



Constitutional Convention Study Group

The 1970 Illinois Constitution provides for two methods of revision: 1) by a Convention approved by voters or 2) by constitutional amendments approved by the General Assembly. The Constitution requires the question of whether to call a Constitutional Convention (Con-Con) to be presented as a referendum to voters at least once every 20 years. A new convention does not require a complete rewrite of the state's constitution, but rather, it presents an opportunity for unlimited, minimal or substantial revisions. The last Con-Con referendum was put to voters at the 1988 general election. Illinois voters will get another opportunity to decide on the question at the November 2008 general election.

If a majority of the voters at the 2008 general election decide in favor of a new Constitutional Convention, the General Assembly, at a session following the general election, must provide for the election of two delegates from each legislative district and the meeting schedule for the Convention. The Convention is responsible for preparing and discussing any constitutional revisions or amendments. Once a majority of the Convention delegates sign off on a particular constitutional revision and/or amendment, the Convention's recommended changes must be approved by the voters at a subsequent election. Any revision or amendment proposed by the Convention must be published with explanation at least one month prior to the election at which the Convention's proposed revisions and/or amendments are presented on a separate ballot, and only upon a majority approval of the voters will the revisions and/or amendments go into effect.

When the vote for convening a new Constitutional Convention occurred in 1988 the measure was soundly defeated by a three-to-one margin. The fallout from a recent legislative session and a budget crisis of historic proportions, however, carries the possibility of re-energizing the support necessary to approve a new Constitutional Convention when the next mandatory vote takes place in November 2008.

The political gridlock that plagued the 2007 legislative session inspired a bipartisan effort to advocate for a new Constitutional Convention in early June. The adoption of House Resolution 25 specifically cited frustrations with lack of movement to address critical issues such as education funding reform, ethics reform, and the property tax assessment process as evidence of the need for a constitutional fresh start. Over the course of the regular legislative session, legislators also proposed a variety of constitutional amendments, offering a glimpse of some of the possible pressure points of crafting a new Illinois Constitution.

The following highlights some of these issues that may be up for consideration, should voters choose to convene a new Constitutional Convention:

- **Initiative and Referendums:**
 - Unlike California and (fill in the number) other states the Illinois Constitution does not currently provide for voter initiated laws, unrestricted Constitutional amendments or other forms of referendum.

- **Education Funding Reform:**
 - The current Illinois Constitution declares that the state has the "primary responsibility" for financing the system of public education. The Illinois Supreme Court, however, ruled in 1973 that "primary responsibility" does not require the state to provide at least half of school funding, as many education advocates argue the state should.

- Since that time, education advocates have faced an uphill battle in securing funding reform, which includes altering the state constitution to require the state to be the preponderant source of funding for K-12 education (providing 51% or more).
- Currently, state funding represents only about 35% of total education funding, while property taxes imposed by local school district boards represent over 56%.

▪ **Tax Reform Issues:**

- **Income Tax-** Various proposals have called for altering the constitution to provide for graduated tax rates under the presumption it would be easier, to create support for income tax increases to fund increased spending..

A significant risk for corporate taxpayers would be the elimination of the existing protection from unilateral and indiscriminate rate increases by a provision in the 1970 Constitution that assures the flat tax rates on corporations and individuals may not exceed a ratio of 8:5.

- **Property Tax-** The current constitutional provisions regarding real property taxes attempted to create fairness in property taxation, but since that time, the General Assembly has passed numerous laws that have arguably and severely disrupted this uniformity.

In particular, Cook County's exception to the requirement for uniformity in real estate assessments and sanctioning classification is authorized in the 1970 Constitution. The consequence is higher property tax bills for commercial and industrial property owners in Cook County than required of similar property in 101 other counties.

- **Home Rule Authority-** Under the current constitution, as well as an expanding number of laws, home rule authorities are given a considerable amount of flexibility in their ability to tax various entities. Business and labor groups have long argued that home rule provisions should be modified to curb double taxation.

▪ **Executive and Legislative Powers:**

- Suggestions on reforming executive and legislative powers include, implementing recall provisions for constitutional officers (as well as judges, should the election of judges continue), establishing term limits for legislative offices, and collapsing Treasurer/Comptroller into one office.

▪ **Tort Reform:**

- Although the buzz surrounding medical malpractice reform has quieted, some believe that a new Constitutional Convention would give rise to the opportunity to amend provisions to provide constitutional protection for caps on damages.

▪ **Employee Pension Benefits:**

- The Illinois Constitution currently guarantees state employees' pension benefits from being altered or diminished in any way; however, the state's pension debt continues rise, which is compounded by several legislative decisions to defer pension payments. Furthermore, decisions to defer pension payments have arguably placed the state at odds with constitutional provisions regarding state debt.

▪ **Judicial Merit Selection:**

- This issue was considered at the 1970 Constitutional Convention, but the proposal to end the election of judges failed to gain sufficient support among the delegates..

- **Ethics/Campaign Finance Reform:**
 - Governor Blagojevich originally campaigned on ending the patronage practices of former administrations; however, during Blagojevich’s tenure, “pay-to-play” politics has only appeared to propagate, while ethics reform has remained largely an issue of rhetoric.

- **Revenue/Debt Service Issues:**
 - Although the Illinois Constitution currently prohibits appropriations for a fiscal year from exceeding funds estimated by the General Assembly to be available during that year, watchdog groups have argued that the provisions should be modified to ensure the state budget is balanced each fiscal year. Furthermore, several proposals have been put forward in recent years to refine the state debt provisions so as to discourage practices of borrowing against long-term obligations for short-term expenses.

- **Redistricting:**
 - Several proposed constitutional amendments introduced during both the current and previous General Assemblies have suggested turning the responsibility of drawing a redistricting map over to the State Board of Elections, thereby eliminating the process of selecting a Legislative Redistricting Commission.

This is only a partial list of controversial public policy decisions that might be addressed during the course of a Constitutional Convention. The focus of this list has been to identify issues that may be of particular concern to employers and business owners. A new convention would undoubtedly also entertain dozens of additional topics such as state government structure and responsibilities, local government consolidation, as well as, social and moral issues.

If you wish to provide your opinion regarding the advisability of Illinois Chamber support or opposition to the referendum to sanction a Constitutional Convention, you may do so by e-mailing your feedback to [Laura Minzer](#), Illinois Chamber Director of Policy.

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