

**BRENNAN CENTER FOR JUSTICE
CITIZENS UNION
COMMON CAUSE NEW YORK
NEW YORK PUBLIC INTEREST RESEARCH GROUP (NYPIRG)
NEW YORK STATE BAR ASSOCIATION
LEAGUE OF WOMEN VOTERS NEW YORK STATE
REINVENT ALBANY**

MEMORANDUM OF SUPPORT

2016-17 Executive Budget Provisions Regarding the Constitutional Convention

March 21, 2016

Our groups support the proposals within Governor Cuomo's 2016-17 Executive Budget legislation which anticipate the 2017 ballot question regarding whether to hold a state constitutional convention, and urge the New York State Assembly and Senate to consider and pass these legislative proposals along with additional reforms regarding constitutional convention delegate selection and rules.

I. Budget Allocation: Commission on the Constitutional Convention

Proposed Allocation

Within the [State Operations Appropriations Bill](#), Governor Cuomo proposed an allocation of 1 million dollars for a Constitutional Convention Commission Program through the Department of State.

The bill describes the allocation as: "For services and expenses of a temporary state commission to collect and compile data and to study, report on and make proposals and recommendations for constitutional revision before the convening of, and during the course of, a constitutional convention. Funds appropriated herein may be transferred or suballocated to any state department or agency."

The funds would be distributed thusly: 600,000 for personal service; 200,000 for travel; and 100,000 each for supplies and materials and for contractual services.

Statement of Support

We support the budget allocation and subsequent formation of a commission to prepare for a possible constitutional convention if approved by the voters.

In 2017, New Yorkers will be faced with the ballot question, "shall there be a convention to revise the constitution and amend the same?" This mandatory referendum is put forward to the people once every twenty years, and for the last 100 years, temporary commissions have been critical in this process. These commissions have conducted much-needed preparations for the referenda and subsequent conventions as well as long-lasting analysis of the New York State Constitution, which has provided intelligent and reliable considerations for constitutional and governmental reform and influenced policy discussions for decades.

The commission is especially necessary because the timeline from the referendum to delegate elections to the convention itself is swift, most delegates to a convention had insufficient time or resources to plan or carry out factual investigations or legal research on their own initiative. Delegates have had to rely on research and materials developed by others – and this research should be conducted in a manner that is non-partisan, independent, and professional.

To prepare for the 2017 referendum and the possibility of a resultant convention, we urge the governor and legislature to appoint a non-partisan commission as soon as possible, with an expert staff and adequate funding. The commission should be tasked with: (a) educating the public about the New York State Constitution and the constitutional change process; (b) making a comprehensive study of the constitution and compiling recommended proposals for change and simplification; (c) researching the conduct of, and procedures used at, past constitutional conventions; and (d) undertaking and directing the preparation and publication of impartial background papers, studies, reports and other materials for the delegates and public prior to and during the convention, if one is held.

By allocating funds for a temporary Constitutional Convention Commission, the governor and legislature will lay the groundwork for a profound, professional study of our state constitution, and a public process for New Yorkers to learn about and engage in discussion of how our democracy is constituted.

II. Article VII Legislation: Campaign Finance Provisions to Include Convention Delegates

Proposed Legislative Amendments

Within the Executive Budget's [Good Government and Ethics Reform Article VII Legislation](#) are amendments to provisions regarding public financing of elections. Among the innovations in this bill is that it provides contribution limits to candidates for delegate to the constitutional convention – both district and at-large delegates.

The bill would establish a limit of \$2,000 for candidates participating in the public financing program and \$3,000 for non-participating candidates, with maximum aggregate contributions by family members between \$12,500 and \$100,000, depending on the number of registered voters in the district. The public funds for delegate candidates in the primary and general elections each would be capped at \$175,000.

Statement of Support

We support the inclusion of constitutional convention delegates within New York State's campaign finance laws. There is a strong need for the implementation of public financing and pragmatic limits on campaign contributions in state elections, in order to reduce the influence of moneyed interests in politics and governance, to promote greater competition in elections, and to incentivize greater diversity of those holding elected office.

Constitutional convention delegates are poised to have deep impact on government structures and obligations, as well as the definitions of civil rights in New York. It is crucial that delegates are independent-minded and serve the best interests of the public, and not the desires of their biggest campaign contributors or their own self interests.

By incorporating delegate candidates into the state's campaign finance laws, the governor and legislature would take an important step towards creating a fair and representative constitutional convention, should the voters elect to convene it.

III. Additional Reforms to the Constitutional Convention Delegate Selection and Convention Rules

Leading up to the forthcoming public discussion of the 2017 mandatory ballot measure, it is critical that fundamental and long-called-for statutory reforms be enacted as soon as possible to address the process for selecting delegates to a potential state constitutional convention, and ensure that robust transparency, ethics and lobbying rules apply to delegates.

This is a choice of great importance to the voters, and is the only way that voters will be able to directly voice their collective will to change convention processes before the convention may be called. New Yorkers should be assured that key measures have been taken to make a possible convention more open, fair and representative of the state.

The list below is not inclusive of all the reforms that our various groups have supported in the past and may continue to urge in this area. Instead, it focuses on a few important modernizing steps that our groups believe have wide support and agreement, as well as directly addressing some of the significant concerns leading up to the 1997 vote.

- Signature requirements to get on the ballot for convention delegates should be significantly lowered.
- Slate voting for the 15 “at-large” delegates elected statewide should be eliminated and voters should vote for individual candidates.
- State-sponsored voter pamphlets (both in print and electronic form) that provide biographical information on candidates, including their past and current experience as elected officials or government employees, should be provided to voters.
- Current freedom of information, ethics and lobbying rules should be amended as necessary to ensure that they apply to convention delegates.
- While we recognize that the Constitution requires delegates be paid the full annual salary of a state legislator, reforms should be put in place that restrict elected officials from receiving two salaries, and ensure delegates who hold any government position (elected or appointed) cannot use delegate service to enhance pension benefits.

Some of these initiatives require the expenditure of state resources, for example the ballot pamphlet. Thus, we believe that the aforementioned package of reforms could be included in the 2016-17 executive budget plan. If that step is taken, it would ensure that there would be a robust reform debate during the 2016 legislative session. Such a debate could both educate the public on the importance of the looming constitutional convention vote in 2017 as well as clear the way for any additional measures during the 2017 session.

It is our view that greater attention should be drawn to the convention to ensure that New Yorkers have an opportunity to make an informed vote in 2017. One way to achieve this heightened public awareness is through the successful passage of reforms to the convention process; the governor and legislature can together ensure that delegates to a convention (if approved) would be more representative and that the convention would meet the same standards of openness as other important government processes.