

Legal Notice Proposed New N. Y. State Constitution

STATE OF NEW YORK
DEPARTMENT OF STATE

Albany, October 5, 1967

Pursuant to the provisions of Chapter one hundred sixty-nine, Laws of nineteen hundred sixty-seven, the following Question adopted by the Constitutional Convention will be submitted to the voters of the State for approval or disapproval, at the General Election on November seventh, nineteen hundred sixty-seven.

JOHN P. LOMENZO,
Secretary of State
ABSTRACT OF QUESTION
NUMBER ONE

PROPOSED NEW CONSTITUTION

Preamble

WE, THE PEOPLE of the State of New York, grateful to Almighty God for our Freedom, in order to provide for the health, safety and welfare of the people, maintain a representative and orderly government, eliminate inequality and poverty, assure legal, social and economic justice, provide opportunity for the fullest development of the individual, and to secure the blessings of Freedom and Liberty, DO ORDAIN AND ESTABLISH THIS CONSTITUTION.

ARTICLE I Bill of Rights

This article is the New York State constitution's bill of rights. It provides for freedom of religion, speech, press, assembly and petition in language substantively equivalent to the first amendment to the federal constitution. Citizens' suits are authorized to restrain unconstitutional acts or expenditures.

The article grants equal protection of the laws, and prohibits discrimination in civil rights on grounds of race, color, creed, religion, national origin, age, sex or physical or mental handicap. Unreasonable searches and seizures and unreasonable interception of telephone and other communications are forbidden, except that statutes may permit the interception of such communications upon court orders under conditions specified. Such article forbids deprivation of life, liberty or property without due process of law and sets forth basic procedural rights in criminal proceedings.

It continues the right of trial by jury in all criminal and civil cases as heretofore provided and extends the right by guaranteeing trial by jury in all criminal cases where the punishment may be in excess of six months imprisonment. Every defendant is guaranteed the right to counsel at all stages of a criminal proceeding. In cases of felony, the defendant is entitled to a preliminary examination or an inspection of the grand jury minutes and may not be tried except by indictment of a grand jury unless indictment is waived by the defendant. Excessive bail may not be required and the court may dispense with bail if reasonably satisfied that the defendant will appear.

No private property may be taken or damaged by condemnation except after a public hearing and upon the payment of just compensation, including the fair value of the good will of retail businesses, as defined by law.

The privilege of habeas corpus may not be suspended and ex post facto laws are prohibited.

The article guarantees employees the right to organize and bargain collectively and prohibits discrimination in employment and in the right to join a labor union. The legislature is authorized to provide a system of workmen's compensation, unemployment and disability insurance, and protection against the loss or inadequacy of income and employment opportunities.

The legislature is authorized to provide for the protection and education of the people of the state against unfair, inequitable or dishonest sales, marketing and financial practices.

The public is granted, in the manner provided by law, the right to inspect the records of the state, local governments, and public authorities.

ARTICLE II Suffrage

This article defines the right of citizens to vote. Any citizen who is domiciled in a county, city, or village of the state for at least three months, and in his election district for at least thirty days prior to the date of an election is entitled to vote in such election. In elections for president of the United States or statewide offices, domicile in the state for three months and in the election district for thirty days is sufficient. For school or special district elections, the only requirement is domicile in the district for three months.

Property qualifications or other tests for voting are prohibited except that statutes may be enacted establishing property qualifications for voting in special district elections and requiring party enrollment for voting in a primary election. All voting must be in secret. The minimum voting age is 21 years except that statute may reduce the voting age to not less than 18. If so reduced, the voting age may not be thereafter increased by statute.

Domicile is defined as the fixed, permanent and principal home to which a person always intends to return. Provision is made for the enactment of statutes for the conduct of elections, the nomination of candidates, permanent personal registration and voting, including absentee registration and voting. All boards of election, except for school district and nonpartisan village and special district elections, are to have equal representation of the two political parties receiving the highest number of votes in the last gubernatorial election.

ARTICLE III Legislature

This article vests the legislative power of the state in the senate and the assembly. Upon the redistricting provided for by this article, the senate is to consist of sixty members and the assembly of one hundred fifty members, effective in 1972, to be elected for two year terms, from single member districts, in even-numbered years. Until such redistricting, the present fifty-seven senate and one hundred fifty assembly districts are continued. Members of both houses of the legislature must be at least twenty-one years of age and be eligible voters and must have been domiciled in the state for three years preceding the election.

