

# HOUSE REPUBLICAN STAFF ANALYSIS

---

## Constitutional Convention Proposition

---

Shall there be a Convention  
to revise the Constitution,  
and propose amendment or  
amendments to same?

YES	
NO	

August 1, 1980

127217

IOWA STATE LAW LIBRARY  
IOWA STATE  
LAW LIBRARY

657  
On November 4, 1980, Iowa voters will vote on the question, "Shall there be a Convention to revise the Constitution, and propose amendment or amendments to same?"

#### HISTORY AND BACKGROUND

Iowa Legislative Service Bureau  
On three separate occasions in our state's history constitutional conventions have been held. In 1844, a constitutional convention was convened in Iowa City to frame a constitution for the new state of Iowa. The convention completed its work in only twenty-six days and submitted a constitution to the Federal Congress and people of the Iowa territory. In an act of Congress admitting Iowa to the Union, the boundaries of the state were changed from the boundaries that had been set forth in the constitution of 1844. As a result of this change, the constitution was rejected twice by the people of the Iowa Territory.

Following the constitution's second defeat, a second constitutional convention was convened on May 4, 1846. This convention lasted only fifteen days and gave prime consideration to the issues that had led to the rejection of the first constitution. On August 3, 1846, the new constitution was ratified by a majority of the territorial voters and on December 28, 1846, the state of Iowa was admitted to the Union.

Ten years later in August of 1856, Iowa voters overwhelmingly called for the convening of a third constitutional convention. Governor James Grimes quickly ordered that an election be held the following November for the purpose of electing delegates to a constitutional convention. An act of the General Assembly provided that the number of delegates shall correspond to the number of Senators in the General Assembly, according to the apportionment at the time of the election of said delegates, and each senatorial district shall constitute a district for the election of delegates. The act also provided that delegates shall possess the qualifications of Senators in the General Assembly and that they should receive three dollars per day from the state treasury for each day's attendance, and three dollars for every twenty miles travel, in going to and returning from the convention.

9-16-80  
Thirty-six delegates were elected to the third constitutional convention which met in the Supreme Court room of the Old Iowa Capitol at Iowa City on January 19, 1857. Twenty-one of the thirty-six members of the convention were Republicans and the other fifteen were Democrats which was in sharp contrast to the conventions of 1844 and 1846, which were dominated by Democrats.

The delegates concluded their efforts on March 5, 1857. Rather than revising or amending the Constitution of 1846, as had been directed by the General Assembly, the convention completely drafted a new state constitution.

127217

IOWA STATE  
LAW LIBRARY

The delegates made several changes in the Bill of Rights, including granting the state's 275 blacks the right to testify, but not to vote, or attend the same school as a white child. The convention also reduced the term of office for Governor from four to two years, created the office of Lieutenant Governor, provided that the Senate should be composed of not more than fifty members and the House of not more than one hundred members, provided for the election of members of the Supreme Court and raised the limit of state indebtedness from \$100,000 to \$250,000. The delegates also chose to locate the capitol at Des Moines and the State University of Iowa at Iowa City.

On August 3, 1857, the new constitution was adopted by a narrow margin of 40,311 for the constitution and 38,681 against it.

Since it's adoption in 1857, the Iowa Constitution has been amended thirty-seven times.\*

The amendment of 1964, repealed Article X, Section 3 and adopted the following in lieu thereof:

"At the general election to be held in the year one thousand nine hundred and seventy, and in each tenth year thereafter, and also at such times as the General Assembly may, by law provide, the question, 'Shall there be a Convention to revise the Constitution, and to propose amendment or amendments to same?' shall be decided by the electors qualified to vote for members of the General Assembly; and in such case a majority of the electors so qualified, voting at such election, for and against such proposition, shall decide in favor of a Convention for such purpose, the General Assembly, at its next session, shall provide by law for the election of delegates to such Convention, and for submitting the results of said Convention to the people, in such manner and at such time as the General Assembly shall provide; and if the people shall approve and ratify such amendment or amendments, by a majority of the electors qualified to vote for members of the General Assembly, voting thereon, such amendment or amendments shall become a part of the constitution of this state. If two or more amendments shall be submitted at the same time, they shall be submitted in such a manner that electors may vote for or against each such amendment separately."

