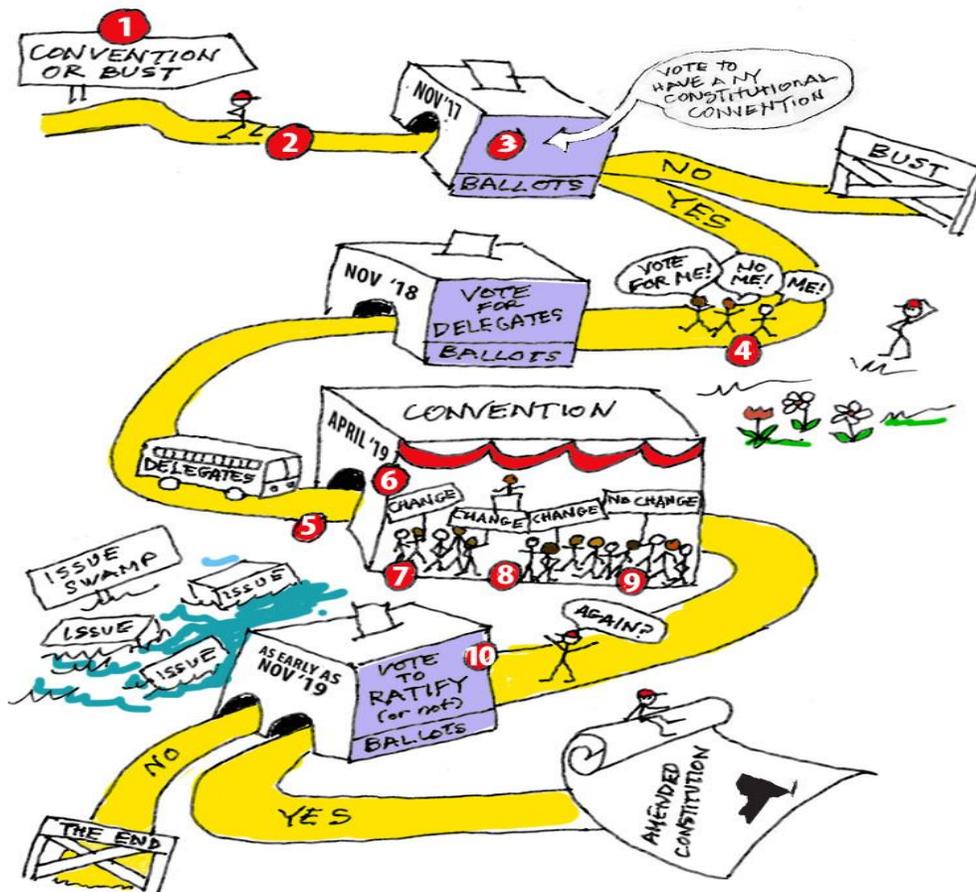
Convention-Land

New Yorkers' Road Map To The Constitutional Convention

March, 2016

New York State Constitutional **CONVENTIONLAND**

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Acknowledgements

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The New York Public Interest Research Group Fund (NYPIRG) is a non-partisan, not-for-profit organization whose mission is to effect policy reforms while training New Yorkers to be citizen advocates. NYPIRG's full-time staff works with citizens, produces studies on a wide array of topics, coordinates state campaigns, engages in public education efforts and lobbies public officials.

The League of Women Voters, a nonpartisan political organization, encourages informed and active participation in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy.

“Shall there be a convention to revise the constitution and amend the same?”¹

In November 2017, that seemingly simple question will be put to the voters of New York State. Under New York’s constitution, every twenty years voters get an opportunity to decide if they wish to overhaul – or tinker with – their state constitution. This guide is designed to offer a brief history of the state constitution and a road map for that upcoming decision. This guide is not intended to offer a comprehensive look at either the history of past conventions or the mechanics of a convention. Instead, it offers an overview of the process so that New Yorkers can begin to contemplate this important decision.

State Constitutions

A state constitution is the main governing document of the state, often compared to the United States Constitution. A constitution establishes the structure of the government, establishes key executive offices, the legislative and judicial branches and outlines their powers, and grants the basic rights of the citizens. Constitutions can be amended via legislative amendments approved by voters, citizen-initiated amendments (in some states, but not New York), commission referrals, judicial action, and constitutional conventions. Each state has different requirements for how constitutions can be amended. Fourteen states, including New York, put the question of whether to hold a constitutional convention before voters at specified intervals (*e.g.*, every 20 years in New York).

