

‘Con-con’ Pros & Cons:

The Basics of the Illinois Constitutional Convention Question And Why It’s Important to Kids & Families

October 2008 – Revised & Updated

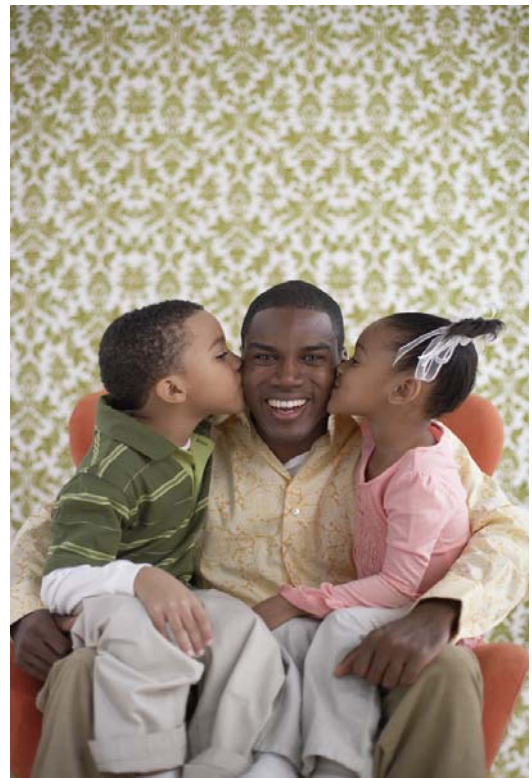
The ballot that Illinois voters take up in November 2008 will include a statewide referendum on whether to authorize a new constitutional convention (“con-con”) to consider changing all or part(s) of the existing, 1970 state constitution. On its face, this seems largely a question of government process,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

Many hot-button issues are seen as significant to the matter of whether to assemble a con-con. These range from those on which Voices for Illinois Children works (such as school funding and fairness in taxation) to matters further afield (“merit selection” of judges, the death penalty, and many others). Many activists working on such issues could view the proposed con-con as a forum for furthering their causes, while others fear potentially negative con-con effects.

Voices for Illinois Children has taken no position on the merits of the con-con question. There are certainly many strong arguments both for and against it. However, we feel it is **vitaly 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.ⁱ) 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 was held).

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.ⁱⁱ

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 a con-con's work might not be fully realized 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.ⁱⁱⁱ 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.^{iv} 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).^v

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.^{vi} 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 - as is the case again today - and the *Chicago Tribune* editorialized that the existing constitution was "still a fine fit for Illinois."^{vii}

Has government conducted any preparatory work in anticipation of the 2008 referendum?

Relatively little, compared with 1988. The Commission on Intergovernmental Cooperation no longer exists. The legislature has weighed-in just a few times in the past year or so:

- In June 2007, the Illinois House of Representatives narrowly approved House Resolution 25, a nonbinding measure urging voters' support of the con-con question, if key issues such as school-funding reform are not "sufficiently addressed" prior to November 2008.^{viii} 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.

- In March 2008, both chambers of the General Assembly adopted House Joint Resolution 111, which created a Joint Committee for the Constitutional Convention proposal to prepare materials related to the ballot question.^{ix}
- In May 2008, via approval of House Joint Resolution 137, both legislative chambers adopted the Joint Committee's report to, in turn, set forth "an explanation of the proposed call for a State Constitutional convention, arguments in favor of and against holding a convention, and the form of the ballot."^x These can be found in the text of HJR137 at the General Assembly's website, www.ilga.gov.

In accordance with HJR 137, the Illinois Secretary of State's Office mailed a five-page pamphlet – "Proposed Call for a State of Illinois Constitutional Convention" – to Illinoisans in late September. This publication similarly explains the ballot measure and includes pro and con arguments. It was supposed to be made available (in Spanish-, Chinese- and Polish-language versions as well as English) at www.cyberdriveillinois.com and public libraries statewide.

Finally, the Legislative Research Unit has posted an extensive series of background materials at www.ilga.gov/commission/lru/ConConRef.html. These resources include a history of Illinois' constitutional matters, a summary of current issues that could take prominence in the work of any new constitutional convention, and notes on other states' constitutional-revision efforts.

Who are supporters and opponents of the 2008 con-con question?