---

\*One amendment in 1880, 1882, 1908, 1916, 1922, 1928, 1936, 1942, 1962, 1964, 1966 and 1978  
Two amendments in 1904, 1952, 1972 and 1974  
Three amendments in 1970  
Four amendments in 1884  
Five amendments in 1868 and 1968

In the 123 years that have transpired since the adoption of the Constitution of 1857 the proposition, "Shall there be a Convention to revise the Constitution, and propose amendment or amendments to same?" has been submitted to the Iowa voters on eleven (11) separate occasions. The votes were as follows:

	<u>YES</u>	<u>NO</u>
1870	Not Available	Not Available
1880	69,762	83,784
1890	27,806	159,394
1900	176,337	176,892
1910	134,083	166,054
1920	279,652	221,763
1930	140,667	195,356
1940	199,247	352,142
1950	221,189	319,704
1960	470,257	534,628
1970	204,517	214,663

The vote of the people in 1920, was in favor of calling a constitutional convention, and on January 20, 1921, Representatives Calhoun of Van Buren County and Rankin of Lee County introduced House File 307 making provisions for a convention to revise and amend the constitution. The bill passed the House on March 15, 1921, and called for a convention of 108 delegates, one elected from each representative district. Delegates would have had to meet all of the qualifications of members of the House of Representatives and would be paid \$10 per day per diem, however, per diem expenses could not exceed \$1,000. Mileage would be paid at the same rate as was paid to members of the General Assembly.

The bill was amended by the Senate to require delegates to the convention to be at least 30-years of age. The House refused to accept the 30-year age limit and sent the bill to a conference committee. On April 8, 1923, the last day of the session, the House rejected the conference committee recommendation that delegates be at least 25-years of age. A second conference committee was appointed, however, no report seems to have been made before the General Assembly adjourned sine die.

Once again the question, "Shall there be a Convention to revise the Constitution, and propose amendment or amendments to the same?" is before the Iowa electorate. Already various organizations and groups have begun to organize in favor and in opposition to the proposition. Those groups include:

<u>SUPPORT</u>	<u>OPPOSE</u>
Iowa Farm Bureau	AFSCME
Iowans for Tax Relief - David Stanley, Chair	Communication Workers of America
Iowa Manufacturers Assn.	Iowa Federation of Labor
YES for Less Taxes Committee - Dean Kleckner, - Cloyd Robinson, Co-Chairs	Iowa State Association of Counties
	Iowa State Education Assn.
	Iowa Womens Political Caucus
	League of Women Voters of Iowa
	United Auto Workers

The Republican Party of Iowa, when assembled at their state statutory convention in Des Moines on June 28, 1980, voted to support a constitutional convention. The language found in section 9.20 of the Republican State Platform states:

"The Republicans of Iowa recognize the Iowa Constitution provides an important safeguard by giving the people the right to decide every ten (10) years whether to call a State Constitutional Convention. We recommend a favorable vote on this question on November 4, 1980. We suggest that the voters elect delegates who are not state legislators and who are committed to propose only a limited number of amendments and to oppose any other proposed change in the Iowa Constitution."

Despite the Republican platform's call for a constitutional convention, Iowa Governor Robert D. Ray has come out publicly opposing an affirmative vote on the issue.

The Libertarian Party of Iowa joined the Republicans in calling for an affirmative vote on the constitutional convention question. The Democratic Party of Iowa, on the other hand, is on record opposing a constitutional convention in it's 1980 state platform.

#### HOW DELEGATES TO A CONVENTION WOULD BE SELECTED

Should the voters of Iowa vote to call a constitutional convention on November; the 69th General Assembly, which will convene in January of 1981, would be charged with implementing that call and enacting legislation relating to the election and/or appointment of delegates.

In the convention of 1857, thirty-eight delegates were elected, one from each Senatorial district. If the 69th General Assembly were to apportion delegates in this same manner, the convention would consist of fifty (50) members. The legislature may on the other hand wish to elect one delegate per representative district, in which case one-hundred (100) delegates would be elected.

The legislature could provide for a number of appointed delegates, as was the case in Louisiana in that state's 1973-74 constitutional convention. (See Appendix A)

Since 1968, the size of constitutional conventions has varied from seventy (70) delegates in New Mexico to four-hundred (400) in New Hampshire.

Delegates to a constitutional convention could either be elected on a partisan basis, as was the case in 1857, or on a non-partisan basis, as has tended to be the pattern in other states in recent years. They could either be elected in conjunction with the 1982 general election or at a special election called for the express purpose of electing delegates to a constitutional convention. A minimum age limit for delegates would also be an issue that the 69th General Assembly would have to decide before any delegates could be elected.

#### WHAT WOULD A CONSTITUTIONAL CONVENTION COST

It is difficult to estimate what an Iowa constitutional convention would cost. However, we do know that costs in other states have ranged from a low of \$20,000 in Rhode Island to a high of \$7,880,000 in Illinois.

The cost of the convention would vary depending upon the amounts paid to delegates. In 1857, delegates were paid \$3.00 per day plus \$3.00 for every twenty miles traveled to and from the constitutional convention. It is safe to say that it would be difficult to find delegates in this day and age that would be willing to work for \$3.00 per day. A more realistic figure might be an annual salary of \$12,800 plus expenses, the salary members of the General Assembly will be paid in 1981. Delegates might also be paid on a per diem basis of \$40.00 to \$60.00 a day.