Amending New York’s Constitution can be initiated through a convention process or through action by the state legislature as set forth in Article XIX of the Constitution. **In both cases, ultimate approval lies in the hands of the voters.**

Legislative action to change the New York State Constitution:

1. Identical resolutions to amend the Constitution are introduced by members of the legislature in both the Senate and the Assembly.
2. The amendment is then presented to both chambers of the legislature for consideration and assigned to a committee.
3. That resolution is referred to the New York Attorney General for an opinion as to whether the resolution is drafted correctly. If it is not, the legislature considers changes.
4. The amendment must be approved by both chambers in two concurrent legislative sessions of separately elected legislatures.
5. If approved by two successive legislative sessions, the amendment is put before the voters to approve during a statewide election.
6. The state Board of Elections drafts the ballot language that summarizes the purpose of the proposal and places it on the ballot during a general election.
7. If the voters approve in a statewide vote, the amendment is passed and becomes part of the New York State Constitution effective January 1 of the following year.

Changing the New York State Constitution through the holding of a convention:

1. Every 20 years, New Yorkers are automatically asked if they would like a constitutional convention to be held. The legislature can also call for the same question to be put on the ballot at other times.
2. If voters approve the convening of a convention, delegates are elected at the next general election following the vote to approve a convention that cannot be limited in the scope of what it considers.
3. The convention puts its recommended changes on the ballot during a general election.
4. If voters approve the amendments, the changes go into effect January 1 of the following year.

An Overview of New York's Constitutional History

Since the first constitution was written in 1777, New York has chosen to significantly rewrite its foundational document on eight occasions. The Constitution in effect today was produced by the convention in 1894, with significant changes resulting from the 1938 convention. While there have been amendments to the Constitution since then, the basic structure of it has not undergone a comprehensive updating and there are provisions that are simply ignored as invalid under federal law.

Voters turned down opportunities to convene a convention in 1957, 1977, and again in 1997. In the last vote in 1997, 63% of voters said no. The next constitutionally mandated vote is in 2017.

The possibility of additional changes occurred in 1967, when as a result of federal court decisions on voting rights and reapportionment that invalidated New York constitutional provisions, state lawmakers put a referendum on the 1965 ballot to call a convention. The referendum was approved by voters but the product of that 1967 convention was voted down.

To see a for a full list of votes cast for and against constitutional conventions and amendments, go to https://www.nycourts.gov/history/legal-history-new-york/documents/Publications_Votes-Cast-Conventions-Amendments.pdf.

Road Map to a Constitutional Convention

At the general election of 2017, New York voters will consider whether to convene a constitutional convention. If approved by a majority of voters casting a vote on the convention question, the steps to holding a convention and possibly rewriting the Constitution are as follows:

Stop #1: Every 20 years, the New York State Constitution requires that the public decide if it wants to update its constitution. The next vote is November 2017.

Stop #2: Will the process for selecting delegates stay the same? Reformers want there to be a legislative debate over the rules for electing delegates and the openness requirements for the convention's proceedings in advance of the public vote. Knowing the ground rules for delegate selection will be a factor for many New Yorkers in how they decide to cast their votes on the convention question.

Stop #3: The public votes on whether to hold a convention. If the majority of votes cast on the convention question are "yes," then the process continues. If the majority votes down a convention, no convention happens and the "road" to a convention ends.

Stop #4: Voters choose who they want to be delegates at the convention. At the next general election following the voters' approval to convene a convention (November 2018), voters choose three (3) delegates from each State Senate District (there are 63 Senate districts), and fifteen (15) are elected statewide. Thus, the convention would consist of a total of 204 delegates. Anyone who is eligible to vote can run for delegate. The processes for getting on the ballot and running a campaign are the same as those running for any other state office. Split-ticket voting for the 15 statewide delegates has historically been extremely difficult.

Stop #5: The convention, consisting of its 204 delegates, begins its deliberations the first Tuesday of April 2019 and continues until work is completed.

Stop #6: As the convention begins, the delegates will likely organize themselves to consider changes to the Constitution, such as creating committees to examine specific areas of the constitution (*e.g.*, environmental policies).

Stop #7: The convention begins to discuss changes. Anything can be on the agenda since it is not possible to limit the scope of a convention.

Stop #8: The delegates decide on which changes they agree should be part of a new Constitution. A key decision will be whether the proposed changes are voted on as one package or as separate individual amendments.

Stop #9: Whatever changes emerge from the convention are then sent to the voters for final approval. New Yorkers go to the polls the following November (2019 at the earliest) to approve or reject the changes.

Stop #10: Any changes that are approved in a statewide referendum go into effect January 1st in the year after the vote is held. If rejected, the Constitution does not change.