Opponents include many of the same labor and business factions as in 1988, who have joined with other interest groups to form the basis of a coalition called the Alliance to Protect the Constitution. Members range from the Illinois Business Roundtable and Illinois Manufacturers Association to the Illinois AFL-CIO, Illinois Education Association and Illinois Federation of Teachers, as well as the Illinois League of Women Voters and the Illinois Farm Bureau.^{xi} This group had planned to spend about \$3 million on its informational campaign efforts.^{xii} Other high-profile con-con opponents include former Comptroller Netsch.

Supporters, on the other hand, include Lt. Gov. Pat Quinn, former state Treasurer Judy Baar Topinka, Cook County Assessor James Houlihan, the Illinois Association of School Boards, United Power for Action & Justice and several smaller-scale campaigns, including one called "Con-Con Yes" that's chaired by State Rep. Jack Franks, D-Woodstock.^{xiii}

Newspapers are split in their editorial opinions. For example, the *Champaign News-Gazette* has called for con-con's approval,^{xiv} as has the *Chicago Tribune* (reversing course from its 1988 opinion).^{xv} The *Chicago Sun-Times* has weighed-in against the ballot measure.^{xvi}

More than a little support for con-con emanates from popular disgust over the bitterly protracted 2007 and 2008 legislative sessions and related bickering among state leaders.

What was the recent court action involving controversial wording of the ballot question?

Lt. Gov. Quinn legally challenged the referendum language for its reference to the failure of the 1988 con-con vote. He argued that this wording could unfairly tilt voters' opinions away from approval this year. On Oct. 2, 2008, a Cook County judge agreed and ruled that corrective action be taken. As of press time, it was unclear exactly how election officials might pursue a remedy.^{xvii}

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 three of the most important issues that could be addressed:



- School-funding reforms. We should increase state resources for education and relieve the overreliance upon property taxes that exacerbates differences in schools' individual quality.
- Graduated, more progressive income tax. We should relieve the disproportionately heavy responsibility for raising revenues that our constitutionally mandated, flat state income tax rate places on low-income families.
- Legislative district-mapping. We should reform our stilted process of drawing boundaries for legislative districts. The current system allows one party or the other to assume too much control in drawing a new map and exercise considerable influence over election results for a decade at a time. The process should be made much more neutral and independent of party politics.

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 might 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.^{xviii} 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.^{xix}

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 for approving a con-con in 2008?

Some proponents of con-con argue that^{xx}:

- 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 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.

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

Some opponents of con-con argue that^{xxi}:

- 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. Estimates have ranged widely, from \$13 million to \$100 million; HJR137 research put the projected price tag at \$58 million to \$78 million.^{xxii}
- 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 governors who’ll both commit to solving problems, and follow through.

Endnotes

- ⁱ 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.
- ⁱⁱ 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.
- ⁱⁱⁱ Ibid.
- ^{iv} Ibid.
- ^v Illinois State Board of Elections.
- ^{vi} 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.
- ^{vii} Ibid.
- ^{viii} House Resolution 25. 95th Illinois General Assembly. June 2007.
- ^{ix} House Joint Resolution 111. 95th Illinois General Assembly. March 2008.
- ^x House Joint Resolution 137. 95th Illinois General Assembly. May 2008.
- ^{xi} Author. “Non-Partisan Coalition Forms Alliance to Protect the Constitution.” News release. July 14, 2008.
- ^{xii} Hinz, Greg. “Con-con foes hire high-powered help.” *Crain’s Chicago Business*. July 3, 2008. Also, see www.protectillinoisconstitution.org.
- ^{xiii} See www.conconyes.org/index.php, as well as www.voteyesontheconcon.com and <http://yesforillinois.com>.
- ^{xiv} “Illinois Constitution is in need of changes.” Champaign News-Gazette editorial, July 21, 2008.
- ^{xv} “Vote yes on con-con.” Chicago Tribune editorial, Oct. 5, 2008.
- ^{xvi} “Don’t vote for a new constitutional convention.” Chicago Sun-Times editorial, Oct. 7, 2008.
- ^{xvii} See <http://www.cyberdriveillinois.com/departments/index/conconorder.pdf> to read a notice that could be shared with voters, asking them to disregard the language in question.
- ^{xviii} Illinois State Board of Elections.
- ^{xix} Ibid.
- ^{xx} 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 was the chief sponsor of HR25 and HJR 111 and 137 in the 95th General Assembly.
- ^{xxi} 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.
- ^{xxii} House Joint Resolution 137. 95th Illinois General Assembly. May 2008.

This report was written by Sean Noble, Director of Government Relations, Voices for Illinois Children. Initially released in February 2008, it was revised and updated in October 2008. To learn more, visit www.voices4kids.org or call 312-456-0600.

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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.)