Other expenses included in the costs of a constitutional convention include: professional and legal staff, printing, rent -- if the convention is held in a non-public building such as a hotel ballroom, and expenses incurred in the election of delegates and referendum expenses.

WHERE WOULD A CONSTITUTIONAL CONVENTION BE HELD

The obvious choice would have to be the House or Senate chambers in the State Capitol Building in Des Moines. However, the legislative chambers were not the site of the 1857 constitutional convention that met in Iowa City, but rather the old Supreme Court room.

The states of New Jersey and Alaska recently chose to hold their constitutional conventions on college campuses where incumbent officeholders and agency personnel would not be able to exert power and influence over the proceedings.

Some have suggested that the recently restored Old Iowa Capitol on the University of Iowa campus might be an ideal location for holding a constitutional convention.

COULD THE SUBJECTS TO BE DISCUSSED BE LIMITED

Many of the supporters of a constitutional convention would like to limit the subject matter to be discussed to an amendment limiting the growth rate of total state and local taxes and spending.

By limiting the convention to the tax limitation question, delegates could avoid a long and drawn-out debate on issues such as abortion, capital punishment, repeal of Iowa's Right to Work law and the repeal of a number of the state elective offices such as the State Auditor, State Treasurer, Secretary of State and Secretary of Agriculture.

The states of Pennsylvania, Texas, Tennessee, Rhode Island and Louisiana have successfully limited the scope of the issues to be discussed in the constitutional conventions held in their states in recent years.

There are, however, many constitutional scholars who are of the opinion that the subject matters to be discussed could not legally be limited except by the vote of the delegates themselves.

The Iowa Journal of History and Politics, 1921, states that there is "no provision in the Iowa Constitution which aims to restrain the convention in any way. The phrase 'to provide by law for the election of delegates' would seem to imply the minimum of legislative action."

The convention of 1857 was charged by the 5th General Assembly with revising or amending the Constitution of 1846. However, they chose not to revise or amend but rather to draft a completely new one. The same was true on the national level where the delegates that met in Philadelphia in 1787 to revise the Articles of Confederation opted to throw out the Articles and drafted an entirely new constitution.

CONCLUSION

On the centennial observance of the signing of the Constitution of 1857, on March 14, 1957, Governor Herschel Loveless in addressing the members of the House and Senate jointly assembled said:

"A written Constitution, such as that which the pioneer lawmakers set down a century ago, is necessarily an expression of the ideals and political philosophy of the men who wrote the Constitution. While the basic concepts of government and individual freedom have remained unchanged, the social and economic environment in which government exists does change. Constitutions, to be an effective fundamental instrument, must be living documents rather than rigid, inflexible rules which are not adaptable to current conditions. The framers of the Constitution of 1857 wisely provided for a procedure for amending the Constitution. In accordance with this procedure, set forth in Article X, twenty-one amendments have been made to the Constitution of 1857, the most recent in 1952.

Thus, as we pause to take recognition of the wisdom and foresight of the men who wrote the Constitution of 1857, and to later generations of law makers and citizens who have modified the original document by amendment, it behooves all of us to bear in mind the fundamental principles of individual liberty set forth in the Constitution of the State of Iowa. It is well, also, to bear in mind that Constitutions are living documents to provide an effective framework for government; and the Constitution must merit the loyal support of the people. In order to justify such support the Constitution must be given new content and new interpretations to meet the changing conditions and needs of our society. The recognition of this fundamental principle is nowhere better expressed than in the Constitution of 1857. I quote Article I, Section 2, Bill of Rights:

'All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right, at all times, to alter or reform the same, whenever the public good may require it'."

The ultimate decision as to whether or not a constitutional question shall be called rests in the hands of the voters of Iowa and will be decided November 4, 1980.



