

STATE OF NEW YORK

2813

2017-2018 Regular Sessions

IN ASSEMBLY

January 23, 2017

Introduced by M. of A. KOLB, HAWLEY, OAKS, DiPIETRO, STEC, GIGLIO --
Multi-Sponsored by -- M. of A. CROUCH -- read once and referred to the
Committee on Election Law

AN ACT to amend the election law and the public officers law, in
relation to the delegate selection process for a constitutional
convention

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "People's Convention Reform Act".
3 § 2. Legislative findings and declaration. The legislature hereby
4 finds that it is only at constitutional conventions that ordinary citi-
5 zens have the opportunity to reconsider the fundamental structure of
6 state government and to assess its effectiveness in light of the current
7 social, economic and political conditions of the day. In providing for
8 periodic constitutional conventions, the framers of our current document
9 acknowledged the need to have a dynamic, living and breathing statement
10 of how government should operate and what limits or controls it should
11 have on our individual pursuit of life, liberty and happiness.
12 Unfortunately the last two constitutional conventions were dominated
13 by the politically connected (two-thirds of the delegates to the 1938
14 convention and about 83% of the 1967 delegates were present or former
15 elected or party officials). To ensure the success of future
16 conventions, we must limit the participation of elected and party offi-
17 cials so that the conventions can be "People's Conventions" and so the
18 voices of all New Yorkers, not just those of special interests, can be
19 heard.
20 The legislature further finds and declares, in furtherance of estab-
21 lishing a meaningful convention process, that:
22 (a) delegates to the convention should be involved and concerned citi-
23 zens and not elected officials, lobbyists, or party chairmen;

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 (b) prior to the convening of the convention, and solely as an aid to
2 delegates, there should be appointed a preparatory commission with
3 adequate time to study the issues, establish a proposed initial agenda
4 and procedures, and prepare position papers, with ongoing information to
5 and participation of the public;

6 (c) insofar as possible, procedures should be established in both the
7 selection of delegates and in the running of the convention that will
8 reduce partisanship; and

9 (d) reasonable time limits should be placed on the length of the
10 convention and its costs, so as to assure that the operations of the
11 convention are not a burden on taxpayers, and that the convention may
12 enjoy maximum citizen participation.

13 To ensure that future constitutional conventions are truly People's
14 Conventions, we hereby find and declare that the statutory reforms of
15 the delegate selection process contained in this act must be enacted.

16 § 3. Section 1-104 of the election law is amended by adding a new
17 subdivision 38 to read as follows:

18 38. The term "nonpartisan election" means a primary, general or
19 special election in which candidates shall run without party label, and
20 political parties are prohibited from designating or nominating candi-
21 dates.

22 § 4. The election law is amended by adding a new section 2-128 to read
23 as follows:

24 § 2-128. Election of party committee officers as delegates to state
25 constitutional convention. Notwithstanding any other provision of law,
26 in the event that a person serving as chairman, secretary, or treasurer
27 of a state or county committee of a political party is elected to and
28 sworn as a delegate to a state constitutional convention, such person
29 shall be deemed to have resigned from his or her political party posi-
30 tion and the provisions of this article for the filling of vacancies in
31 such position shall apply.

32 § 5. The election law is amended by adding a new section 6-125 to read
33 as follows:

34 § 6-125. Nonpartisan elections of delegates to a constitutional
35 convention. 1. Notwithstanding any other provision of law, all primary
36 elections and general elections for delegates to a constitutional
37 convention pursuant to article XIX of the New York state constitution
38 shall be conducted as nonpartisan elections.

39 2. Designations for nomination at a nonpartisan primary for delegates
40 to a constitutional convention shall be made in the same manner as
41 currently provided for independent designating petitions. All enrolled
42 voters shall be qualified to sign nonpartisan designating petitions.

43 3. Notwithstanding the provisions of section 6-136 of this article or
44 any other provision of law, all petitions for the designation for nomi-
45 nation of a constitutional convention delegate from a senate district
46 must be signed by not less than one thousand enrolled voters of such
47 senate district and all petitions for the designation for nomination of
48 a statewide, at-large constitutional convention delegate must be signed
49 by not less than ten thousand enrolled voters of the state, of whom not
50 less than one hundred must reside in each of ten of the congressional
51 districts of the state.

52 4. The form of the designating petition used to make a designation in
53 a nonpartisan primary shall be substantially in the form prescribed in
54 section 6-132 of this article, except that no reference shall be made to
55 any political party therein.

1 5. Unless otherwise provided in this section, the sections of law
2 applicable to designating petitions for nonpartisan primary elections
3 shall be those prescribed by this article.

4 6. All registered voters, regardless of party affiliation or lack
5 thereof, shall be permitted to vote in the nonpartisan primary election
6 for the nomination of candidates for the office of delegate to the
7 constitutional convention. Suitable provisions must be made so that each
8 elector may vote for up to three of any senate district constitutional
9 convention delegate candidates and up to fifteen of any statewide,
10 at-large constitutional convention delegate candidates.

