



1970 Illinois State Constitution

I. History

During the general election of 1968, the voters of Illinois voted overwhelmingly (72.5%) in favor of calling a State Constitutional Convention.¹ A Convention was convened the following year, where the 6th Constitutional Convention of Illinois drafted a new Illinois State Constitution, which became law after final approval by Illinois voters in 1970.

II. Summary

Among other reforms, the 1970 Constitution required that the voters of Illinois vote on whether to hold a new Constitutional Convention every 20 years. Since its adoption, Illinoisans have been asked twice whether to hold another Convention, and it is generally seen as a testament to the quality of the 1970 Constitution that both referendums were soundly defeated.

Its sustained popularity among voters appears to derive primarily from its establishment of "Home Rule" which gave power previously held by the state government to local governments. The inevitable frustrations which accompany all governments seem to be perceived as the fault of individual politicians, and not the system itself.²

III. Popularity

As provided for by the 1970 Constitution of the State of Illinois, in 2008 Illinois voters were asked whether or not a Constitutional Convention should be convened. According to a research piece by the Union League Club of Chicago³, and published on the Illinois League of Women Voters website, an editorial appearing in the *Chicago Tribune* about the 1988 Con Con referendum best captured the public spirit when it wrote:

The Tribune strongly recommends a "No" vote on the proposal for a state constitutional convention. Illinois already has a modern, workable Constitution, a model for other states. Delegates to the 1969-70 Convention that wrote it thought voters should have an opportunity at 20-year intervals to decide whether it needed an overhaul. They underestimated the excellence of their work. The Constitution they drafted is still a fine fit for Illinois, dealing only with the basics: the scope and authority of state government, the powers of local government, the mechanics of amendment and the guarantee of individual rights. It keeps its nose out of other matters, and that is one of its great strengths.

According to the essay, "Seventy-five percent of the 3.6 million voters in 1988 agreed with the editorial and soundly defeated the call". Similarly, in 2008 Illinoisans who casted a vote on the Con Con voted 2-1 in favor of keeping the 1970 Constitution.

IV. Key Features

"Home Rule" refers to a section of the 1970 Constitution which shifts greater responsibility for government decision making from the state level to the local level. Municipalities with a

¹ "Chronology of 1970 Constitutional Convention." Apr. 1988. Intergovernmental Issues. 25 June 2009
<<http://www.ilga.gov/commission/lru/ConConRef.html>>.

² Chicago Sun-Times. *Don't Vote for a New Constitutional Convention*. October 7, 2008

³ Nowlan, James D., Ann M. Lousin, and Samuel K. Grove. "An Illinois Constitutional Convention in 2008?". Feb. 2007. Union League Club of Chicago. 18 June 2009
<http://www.lwvil.org/ConCon_UnionLeague.pdf>.

population of more than 25,000 are automatically Home Rule units, while those with less than 25,000 residents require approval of a referendum in order to achieve Home Rule status.⁴ Home rule devolves broad tax and spend powers to local governments.

According to a Case Study on Illinois Home Rule,⁵ municipalities have wielded this power responsibly and Home Rule remains politically popular in Illinois:

Available evidence produced neither a rational nor an empirical basis to support a reasonable probability that, given the opportunity, local elected officials will enact new or higher taxes without regard for the wishes of the voters.

Home Rule is defined in the Illinois Constitution thus:

Except as limited by this Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; to license; to tax; and to incur debt. (Art. VII; Sec. 6a)

According to the case study:

Except for prohibiting home rule units from levying taxes upon "income, earnings, or occupations" without legislative authorization, the constitutional constraints upon home rule units are relatively few and have not proven to be significant.

V. Criticisms

An informational report by the Illinois Chamber of Commerce⁶ (which was neutral on the question of whether or not to call a Con Con) cited a specific flaw with the current Home Rule system which might warrant review should a Convention be convened. That issue was Double Taxation:

Under the current constitution, as well as an expanding number of laws, home rule authorities are given a considerable amount of flexibility in their ability to tax various entities. Business and labor groups have long argued that home rule provisions should be modified to curb double taxation.

According to the above mentioned case study, "one of the most common attitudes about American local governments is that their legislators are prone to abusing their power to tax." If this attitude exists, Home Rule advocates must demonstrate how and why such feelings are misguided. Mr. Banovetz's report not only makes this case, but argues that

"...the Illinois experience suggests that, with adequate safeguards, local officials can be trusted with broad based local tax powers."

⁴ City of Lake Forest, Illinois. 18 June 2009 <<http://www.cityoflakeforest.com/cg/cg2k100.htm>>.

⁵ Banovetz, James M. "Illinois Home Rule: A Case Study in Fiscal Responsibility." . 2002. The Journal of Regional Analysis & Policy. 18 June 2009 <www.celdf.org/portals/0/pdf/Home%20Rule%20in%20Illinois.pdf>.

⁶ "Constitutional Convention Study Group." Illinois Association of Chamber of Commerce Executives. 15 Oct. 2007. Illinois Chamber of Commerce. 18 June 2009 <www.iacce.org/documents/CONCON.pdf>.

Additionally, in the wake of the Rod Blagojevich scandal, a debate has sparked in Illinois regarding whether to amend the constitution to allow for voter recalls of politicians perceived to be incompetent or corrupt.⁷

VI. Key Lessons

- 1970 Constitutional Convention produced popular, durable, practical document.
- Voters prefer localized authority
- When devolving power to localities, anticipate and avoid instances of double-tax.
- No system is perfect; voters must wield power to hold elected officials accountable.

⁷ Guinane, Pat. "Con-Con Revisited." Illinois Issues Apr. 2007. 25 June 2009
<<http://illinoisissues.uis.edu/features/2007nov/constitution.html>>.