CONSTITUTIONAL CONVENTIONS

STATE	CONVENTION DATES	TYPE OF CONVENTION	APPROPRIATION	NUMBER OF CONVENTION DELEGATES	CONVENTION PROPOSALS
Rhode Island	December 8, 1964 - February 17, 1969	Unlimited	\$224,000 (\$179,182 expended)	100 (One delegate elected from each state representative district on Nov. 3, 1964; partisan basis)	New constitution
Maryland	July 11, 1967; Sept. 12, 1967-Jan. 10, 1968	Unlimited	\$1,230,000 (plus \$750,00 for referendum)	142 (Elected from House districts on June 13, 1967; nonpartisan)	New constitution
Pennsylvania	December 1, 1967 - February 29, 1968	Limited	\$1,560,000 (plus \$261,000 for elections and \$90,000 for preparatory commission; total: \$1,911,000)	163 (3 elected from each Senate district in Nov. 1967, plus 13 legislators ex officio)	5 proposals
Hawaii	July 15 - Oct. 21, 1968	Unlimited	\$1,680,000 (\$875,000 expended)	82 (Elected June 1, 1968 from representative districts; nonpartisan)	23 amendments (revised constitution)
Arkansas	January 7-8, 1969; May 27-August 21, 1969; January 12-February 10, 1970	Unlimited	\$605,200	100 (Elected Nov. 5, 1968, from representative districts; nonpartisan)	New constitution (submitted as single proposal)
New Mexico	August 5 - October 20, 1969	Unlimited	\$250,000 (plus \$280,000 for election of delegates and referendum on convention proposals)	70 (Elected June 17, 1969, from single member representative districts; nonpartisan)	New constitution
Illinois	December 8, 1969 - September 3, 1970	Unlimited	\$2,880,000 (plus \$5,000,000 for election of delegates and referendum on convention proposals; Total: \$7,880,000)	116 (Elected Nov. 18, 1969; 2 from each provisional state senatorial district; nonpartisan)	New constitution plus 4 additional propositions submitted separately
North Dakota	April 6-8, 1971; Jan. 3 - Feb. 17, 1972	Unlimited	\$600,000	98 (Elected Nov. 3, 1970, from representative districts; nonpartisan)	New constitution plus 4 alternative propositions submitted separately
Tennessee	August 2 - September 15, 1971 (including 10-day recess) (May be called back into session before referendum if necessary)	Limited	\$413,000	99 (Elected from House districts; nonpartisan)	1 amendment
Montana	Nov. 29 - Dec. 1, 1971; Jan. 17 - March 24, 1972	Unlimited	\$499,281	100 (Elected Nov. 2, 1971, from House districts; partisan)	New constitution plus 3 alternative propositions submitted separately
Louisiana	January 5-30, 1973 (9 days in session); July 5, 1973 - January 19, 1974	Limited	\$350,000 appropriation and \$90,000 from the Board of Liquidation for fiscal year 1972-73; \$2.5 million appropriation in 1973. Total: \$2,940,000 (expended: \$2,428,768.50)	132 (105 elected Aug. 19, 1972 from House districts on nonpartisan basis; 27 appointed by the Governor, 12 representing specific interest groups, 15 at large)	New constitution plus 2 alternative proposals on education submitted separately

CONSTITUTIONAL CONVENTIONS

STATE	CONVENTION DATES	TYPE OF CONVENTION	APPROPRIATION	NUMBER OF CONVENTION DELEGATES	CONVENTION PROPOSALS
Rhode Island	Sept. 4 - Oct. 4, 1973	Limited	\$20,000	100 (2 delegates elected Aug. 7, 1973 from each state senatorial district; partisan basis)	7 amendments
New Hampshire	May 8 - June 26, 1974 (met 12 days). The 16th constitutional convention is a continuing body with life for 10 years or until successor is authorized and selected	Unlimited	\$180,000	400 (elected March 5, 1974, from House districts; nonpartisan)	27 proposed amendments to be voted on during the period 1974-80
Texas	January 8 - July 30, 1974 (recessed from April 5 to May 6)	Limited	\$2 million, plus an additional appropriation of \$1.8 million. Total: \$3.8 million	181 delegates who comprised the 1974 Legislature (31 Senators, 150 Representatives)	None (a draft constitution failed by 3 votes to receive the required 2/3 vote)
Tennessee	August 1, 1977 - December 22, 1977 (in session 74 days)	Limited	\$500,000 in fiscal 1977 budget plus \$75,000 by amendment to appropriation bill, plus \$95,000 and day-by-day allocations from the General Assembly. Total: approximately \$700,000	99 (elected Nov. 2, 1976 from house districts on nonpartisan basis)	13 proposals on subjects specified in convention call
Hawaii	July 5 - Sept. 21, 1978	Unlimited	\$1.5 million (plus \$485,599 for election of delegates, \$8,500 for a campaign spending commission, and \$72,000 to the Legislative Reference Bureau)	102 (elected May 20, 1978, from representative districts; nonpartisan)	Proposed 34 amendments
Arkansas	Dec. 11-12, 1978; May 14-July 16, 1979; will reconvene June 16, 1980 (mandated to adjourn sine die on or before June 30, 1980)	Unlimited	\$800,000	100 (elected Nov. 7, 1978, and at run-off election Nov. 21, 1978, from representative districts; nonpartisan)	Authorized to propose a new constitution or a new constitution and separate proposals or alternates to be voted on separately



3 1723 02064 9281