Following each federal decennial census, senate and assembly district lines are to be redrawn by a five member commission appointed as follows: one each by the temporary president of the senate, the speaker of the assembly, the minority leader of the senate, the minority leader of the assembly and the chairman by the court of appeals. Senate and assembly districts shall be as equal as practicable in total population, compact and contiguous, and shall wherever practicable utilize the boundaries of existing governmental units and natural geographic boundaries, but no city block may be divided. Such standards shall also govern congressional districting to the extent permitted by federal law. Gerrymandering for any purpose is prohibited. Such redistricting plan shall have the force of law, subject to review by the court of appeals, and replaces redistricting by statute.

The article directs the legislature to provide the same annual salaries for all its members, and reimbursement for their actual and necessary expenses. Allowances for officers and other members serving in a special capacity are permitted, but no salaries or allowances may be increased during the term for which members are elected. Legislators are prohibited from holding additional public offices, other than constitutional convention delegates or members of the armed forces reserves.

For any speech or debate in either house of the legislature, a member shall not be questioned in any other place.

The article includes provisions for the organization and procedures of the legislature. The assent of a majority of the members elected to each house is required to pass a bill except that a bill appropriating public money or property for private or local

purposes requires the assent of two-thirds of such membership.

The article prescribes the procedures for the impeachment of the governor, lieutenant governor, comptroller, attorney general or a judge of the court of appeals, and for the trial of any such impeachment.

ARTICLE IV Executive

This article vests in the governor the executive power of the state. It confers on the governor, among other powers, the power to grant reprieves and pardons for all offenses except impeachments, to convene extra-ordinary sessions of the legislature or of the senate, and to approve and disapprove legislative bills. He may disapprove one or more items in an appropriations bill and approve others, and his disapproval may be overridden by a two-thirds vote of each house of the legislature.

The governor shall be at least 30 years of age and an eligible voter domiciled in the state for at least five years preceding his election. He shall be elected for a term of four years. The same qualifications are required of the lieutenant governor, who shall be chosen jointly with the governor for the same term. The lieutenant governor serves as president of the senate but has no vote except in the case of a tie.

The lieutenant governor becomes governor for the remainder of the term if the governor dies, resigns or is removed from office and becomes governor for a full term if the governor-elect dies or declines to serve. Certain other contingencies of vacancies in the offices of governor and lieutenant governor are provided for by the article.

ARTICLE V Judiciary

This article vests the judicial power of the state in a unified statewide court system, consisting of the court of appeals, the supreme court and its appellate divisions, the court on the judiciary, the court of claims, the surrogate's court, the family court, the civil and criminal courts of the city of New York and the district court system. The legislature is directed to create at least five but not more than seven appellate divisions. It also includes county town, city and village courts now existing and may be created and abolished by the adoption of the district court system in any county outside the city of New York. The legislature is authorized to establish an administrative body as part of the unified court system to hear and determine such minor infractions of law as may be provided by statute.

The article includes provisions relating to the qualifications, manner of selection, assignment, compensation, terms of office and retirement of judges. Most judges are permitted to continue to serve until age 76 upon certification of need and capability. The article continues concurrent jurisdiction of the surrogate's and family courts in adoption proceedings. The jurisdiction of the court of claims is enlarged to include actions against joint tortfeasors with the state.

The cost of operating the court of appeals, the court of claims, and the district court system is to be paid by the state. In addition, the state will, over a ten-year period, assume the costs of operating the supreme court, appellate divisions of the supreme court, the surrogate's court, the county court, the family court, and the civil and criminal courts of the city of New York.

The article provides for a mandatory referendum in every county of the state, except those comprising New York City and those counties in which a district court presently exists, on the question of whether a district court system should be established. Upon establishment of a district court in any county, inferior courts therein may be abolished.

The authority and responsibility for administrative supervision of the unified court system is vested in the court of appeals. The court shall appoint an administrator to be chief executive officer of the court system. The court of appeals may create additional judges by certifying the need therefor subject to disapproval only by concurrent resolution of the legislature. In addition, there is continued the power to create additional judges by statute.

ARTICLE VI State Departments and Officers and Public Authorities

This article describes the organization of state departments and other agencies, including the two which are headed by elected officials: the department of audit and control, headed by the comptroller, and the department of law, headed by the attorney general. Their qualifications are the same as those of the governor and the attorney general must be admitted to the practice of law in the state. They are to be elected at the same general election and for the same term as the governor.

The heads of all other departments and permanent boards and commissions are to be appointed by the governor with the advice and consent of the senate, except as otherwise provided by the constitution.

The article also describes the powers of the governor and the legislature to reorganize departments and agencies of the state. The governor may submit a reorganization plan which takes effect unless disapproved by either house of the legislature. The state board of social welfare is continued, with its name and powers to be determined by the legislature. A reorganized public service commission is constitutionally established for the regulation of utilities and other public service enterprises. It is to consist of seven members, four of whom are to be appointed by the governor and three of whom are to be elected by the legislature by joint ballot.

