



Alaska Common Ground

www.akcommonground.org

ANALYSIS OF CONSTITUTIONAL CONVENTION QUESTION

Introduction

On November 6, 2012, Alaskans will vote whether to have a Constitutional Convention. The Alaska Constitution requires such a vote every 10 years.

Understanding this vote requires an understanding of how the Alaska Constitution is amended. The Alaska Constitution can be amended in only two ways, with each way being a two-step process. The second step is always a vote of the people, but the first step can be taken by the Legislature or by a Constitutional Convention. The Legislature can put constitutional amendments on the ballot for the people to vote on. A Constitutional Convention can also put constitutional amendments—or a proposed entire new constitution—on the ballot.

Alaska has not held a Constitutional Convention since 1955-56, the winter when 55 delegates drafted the Constitution that became effective after the electorate ratified it and Alaska became a state in 1959.

The ballot question is short—“Shall there be a Constitutional Convention?”—but the arguments pro and con are wide-ranging.

Arguments For a Constitutional Convention

Supporters of a “Yes” vote make various arguments, primarily flowing from a basic view that numerous developments have made the 56-year-old Constitution outdated.

Advocates of a Constitutional Convention say that bringing together a new collection of Alaska citizens could improve the Constitution. Supporters have pointed to what many see as good-government reforms that a Constitutional Convention could bring. These include a unicameral legislature to foster transparency and accountability in the lawmaking process, changes in campaign finance law to mitigate some of the effects of corporate money in elections allowed by U.S. Supreme Court decisions such as *Citizens United* and *Buckley v. Valeo*, and a less partisan method for reapportionment of legislative districts.

Other topics are likely to come up at a Constitutional Convention. A partial list might include the allocation of the income of the Permanent Fund (including possible constitutional protection of the Permanent Fund Dividend), changes to the taxation power to create incentives for the construction of a natural gas pipeline from the North Slope, creation of a rural preference for subsistence rights, establishment of the Attorney General as an elective office, changes to abortion rights, and changes to the legal status and rights of government workers. The organization Northern Right suggests other topics including Alaska Supreme Court selection, project labor agreements, school vouchers, same sex marriage among other items.

Supporters tend to believe that holding a constitutional convention would have salutary civic effects in Alaska as the publicity and debate would educate citizens on critical issues.

Arguments Against a Constitutional Convention

Opponents of a constitutional convention focus on two general objections: that a Constitutional Convention is unnecessary and that it would be dangerous.

Those against a convention contend that Alaska's Constitution has worked well, both because it was soundly designed to begin with and because the voters are able to and frequently have amended it. Those opposing a convention observe that the Alaska Constitution is widely hailed as a model for its brevity and its clear statement of constitutional principles. Although there has not been a Constitutional Convention since territorial days, Alaskans have over the last half-century voted on 40 proposed constitutional amendments, and adopted 28 of them.

Those promoting a "No" vote also voice the concern that a Constitutional Convention might open a Pandora's box and put the state's basic law at risk of being rewritten by narrow special interests or extremists. Some of those against a Constitutional Convention cite today's sharply polarized political culture as a bad environment for a Constitutional Convention. Opponents warn that those who favor a Constitutional Convention as a way to reduce the power of Outside big-dollar corporate interests might find that the convention instead increases that power over Alaska's government.

In sum, Alaskans need to think hard about whether a Constitutional Convention would be more likely to take our state forward or backward. Much would depend on the candidates—and, of course, the winning candidates—for delegates and the decision by the voters on any amendments proposed by the convention. Supporters envision that the delegates would come from the Last Frontier's moderate middle—including some delegates who have never run for public office before—while opponents fear that the polarization evident in the existing political climate will overwhelm the process.

Alternative to a Constitutional Convention: A Constitutional Review Commission

Alaska Common Ground passed a resolution in 1993 calling for the adoption of a constitutional amendment establishing a Constitutional Review Commission.

A Constitutional Review Commission could address what many observers see as a recurring problem with the existing process of changing the Constitution. If there is no Constitutional Convention, the only way to get proposed constitutional amendments on the ballot is through the Legislature. Sitting legislators faced with proposed constitutional amendments that might limit the power of those lawmakers have a conflict of interest in considering those proposals. The resulting deadlock frustrates the public.

A solution this problem would be a constitutional amendment creating a Constitutional Review Commission with the power to consider proposed constitutional amendments and—in certain circumstances—put them on the ballot.

The Constitutional Review Commission would be a body of citizens that would hold hearings around the state each year to receive testimony regarding any constitutional amendment proposed by any citizen. The Constitutional Review Commission could also generate its own amendments and consider proposals recommended by any legislator or legislative committee. If the Legislature failed to act on a proposal endorsed by the Constitutional Review Commission, unanimous approval of that proposed amendment by the Constitutional Review Commission could put that proposal on the ballot for an up or down vote by the electorate.

The Constitutional Review Commission concept has a number of attractive features. This approach could guarantee a deliberative process with compromise and adjustment, insure attention to style and drafting, and protect minority rights, in addition to furthering the education of Alaskans about our Constitution.