11 7. Upon the canvass of votes in a nonpartisan primary the nine consti-
12 tutional convention delegate candidates receiving the highest number of
13 votes in each senate district and the thirty candidates receiving the
14 highest number of votes as statewide, at-large constitutional convention
15 delegates shall be certified as nominated and shall run in the general
16 election held subsequent to the primary without party identification.

17 8. No candidate for delegate to a constitutional convention shall in
18 any way use or allow himself or herself to be associated with a party
19 label in either the primary or general election.

20 9. Once a person announces his or her intention to be a candidate for
21 election to the position of delegate to the constitutional convention
22 and until such time as that person is no longer a candidate or until his
23 or her service as a delegate ends, whichever occurs later, such candi-
24 date for delegate to a constitutional convention shall not (a) partic-
25 ipate in any partisan political party activities, except that such
26 candidate may register to vote as a member of any political party and
27 may vote in any party primary for candidates for nomination of the party
28 in which he or she is registered to vote; (b) campaign or publicly
29 represent or advertise himself or herself as a member of any political
30 party; (c) endorse any candidate or political party; (d) accept the
31 endorsement of any political party; or (e) solicit or accept contrib-
32 utions from any political party committee, political action committee or
33 political committee pursuant to subdivision eleven of section 14-114 of
34 this chapter.

35 10. Within one hundred eighty days of the effective date of this
36 section, the state board of elections shall promulgate rules and regu-
37 lations consistent with this section to effectuate the purposes and
38 policies hereof.

39 § 6. Section 14-100 of the election law is amended by adding a new
40 subdivision 17 to read as follows:

41 17. "political action committee" means any committee established,
42 financed, maintained or controlled by any person, group or entity for
43 the purpose of supporting candidates for elected political office and/or
44 other political party or political committees by making contributions to
45 such candidates and/or their political campaign committees or by making
46 contributions to other political party or other political committees,
47 and does not make direct expenditures on behalf of candidates.

48 § 7. Section 14-114 of the election law is amended by adding a new
49 subdivision 11 to read as follows:

50 11. No political party committee, political action committee or poli-
51 tical committee shall contribute to any candidate for delegate to a
52 constitutional convention for either the primary or general election.
53 Nor shall any candidate for delegate to a constitutional convention
54 solicit or accept contributions from any political party committee,
55 political action committee or political committee for either the primary
56 or general election.

1 § 8. The election law is amended by adding a new article 18 to read as
2 follows:

3 ARTICLE 18
4 REGISTRATION AND REPORTS BY CERTAIN PERSONS PROMOTING
5 OR OPPOSING THE ADOPTION OF PROPOSED CONSTITUTIONAL
6 AMENDMENTS BY A CONSTITUTIONAL
7 CONVENTION

8 Section 18-100. Registration and reports by certain persons promoting or
9 opposing the adoption of proposed constitutional
10 amendments by a constitutional convention.

11 § 18-100. Registration and reports by certain persons promoting or
12 opposing the adoption of proposed constitutional amendments by a consti-
13 tutional convention. 1. Every person retained or employed for compen-
14 sation by any person, firm, corporation or association who, on behalf of
15 such principal or employer, promotes or opposes directly or indirectly
16 the adoption of a proposed constitutional amendment or amendments by a
17 constitutional convention, whether or not he or she has a personal
18 interest therein, shall, before any service is entered upon in promoting
19 or opposing such proposed constitutional amendment or amendments, file
20 in the office of the secretary of state a writing subscribed by such
21 person stating the name or names of the person or persons, firm or
22 firms, corporation or corporations, association or associations, by whom
23 or on whose behalf he or she is retained or employed, together with a
24 brief description of the proposed constitutional amendment or amendments
25 in reference to which such service is to be rendered.

26 2. It shall be the duty of the secretary of state to provide a docket
27 to be known as the docket of constitutional convention appearances, with
28 appropriate blanks and indices, and to forthwith enter therein the names
29 of the persons so retained or employed and of the persons, firms, corpo-
30 rations or associations retaining or employing them, together with a
31 brief description of the proposed constitutional amendment or amendments
32 in reference to which the service is to be rendered, which docket shall
33 be open to public inspection.

34 3. Upon the termination of such retainer or employment the fact of
35 such termination, with the date thereof, shall be entered in the docket
36 by the secretary of state upon receiving written notice to that effect
37 from such person or from the person, firm, corporation or association in
38 whose behalf such service has been rendered.

39 4. No person retained or employed to promote or oppose, directly or
40 indirectly, the adoption of a proposed constitutional amendment or
41 amendments by a constitutional convention shall be eligible to serve as
42 a delegate to such constitutional convention.