The article requires the advance filing of rules and regulations of agencies of the state and of political subdivisions before they become effective, with certain exceptions. The legislature is directed to provide for notice of all rules and regulations and to enact a code of administrative procedure, which shall include provision for independent review and such judicial review as shall be provided by law to agencies of the state and, to the extent practicable, to its subdivisions.

The article governs the creation of public authorities, and defines certain aspects of their powers and their relationships to the state and local governments. Authorities may be created and their power is altered only by special act after public hearing. They may not levy taxes or special assessments on real property. The state or an appropriate political subdivision may acquire all of the properties and pay all of the indebtedness of any public authority. The accounts of public authorities are made subject to supervision by the state comptroller, and his report and recommendations thereon are made public.

ARTICLE VII

Public Officers and Employees

This article governs the conduct of public officers and employees. It sets forth the oath of office to be taken by members of the legislature, elected state officers and such other public officers and employees as may be provided by state or local law. It bars any other test of belief, oath or declaration, as well as ownership of property, as a qualification for public office or employment.

A public officer or employee who refuses to sign a waiver of immunity against criminal prosecution or to testify before a grand jury with respect to his official conduct at any time within five years prior to such refusal, may, after a hearing, be dismissed if it is determined that such refusal substantially impairs his fitness to serve in public office or employment.

Civil service appointments and promotions shall be on the basis of merit and fitness, to be ascertained, as far as practicable, by competitive examinations. The article defines the preferences granted to certain veterans of the armed forces of the United States. Membership after July 1, 1940, in any pension or retirement system of the state or any local government, is continued as a contractual relationship, the benefits of which may be increased but may not be diminished or impaired. Pensions paid by the state or any local government to officers and employees thereof shall not be subject to state income taxes.

The article requires that laborers, workmen or mechanics, in the employ of a contractor or subcontractor engaged in the per-

formance of public work shall be paid no less than the rate of wages prevailing in the same trade in the locality of the public work.

ARTICLE VIII Natural Resources and Conservation

This article provides for the conservation and protection of the state's natural resources and scenic beauty. It continues the present constitutional requirement that the lands constituting the state forest preserve "shall be forever kept as wild forest lands," and shortens and simplifies the statement of the several exceptions to that provision. It provides that future exceptions may be made only by concurrent resolution of the legislature adopted at two regular sessions of succeeding terms of the legislature and thereafter approved by the people.

The article also provides that it shall be the public policy of the state to conserve and protect its natural resources and scenic beauty and to encourage the improvement of its agricultural lands. The article creates a state nature and historical preserve of properties of natural and historical significance. Properties so dedicated and placed within the nature and historical preserve may not be taken or otherwise disposed of except by statute enacted by two successive regular sessions of the legislature.

The article does not include any provision relating to the Barge Canal.

ARTICLE IX Education

This article continues the present system of free public education below the college level and requires the legislature to make annual appropriations therefor. It requires the legislature to establish and define a system of higher education, encompassing both public and private institutions, by programs which may include free tuition, grants, fellowships and scholarships.

This article provides that the state relieves students at public institutions of higher learning from the present requirement of paying tuition and other fees; the contractual obligations of any such institution or instrumentality of the state which have as their security, directly or indirectly, student tuition and other fees and which remain unpaid as the result of such state action, will be assumed by the state.

Equality of educational opportunity is guaranteed to all the people of the state and discrimination by reason of race, religion or national origin in admission to any school which receives public funds is prohibited.

The article does not include the existing prohibition against direct or indirect aid to denominational schools, but such aid is subject to the restrictions of the first amendment of the United States Constitution which are incorporated in Article I of this constitution.

The article requires that in any law apportioning state aid to school districts, the basis of computing the number of pupils shall be the registration thereof, and that there be taken into account the special educational needs of students in each district and the total local tax burden of the taxpayers of each district.

The board of regents is continued as the head of the university of the state of New York and its organization and functions are prescribed. The article grants constitutional recognition to the state university of New York and the city university of New York and makes each responsible for the control and administration of the institutions and facilities therein.

ARTICLE X

State Taxation and Finance

This article governs the financial management of the state. In the field of taxation, it prohibits the surrender, suspension or contracting away of the state's power to tax, and continues the present prohibition against the alteration or repeal of exemptions granted to religious, educational and charitable institutions. It retains the prohibitions against excise or ad valorem taxation of intangible personal property, taxation of undistributed profits, and discriminatory taxation of banking corporations.

The article sets forth the procedure for the submission by the governor of budgets to the legislature and its action thereupon.