



About the California Constitutional Convention

»What is a Constitutional Convention?

A Constitutional Convention is a gathering of delegates for the purpose of revising an existing constitution or writing a new constitution.

»Why should a Constitutional Convention be convened?

We think it is undeniable that California's government suffers from drastic dysfunction – our financing system is bankrupt, our prisons overflow, our water system teeters on collapse, our once proud schools are criminally poor, our democracy produces ideologically-extreme legislators that can pass neither budget nor reforms, and we have no recourse in the system to right these wrongs.

Most of these problems are a byproduct of the outdated system and rules of governance enshrined in our current constitution. California's constitution was always meant to be a living document that could adjust to the times, but it hasn't been systematically reformed since 1879. Our constitution needs serious structural reforms, chosen and authorized by the people, and a Constitutional Convention is the only politically viable means to achieve those reforms.

»What is the current process to call a California Constitutional Convention?

While we are creating a new method, there is currently only one route stipulated in the constitution and that route is controlled by the legislature. By a 2/3rds vote, the legislature places the question to call for a Convention on the next general election ballot, in this case November 2010. If passed by a majority of the voters, the legislature must "provide" for the Convention within 6 months. After the Convention, the new constitution or the packaged revision is placed on the ballot as one single measure for a majority vote. *(While achieving a 2/3rds vote in the legislature is very difficult, it is worse if the legislature simply does not "provide" for the Convention after the people vote for one, as happened in 1933.)*

»What is your new process to call a California Constitutional Convention?

Our legal research indicates that by ballot initiative, a majority of the voters can approve an amendment to the current Constitution that would allow the voters to bypass the legislature and directly call a Constitutional Convention. This voter-driven Convention would have the same powers as one created by the legislature, and the product of the Convention would still be subject to majority approval by the voters in order to take effect. It is worth noting that one of the fundamental statements of the California Constitution is:

All political power is inherent in the people. Government is instituted for their protection, security, and benefit, and they have the right to alter or reform it when the public good may require.

»How do you prevent a "Runaway Convention"?

Repair California is shaping the initiative language to limit the scope of the Convention to systemic reform under the areas of the budget, election reform, governance and the state/local fiscal relationship. These limitations will ensure that issues unrelated to systematic reform, under qualified categories, will be ineligible for consideration. Historical precedent, our research and our counsel all indicate that we are on rock-solid legal footing to limit this Constitutional Convention.

»Could the amendment allowing voters to call a California Constitutional Convention and the actual call be on the same ballot?

Yes. According to our legal counsel, the amendment to allow the voters to directly call a Constitutional Convention and an immediate call for a constitutional convention can be on the same ballot. For example, "Proposition 1" would amend the Constitution to *allow* voters to call a Convention and "Proposition 2" would ask voters if the Convention should be called now. Article 2, section 10 (A) of the Constitution states "An initiative statute or referendum approved by a majority of votes thereon takes effect the day after the election, *unless the measure provides otherwise.*"

»What is the timeline to a California Constitutional Convention?

September 25, 2009, is the target day to submit our proposed measures to the Attorney General and request title and summary. The Attorney General has until November 17 to issue titles and summaries for our measures. That starts the race to collect enough signatures to get the measures on the ballot. We have 150 days to get nearly 800,000 signatures! The voters will decide upon these initiatives in November 2010, the Convention would take place in 2011 and the delegate's reform package would be voted upon in November of 2012.

»What revisions could be made during the Constitutional Convention?

We do not presume to have the answers at this point, but through our consultations consensus seems to be emerging on the need to address the following issues:

- Governance, including the structure of the legislative and executive branches of government, with the latter to include State agencies and commissions.
- Elections, including the initiative and referenda processes, campaign finance, and term limits.
- The Budget, including the budget process and related requirements, such as the 2/3ds legislative vote required to pass a budget, the term and balancing of a budget, and mandated spending.
- Revenue distribution, including the revenue relationship between local and state government

»What is the history of Constitutional Conventions in California?