43 5. No person, firm, corporation or association shall retain or employ
44 any person to promote or oppose any proposed constitutional amendment or
45 amendments for compensation contingent in whole or in part upon the
46 adoption or defeat of any such amendment or amendments by the constitu-
47 tional convention, and no person shall accept any such employment or
48 render any such service for compensation contingent upon such adoption
49 or defeat.

50 6. No person shall for compensation engage in promoting or opposing
51 any proposed constitutional amendment or amendments by such constitu-
52 tional convention except upon appearance entered in accordance with the
53 foregoing provisions of this section.

54 7. It shall be the duty of every person, firm, corporation, public or
55 private, or association, (whether or not required to file pursuant to
56 the provisions of subdivision one of this section), not later than April

1 fifteenth, in any year in which a constitutional convention is convened
2 and in which a proposed constitutional amendment or amendments by a
3 constitutional convention is put to the voters, to file in the office of
4 the secretary of state an itemized statement verified by the oath of
5 such person, or in case of a firm by the oath of a member thereof, or in
6 case of a domestic corporation or association by the oath of an officer
7 thereof, or in case of a foreign corporation or association by the oath
8 of an officer or agent thereof, showing in detail all expenses paid,
9 incurred or promised directly or indirectly in each year through the
10 conclusion of the year in which any proposed constitutional amendment or
11 amendments by a constitutional convention have been put to the voters,
12 in connection with promoting or opposing any constitutional amendment or
13 amendments which may be proposed at such constitutional convention, with
14 the names of the payees and the amount paid to each, including all
15 disbursements paid, incurred or promised to persons employed or
16 retained, and also specifying the nature of such constitutional amend-
17 ment or amendments, and the interest therein of such person, firm,
18 corporation or association; provided, however, no such itemized state-
19 ment need be filed if the total of such itemized expenses is less than
20 two hundred fifty dollars.

21 8. The provisions of this section shall not apply to the state nor
22 shall subdivisions one, five and nine of this section apply to a county,
23 city, town, village, public board or institution, or their agents or
24 employees; nor shall the provisions of this section be construed as
25 affecting professional services in drafting a proposed constitutional
26 amendment or amendments or in advising clients or in rendering opinions
27 as to the construction and effect of any constitutional amendment or
28 amendments which may be proposed at such convention where such profes-
29 sional service is not otherwise connected with constitutional convention
30 action.

31 9. On or before April twenty-fourth in any year in which a constitu-
32 tional convention is convened, the secretary of state shall furnish to
33 each delegate to such convention a summary of the information contained
34 in the docket of constitutional convention appearances, and on or before
35 such date shall also transmit to the president of such constitutional
36 convention a copy of every statement filed in his or her office up to
37 and including such date pursuant to subdivision six of this section.

38 10. Every person, every member of any firm, and every association or
39 corporation violating any provision of this section and every person
40 causing or participating in a violation thereof shall be guilty of a
41 misdemeanor and, in case of an individual, shall be punishable by impri-
42 sonment in a penitentiary or county jail for not more than one year or
43 by a fine of not more than one thousand dollars or by both, and, in case
44 of an association or corporation, by a fine of not more than one thou-
45 sand dollars. In addition to the penalties hereinbefore imposed any
46 corporation or association failing to file the statement of expenses
47 prescribed by this section shall forfeit to the people of the state of
48 New York the sum of one hundred dollars per day for each day following
49 the expiration of thirty days after the time fixed by subdivision six of
50 this section for filing such statement, to be recovered in an action to
51 be brought by the attorney general.

52 § 9. Section 30 of the public officers law is amended by adding a new
53 subdivision 1-a to read as follows:

54 1-a. Whenever any state or local officer, as those terms are defined
55 in section two of this chapter, is elected and sworn as a delegate to a
56 state constitutional convention, such official will be deemed to have

1 vacated his or her state or local office and the said office will be
2 deemed vacant for purposes of the nomination and appointment of a
3 successor.

4 § 10. No later than 180 days prior to the convening of the constitu-
5 tional convention, and solely as an aid to delegates, there shall be
6 appointed a constitutional convention preparatory commission whose
7 purpose shall be to study the issues, establish a proposed initial agen-
8 da and procedures, and prepare position papers, with ongoing information
9 to and participation of the public. Members of the commission shall be
10 appointed as follows: two each by the governor, the majority leader of
11 the senate and the speaker of the assembly, and one each by the minority
12 leader of the senate and the minority leader of the assembly. The
13 members shall elect a chair.

14 § 11. Severability. If any provision of this act, or the application
15 thereof to any person or circumstance, shall be adjudged by any court of
16 competent jurisdiction to be invalid or unconstitutional, such judgment
17 shall not affect, impair or invalidate the remainder thereof, but shall
18 be confined in its operation to the provision of this act, or in its
19 application to the person or circumstance, directly involved in the
20 controversy in which such judgment shall have been rendered.

21 § 12. This act shall take effect immediately.