California has had two previous Constitutional Conventions: in 1849 and in 1878, which produced our current system. In 1962, the constitution had grown to 75,000 words, which at that time was longer than any other state constitution but Louisiana. That year, the electorate approved the creation of a "California Constitution Revision Commission," which worked on the constitution from 1964 to 1976. The legislature placed revisions emanating from the Commission on the ballot. The electorate ratified the Commission's revisions in 1966, 1970, 1972, and 1974. In the end, the Commission managed to remove about 40,000 words from the constitution, but otherwise made only minor changes.

»What happens in other states?

Constitutional Conventions are fairly common in the United States. Indeed, in 14 other states, voters are *automatically* asked every 10-20 years whether to authorize a Constitutional Convention and 25 percent of the time the voters have said "yes" to a Convention. In seven other states a simple majority of the legislature may call a Constitutional Convention.

»Who are the delegates in a Constitutional Convention?

The makeup of the Convention in California is not stipulated, except that delegates geographically represent proportionate amounts of population. Delegates would likely come from Senate, Assembly, Board of Equalization or Congressional districts, or a combination of these districts, to meet "one-person, one-vote" standards and requirements under the Voting Rights Act. In other states the general practice is to have the Convention size be roughly comparable to the legislature, in California's case, 120 delegates. In the 1878 Convention, there were 152 delegates: 3 from each Senate district and 32 at-large delegates. Some argue that a Convention in California would need approximately 400 delegates to ensure proper representation of our diverse population.

Following the practice of other states, delegates would have to meet the same qualifications of voters generally, or be voters. Many states also bar current elected officials from serving in Constitutional Conventions.

Delegates can be selected by an election, by an application process, or through a random “jury pool” process. Courts across the U.S. have ruled that delegates do not necessarily need to be elected to Constitutional Conventions since a Convention is not a “governing body” but simply a “recommending body” whose only authority is to propose amendments to be submitted to a vote of the people.

»Where and when will the Constitutional Convention meet?

To ensure that a Convention is held in a timely fashion once it is authorized, the Convention call should specify a date on which and a place at which the Convention must first meet. The Convention of 1849 met in Colton Hall in Monterey, and the Convention of 1878 met in the Assembly Chambers in Sacramento. Some have proposed holding the Convention in the Assembly Chambers again, but that might interfere with the regular operation of the Assembly. Most likely a neutral location in Sacramento would be most appropriate, but other locations could be considered, or the Convention could move around the state.

»How long would the Constitutional Convention meet?

Other states typically specify an ending date as well as a beginning date in their enabling legislation. The deadline for conclusion of the Convention's work serves as a spur to action, reduces the cost of holding a Convention, and ensures sufficient time for public consideration of proposals before the ratification vote. One study of Conventions from 1938-1968 found that their average duration was 2.6 months. The 1878-1879 Convention, which rewrote the entire California Constitution met for five months and four days. The duration of a California Constitutional Convention would likely be determined by the time period between the authorization vote and enough time to place the revision on the next convenient statewide election ballot.

»What are the approximate costs of a Constitutional Convention?

This question would be best answered by the California Legislative Analyst. Illinois's Legislative Analyst estimated costs up to \$23 million for a Convention in Illinois in 2008. This sounds high, but the cost for, the budget delay in California are \$ 40 million each day. The last budget negotiation was so late it added \$9 billion to the budget shortfall.

»Can the topics of a Constitutional Convention be limited?

Other states have ruled convincingly that, yes, Conventions may be limited *to consider only* certain subjects; and second, the Convention may be limited *from considering* certain subjects. According to state Constitutional Convention experts at Rutgers University:

Questions always arise about whether state Constitutional Conventions can actually be limited, or whether there is a possibility of a “runaway” state Constitutional Convention. These are, of course, legitimate questions but the law in the United States seems to be clear that if the proper procedures are followed to impose limitations on a state Constitutional Convention those limits will be legally enforceable.

This precedent applies both to Conventions emanating from the legislature or directly from the people by initiative. The limitations would need to be placed in the enabling legislation that the people vote on. Sometimes delegates are obliged to take an oath that they will confine themselves to the issues committed to them by the Convention call.

(Updated 7-8-09, based on Bay Area Council research and consultation)

Timeline for a Constitutional Convention

